

M E M O R A N D U M

TO: Council, AP and SSC Members

FROM: Jim H. Branson
Executive Director

DATE: June 18, 1986

SUBJECT: History of DAH Trawling in the Bristol Bay Pot Sanctuary

BACKGROUND

When the FMP was originally drafted, all trawling was to be prohibited in the Bristol Bay Pot Sanctuary except by domestic trawlers fishing for crab bait during crab openings. The FMP was submitted for Secretarial review with this provision, but joint venture trawlers protested that this would impede development of the domestic groundfish fishery. To put things into perspective for you, one proposal by Harold Lokken at the January 1980 meeting [Agenda D-5(b)(1) stated that "in the Pot Sanctuary, these regulations shall be subject to immediate modification in the event a number in excess of 20 trawlers are operating in the area." The Council struggled to achieve a balance between crab/halibut protection and trawl fishery development, and included new provisions in early drafts of Amendment 1. Several attempts were made to come up with appropriate PSC limits but problems were encountered in the "nuts and bolts" of how limits would be apportioned and enforced. The Council wanted these to be monitored and enforced on a "species venture" (i.e., company-by-company) basis. Finally the Council withdrew the Pot Sanctuary provisions and NMFS "reserved" that provision in the regulations. Thus domestic trawling was allowed to develop beyond the "experimental" level envisioned by the Council at that time. The Council continued to try to solve this problem but eventually other issues became more immediately important.

More detail on this issue is provided in Agenda D-5(b)(2). This chronological history also shows the development and evolution of the Bering Sea FMP. It's interesting to see how long some of the issues in Amendment 10 have been around and how little some things have changed.

1. Experimental domestic trawling will be permitted in all areas of Bering Sea as a temporary measure to determine the effects of such trawling on stocks of halibut and crab and the extent to which such trawling will result in an intolerable level of gear conflicts with fixed gear.
2. Experimental trawling as provided for in paragraph 1 will be permitted in all areas except the following which are designated as temporary areas of high concentration of fixed gear:

<u>Area</u>	<u>Time</u>
To be determined	During king crab season (Sep-Oct ?)
Polaris Ground	Halibut season 4-10 to 4-30 ?

3. All vessel will be required to allow scientific observers on board while fishing operations are being conducted in the halibut areas and pot sanctuary during the periods when they have been closed to trawling.
4. To minimize gear conflicts, both trawlers and fixed gear fishermen shall make known the areas in which they are operating. There shall be no preemption of fishing grounds except while actual fishing is taking place. Fixed gear, if being fished, shall have priority over mobile gear.
5. All fish taken by trawlers shall be recorded, both those retained and those discarded. The discards shall be estimated by major species.
6. As soon as possible after July 1st, the results of trawling up to that date shall be analyzed by the North Pacific Fishery Management Council for the purpose of determining whether restrictions are necessary to preserve stocks of halibut and crab and to avoid excessive gear conflicts. If such restrictions are deemed necessary, they would take effect on December 1st in the case of the halibut savings area and at any earlier date deemed appropriate in the case of the crab pot sanctuary.
7. The winter halibut savings area adjacent to the Pribilof Islands shall be discontinued as no halibut fishing has taken place there during the last several years.
8. Trawling will be permitted in the areas listed in paragraph 2 only in places where there is no fixed gear being fished.
9. In the halibut savings area, these regulations shall be subject to immediate modification in the event a number in excess of 20 trawlers are operating in the area.
10. In the pot sanctuary, these regulations shall be subject to immediate modification in the event a number of trawlers in excess of 20 are operating in the area.
11. The Regional Director of the National Marine Fisheries Service in Alaska shall have authority subject to pre-set conditions agreed to in advance to modify regulations in season in the halibut savings area and pot sanctuary.

HISTORY OF COUNCIL ACTION REGARDING THE BRISTOL BAY POT SANCTUARY

On October 19, 1979 NOAA gave preliminary approval of the Bering Sea FMP. The FMP at that time closed the Pot Sanctuary to all trawling except during crab openings, i.e., only a king crab bait fishery was allowed. The Proposed Rule was published in the FEDERAL REGISTER on November 19, 1979 which initiated the 30-day public comment period. At the end of that period NMFS stated that a revised Draft Environmental Impact Statement (DEIS) should be prepared. On September 19, 1980, the revised Draft EIS was filed. During this time joint ventures had begun to operate and domestic trawlers were beginning to show a serious interest in groundfish trawling in the Bering Sea, including the Pot Sanctuary. Joint venture representatives asked the Council not to implement any regulatory impediments to their development. Specifically they were interested in an experimental fishery in the Pot Sanctuary. From that point, the Council addressed domestic trawling in the Pot Sanctuary at several meetings, and the issue was also addressed in several FEDERAL REGISTER announcements. The following chronological history of the Bering Sea FMP indicates that many of today's sticky issues have been around for a long time. The major events relating to the Pot Sanctuary are noted with **:

1980

**Nov. 24, 1980 FEDERAL REGISTER notice included a preliminary discussion and description of the FMP, noting four problems addressed: (1) maintaining stocks currently at levels of MSY; (2) rebuilding depleted stocks to levels of abundance producing MSY; (3) controlling the incidental catch of species of commercial importance to U.S. fishermen; and (4) establishing an environment conducive to development of a U.S. groundfish fishery. Potential market value (U.S. exvessel) of foreign king crab, Tanner crab and halibut bycatches are estimated. Under the summary of benefits the following statement is made: "The U.S. allocation will permit the continued harvest of groundfish, which are used as crab bait, as well as the implementation of pilot projects for food fish production. If these projects are successful, there may be an opportunity for expansion of U.S. exports of seafood products."

1981

**Feb. 1981 Council meeting: The SSC and PDT concurred that domestic trawlers should be allowed to operate more freely in Areas A and B (Pot Sanctuary and Halibut Savings Area). The PDT stated that this should be on an experimental basis with close observer monitoring. The SSC strongly recommended that new and expanding domestic fisheries be required to utilize gear which will have the least adverse impact on non-targeted resources. The AP majority recommended that no trawling by anyone be allowed in the Pot Sanctuary, other than by domestic crabbers for the purpose of obtaining bait. A minority report stated that this would inhibit the developing U.S. groundfish fishery and that no scientific information supported the majority view. (The statement was signed by Dick Goldsmith, Konrad Uri, Don Rawlinson, and Al Burch.) The AP majority and minority met with Council Members Bart Eaton and Don Bevan to work out a compromise on the issue and agreed to allow U.S. trawling if the halibut bycatch remained at 1% (by weight) or less. The

fishery would be monitored at 10,000 mt intervals, and if the bycatch rate of halibut was above 1% all ventures with rates above 1% would have to switch to pelagic gear. They also recommended that the boundaries of the two areas be modified. The Council approved the recommendation.

**March 27, 1981 Council modified their February action to apply to all species, including halibut; the concept of "species venture" began to evolve since bycatch was to be monitored on an operation by operation basis. The Council also approved Amendment 1a (foreign chinook PSCs).

June 30, 1981 FEDERAL REGISTER Notice of Availability with updated to reference Amendments 1a (foreign chinook salmon PSC) and 2 (modified DAH & TALFF values).

**Sep. 2, 1981 Secretarial review of Amendment #1 begins; NMFS identifies problem with "species venture" concept, i.e. the nuts and bolts of how it would work. Since Joint venture operations were developing quickly and changing their vessels, target species, and target amounts, apportionments of PSCs would have to be adjusted frequently and monitoring would be impossible.

Sep. 24-25, 1981 Council approves Amendment 3 (foreign PSC reduction schedule, implemented July 4, 1983).

Oct. 2, 1981 Preliminary NMFS approval of Amendments 1a and 2 (implemented Jan. 12, 1982).

Oct. 29, 1981 FEDERAL REGISTER notice of Proposed rule for Amendments 1a and 2; comment period to end on Dec. 14, 1981.

**Nov. 20, 1981 Final EIS filed (includes Amendments 1a and 2). This EIS indicates that a closely monitored experimental fishery may be allowed in the Pot Sanctuary and the Halibut Savings Area, along with a crab bait fishery.

**Dec. 1981 Council votes to "sever" Bristol Bay Pot Sanctuary domestic trawl restrictions from Amendment 1 so that Secretarial review can proceed. The "species venture" concept had not been resolved, and the Council was having great difficulty figuring out how to balance the need to protect crab and halibut while not unduly hindering development of the trawl fishery. Thus the original domestic trawl prohibition contained in the FMP would remain.

**Dec. 31, 1981 Final Rule for the FMP published; six issues specifically addressed in notice: (1) treatment of prohibited species; (2) treatment of herring; (3) effects of the fishery on marine mammals and birds; (4) whether additional restrictions should be imposed on the use of bottom trawls; (5) limitations on fishing by U.S. vessels in the Bristol Bay Pot Sanctuary and the Winter Halibut Savings Area; and (6) implementation of the FMP before Amendments 1 and 3 are approved and implemented.

The following text is from the Notice: "4. Whether Additional Restrictions should be imposed on the use of bottom trawls. It is believed that the use of trawl gear that is deployed several feet from the ocean floor would substantially reduce the adverse effects of groundfish trawling on the benthic environment and would reduce incidental catches of crab and halibut. Almost all trawl gear currently in use in the Bering Sea and Aleutians remains in

contact with the bottom during fishing operations. Despite the benefits of off-bottom trawl gear, the Assistant Administrator has determined that a requirement that it be used should not be included in the FMP at this time. Because flounders and other flatfish that are heavily relied upon by both the foreign and the United States groundfish fisheries cannot be caught with off-bottom trawl gear, it is highly likely that any off-bottom requirement extensive enough to have significant benefits would cause great economic distress to current participants in the fishery, and would leave flatfish resources largely unutilized. If an off-bottom requirement is found to be particularly helpful in limited areas, it might be imposed in such areas through later amendment to the FMP. The Assistant Administrator considers it more realistic to expect longline harvest of flatfish to substitute economically for trawling in such limited areas rather than in the entire fishery area. When more limited areas are subjected to an off-bottom requirement, foreign trawl vessels already in the fishery can shift to other areas and foreign longline vessels already available to the fishery can intensify their efforts in the more limited areas without a massive dislocation of capital investment. An off-bottom requirement throughout the fishery imposed on United States fishing vessels would also seriously cripple United States efforts to establish a viable groundfish fishery. This would be contrary to the purposes of the Magnuson Act. Even if imposed in limited areas, and off-bottom trawl requirement would be difficult to enforce without greatly increased enforcement resources."

"5. Limitations on fishing by United States vessels in the Bristol Bay Pot Sanctuary and the Winter Halibut Savings Area. The FMP as adopted by the Council imposes certain restrictions on groundfish fishing by United States vessels in the Bristol Bay Pot Sanctuary and the Winter Halibut Savings Area, which lie just north of the Alaska Peninsula and northern Aleutians. The FMP would allow United States vessels to trawl in the Pot Sanctuary only during open seasons for United States crab fisheries. It would allow United States trawling in the Savings Area between December 1 and May 31 only until the United States trawl catch of groundfish equaled 2,000 metric tons (mt); and would permit United States longlining landward of the 500-meter isobath only until the United States longline catch of groundfish, excluding halibut, equaled 2,000 mt. More stringent restrictions in foreign fishing would be imposed in each area.

Following adoption of the FMP by the Council, representatives of United States groundfish fishing interests protested against the proposed restrictions on United States fishing in the Pot Sanctuary and Savings Area. Following publication of the notice of proposed rulemaking, the Council voted to decrease the size of the Savings Area by eliminating the "Misty Moon" grounds south of the Pribilof Islands, and also voted to allow a closely monitored United States groundfish fishery in both the Pot Sanctuary and the Savings Area on a year-round basis. These changes to the FMP have been incorporated into Amendment 1, which is now under review by the Assistant Administrator. Even though Amendment 1 has not yet been approved, the Assistant Administrator has decided to accommodate the concern of the United States groundfish industry, and the Council's intent by deleting from this final rule any provisions that would implement the current restrictions in the FMP on United States fishing in both the Pot Sanctuary and Savings Area. Restrictions on foreign fishing in the "Misty Moon" grounds also are deleted."

The following comment was addressed: "The original FMP's restrictions on fishing by United States vessels in the Pot Sanctuary and Halibut Savings Area are so stringent as to threaten the development of United States groundfish fisheries, and should be relaxed." (Steuart Fisheries, Marine Resources Company, Daniel E. Webster, Marine Construction and Design Company) Response: "The Council has voted to relax the original FMP's restrictions on United States vessels in the Pot Sanctuary and Savings Area, as was discussed above, and the new measures are part of Amendment 1. Pending approval and implementation of Amendment 1, the restrictions currently contained in the FMP will not be implemented by this rule."

1982

**Jan. 1, 1982 FMP in effect, domestic Pot Sanctuary regulations "Reserved" (i.e., no restriction).

Jan. 12, 1982 Final Rule implementing Amendment 1a and 2.

Jan. 28, 1982 Final Rule correction. A regulation closing an area about the the western Aleutians was corrected to close only the area from 3-12 miles.

March 1982 Council drops Field Order authority from Amendment 1 based on disapproval of GOA Amendment #8.

**March 1982 draft Amendment 1 revised by Council included Bristol Bay Pot Sanctuary trawl restrictions on a "species venture" (i.e., company-by-company) basis.

**May 20, 1982 Council approves Amendment 1 (framework TACs, etc); instructs Staff to "look at proposals for restrictions on Bristol Bay Pot Sanctuary trawling to see if it can be done in form of draft regulations. Staff should meet with members of the group who developed the "species venture" section of Amendment 1 to determine the intent of the original proposal and for advice and background information." The AP recommended that domestic trawling be allowed to continue in the Pot Sanctuary "as it is now" on an experimental basis.

July 1982 Council approves release of Amendment 6 (FDZ and foreign longlining in Winter Halibut Savings Area) for public review.

August 9, 1982 Amendment 6 comment period begins.

Sept. 1982 Council approves Amendment 6 (NMFS disapproved Dec. 8, 1983).

Oct. 28, 1982 Preliminary approval of Amendment 4 (field order authority disapproved).

**Dec. 2, 1982 Amendment 1 submitted for Secretarial review. Review would not start till July 1983 when Resource Assessment Document (RAD) available (implemented Jan. 1, 1984).

Dec. 6, 1982 FEDERAL REGISTER Notice of Proposed Rule for Amendment 4: adjusts quotas, OYs, and foreign fishing areas.

Dec. 1982 Council approves motion that POP be a DAH-only species with an unrestricted foreign incidental catch (PSC), to be managed so as not to restrict any foreign fishery.

1983

Feb. 11, 1983 FEDERAL REGISTER Notice of Availability , Amendment 3 (foreign PSCs).

Mar. 11, 1983 FEDERAL REGISTER Notice of Proposed Rule, Amendment 3.

Apr. 15, 1983 Notice of Availability, Amendment 7 (foreign longline changes).

Apr. 7, 1983 Amendment 8 (salmon foreign PSC limits) public review begins.

May 12, 1983 FEDERAL REGISTER Notice of Final Rule, Amendment 4.

May 1983 Council withdraws Amendment 5 (redundant to Amendment 3) and approves Amendment 8.

July 4, 1983 Amendment 3 implemented.

July 1983 Secretarial review of Amendment 1 begins.

Aug. 2, 1983 FEDERAL REGISTER Notice of Final Rule, Amendment 7.

**Sep. 19, 1983 FEDERAL REGISTER Notice of Proposed Rule, Amendment 1.

Oct. 7, 1983 FEDERAL REGISTER Notice of Proposed Rule for Amendment 6 (Fishery Development Zone).

Nov. 2, 1983 Proposed TAC, DAH, and TALFF values (rule-related notice). This was published although Amendment 1 was not yet implemented.

Dec. 8, 1983 Amendment 6 disapproved.

1984

**Jan. 4, 1984 Final Rule, Amendment 1 (framework TACs, etc.).

Feb. 9, 1984 Withdrawal of proposed rule for Amendment 6.

Apr. 19, 1984 Notice of Council consideration of resubmitting Amendment 6.

Nov. 8, 1984 Initial TACs, etc.

Dec. 28, 1984 Interim approval of TACs, etc., for 1985 (delay due to industry to industry negotiations).

1985

Mar. 21, 1985 Final notice of specifications of TACs, etc.

Aug. 16, 1985 Proposed rule for Amendment 9.

Sep. 11, 1985 Notice of closure for sablefish (200 fathom closure).

Oct. 29, 1985 Recision of closure (effective Oct. 24).

Nov. 6, 1985 Final Rule, Amendment 9 (effective Dec. 1).

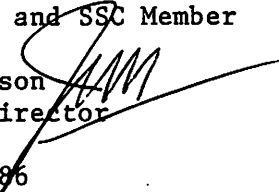
1986

Jan. 9, 1986 Specifications of TACs, etc.

June 6, 1986 Emergency Rule for Tanner crab and king crab PSCs in DAH yellowfin sole/flounder fishery, including observers on DAP vessels.

M E M O R A N D U M

TO: Council, AP and SSC Member

FROM: Jim H. Branson 
Executive Director

DATE: June 18, 1986

SUBJECT: Status of crab PSC Emergency Rule and domestic observer program

ACTION REQUIRED: None.

BACKGROUND

The Emergency Rule which established PSC limits for the yellowfin sole/flounder joint ventures was implemented June 6, 1986. The rule was essentially the same as presented to the Council at the March meeting except that NMFS approved a provision to required observers on DAP vessels fishing for Pacific cod inside 25 fathoms in the 160°-162° area. A point-by-point comparison between the Council's recommendation and the rule is provided below.

Eastern Bering Sea Trawl Restrictions:
Comparison of Council Recommendations
with NMFS Emergency Interim Rule

In January and March 1986 the Council adopted measures to minimize king crab, Tanner crab, and halibut bycatch in the Bering Sea. These are compared below with the resulting emergency rule published June 6 by NMFS.

The Fishery Conservation Zone east of 162°W longitude and south of 58°N latitude, bounded on the south by the Alaskan peninsula and on the east by 160°W longitude shall be closed to all commercial fishing during 1986 except that:

NMFS: The emergency interim rule is effective from June 3 to September 2, 1986 and only applies to commercial trawling. It can be extended an additional 90 days.

(a) Domestic (DAH) trawling for Pacific cod shall be allowed in waters of 25 fathoms or less in the area described, provided NMFS-approved observers are on all DAP fishing and all JVP processing vessels engaged in the fishery. NMFS shall develop and implement measures to close the fishery if excessive bycatches of crab are taken. Catches exceeding two red king crab per ton of fish caught will be considered excessive for initial consideration of closure.

NMFS: Area between 160°W and 162°W and south of 58°N is closed all the way to shore. The Regional Director may allow U.S. vessels to trawl for Pacific cod south of a line connecting 56°43N/160°W and 56°N/162°W if the vessel owner/operator agrees to comply with a data gathering program approved by the Regional Director after consultation with the Council. The Regional Director will terminate trawling in this area when a PSC of 12,000 red king crabs has been taken.

(b) In the Pot Sanctuary west of 162°W longitude, there shall be a PSC limit of 25,000 halibut on all yellowfin sole/flounder joint venture operations. East of 160°W longitude there shall be a PSC limit of 15,000 halibut in the yellowfin sole/flounder fishery. The total catch of halibut in all yellowfin sole/flounder joint ventures in the Bering Sea in 1986 may not exceed 250,000 fish.

NMFS: No halibut restrictions are included because they could not be justified as requiring emergency action.

(c) The incidental catch (PSC) of red king crab in all yellowfin sole/flounder joint venture fisheries in the Bering Sea in 1986 in the area east of 165°W longitude and south of 58°N latitude shall not exceed 135,000 crab and shall not exceed a cap (in number of crab) of one red or blue king crab per metric ton multiplied by the JVP allocation tonnage of flounder/yellowfin sole caught outside the aforementioned area. The PSC for bairdi Tanner crab for this area, designated Zone 1, is 80,000 crabs in the joint venture yellowfin sole/flounder fishery.

NMFS: Retained caps of 135,000 red king crab and 80,000 bairdi crab but applied them to DAH yellowfin sole/flounder fishery, not just JVP. No king crab catch rates or ceilings were imposed outside Zone 1. Foreign directed fisheries on yellowfin sole and flounder must stop in Zone 1 if domestic fishery reaches 135,000 red king crab limit.

(d) In Zone 2 (defined in March and shown in attached chart) the bairdi cap is 326,000 crabs for joint venture yellowfin sole/flounder fisheries. Once reached, all joint venture and foreign directed fishing on yellowfin sole/flounder must stop.

NMFS: Retained this bairdi cap for Zone 2 but applied it to DAH not just JVP trawling for yellowfin sole/flounders. Also truncated Zone 2 at 179°20'W because of problems with the original Zone 2 extending west of the FCZ.

(e) A bycatch ceiling of 64,000 C. bairdi crabs for the foreign fishery is established for the Eastern Bering Sea.

NMFS: The 64,000 crab limit for foreign trawl fisheries is applied to Zone 1 and 2 combined. If the domestic fishery in Zone 1 or 2 closes because of Tanner crab catch limits, the foreign fishery can continue fishing with its own PSC.^{1/} (There was a mistake in the emergency rule as published which if allowed to stand would have closed the foreign fishery when domestic vessels reached their Tanner crab bycatch limit.)

(f) Designated Zone 3 (all of the Bering Sea Management Area outside Zones 1 and 2) where there are no bycatch limits except as provided for foreign fisheries by Amendment 3.

NMFS: Included in rule.

(g) Caps on halibut, red and blue king crab and C. bairdi crab catches shall apply to yellowfin sole/flounder joint ventures in the aggregate. When the cap for any of the three species is reached in any of the areas described, all yellowfin sole/flounder joint venture operations will end in that area for the remainder of 1986. In addition, joint venture bycatch rates of bairdi will be monitored and a trawler will be required to leave an area if its rate exceeds specified limits, on average, for three consecutive weeks. DAP operations are expected to voluntarily conform to joint venture operating limits.

NMFS: U.S. fisheries for yellowfin sole/flounders will stop in Zone 1 or 2 when the applicable PSC limits for king or Tanner crab are attained by the DAH fisheries.

1/ NOTE: NMFS closed the domestic flounder/sole fishery in Zone 1 on June 13 at a Tanner crab bycatch of 115,390 crabs. The foreign fishery subsequently was closed in Zone 1 when NMFS found the domestic bycatch of red king crab had reached about 130,000 out of the 135,000 limit.

However the Regional Director has given himself discretion to allow U.S. vessels to continue fishing for sole and flounders under specified conditions. The Regional Director will consider the following:

- (1) Risk of biological harm to crab stocks and socio-economic harm to crab users.
- (2) Extent of incidental catches of Tanner and king crabs in specific areas.
- (3) Confidence in estimates of PSC crab catches.
- (4) Ability to enforce compliance with prescribed conditions.
- (5) Determination that PSC species will not be overfished.

(h) It is the Council's intention that these measures apply for one year only and that they be carefully evaluated during 1986.

NMFS: The rule is effective until September 2 and could be extended another 90 days into early December. The Council will need to follow up with an amendment for 1987.

(i) If a DAP fishery for yellowfin sole and flounder should develop during 1986, the Council intends that measures as similar as possible to those applying to joint ventures, with provision for NMFS approved observers, if necessary, be developed by NMFS.

NMFS: PSCs above apply to DAH not just JVP.

(j) In the area east of 160°W longitude all DAP fishing vessels and all JVP processing vessels engaged in the groundfish fisheries shall carry NMFS-approved observers.

NMFS: The data gathering program mentioned above applies only to area south of 58°N between 160°W and 162°W.

(k) The Council will recommend that a 1986 directed C. bairdi pot fishery be allowed if the results of the NMFS trawl survey confirm a population at least as great as the anticipated 72 million crabs.

(not in rule)

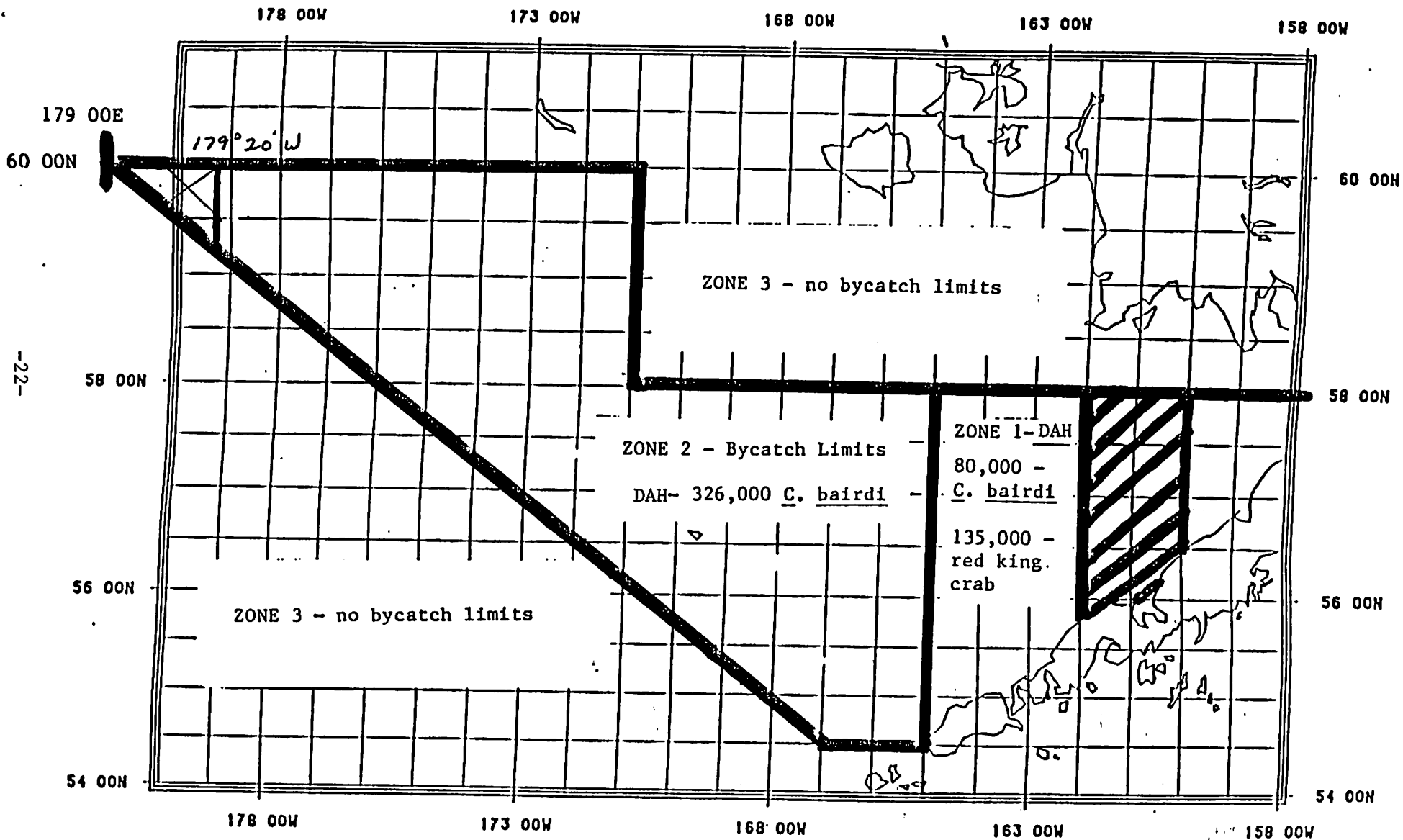


Fig. 6

The Advisory Panel Tanner Crab Bycatch Subcommittee met to review the Emergency Rule and related fishery activity. Committee members in attendance were: Larry Cotter - Chairman, Barry Fisher, Rich White, Ted Evans (for Terry Baker), Bill Woods and Arni Thompson. Absent were Cameron Sharick and Pete Islieb.

The Subcommittee reviewed the Emergency Rule and noted it differed from the Subcommittee's recommendations in the following two areas: 1) the lack of vessel by vessel bycatch rate accounting, and 2) discretionary authority retained by the Regional Director to allow continued fishing after bycatch caps are reached. In addition to discussing the above two items, the Subcommittee reviewed fishery activity in relation to the rule and the Subcommittee's original recommendation.

The Subcommittee is pleased with the voluntary compliance by joint venture operations with the subcommittee's recommendations from the time those recommendations were adopted by the Council to the time the Emergency Rule was placed into effect. The Subcommittee is displeased, however, that the bycatch cap of 80,000 C. bairdi in zone 1 was exceeded by approximately 34,000 crab. The Subcommittee appreciates the priority that NMFS has placed on this issue particularly given inherent difficulties associated with the implementation of a new regulation.

The Subcommittee wishes to make the following observations and recommendations.

1) Bycatch monitoring

The Subcommittee notes that there is an inherent time lag of approximately 14 days in data transfer and receipt between catcher vessels and NMFS. This time lag renders prompt response to excessive bycatch rates by NMFS impossible thereby increasing the probability of bycatches exceeding the caps implemented by the rule.

For example, bycatch rates in the 1986 JV flatfish fishery prior to the week of May 17th were within the acceptable range. However, the rates incurred during the week of May 24th were well in excess of that range and resulted in the cap being reached. This information was not processed until approximately 14 days later by which time the bycatch caps had been exceeded by approximately 34,000 C. bairdi.

The Subcommittee recognizes current constraints which prohibit the immediate processing of data will, in all likelihood, continue. Nevertheless, the Subcommittee believes that it is critical some method be incorporated to accomplish fishing modifications in a real time basis to discontinue bycatches that exceed established limits.

Therefore, the Subcommittee recommends that each joint venture accept the primary responsibility to monitor the bycatch of its catcher vessels on a continuing day to day basis and immediately

implement fishing modifications in the event bycatch rates are consistently exceeded. The bycatch data will, of course continue to be transmitted to NMFS and the Subcommittee recommends that such data also reflect any fishing modifications made as a result of excessive bycatches. Should the venture companies fail to appropriately adjust their fishery operation to successfully reduce their bycatch levels, the subcommittee recommends that fishery sanctions be imposed.

want included as options.

The Subcommittee takes note of its initial proposal in March that bycatch rates be monitored on a vessel by vessel basis over a three week period at which time a vessel which has exceeded the bycatch rates be required to modify its operation or be moved from that fishery zone. Given the bycatch rates of the week of May 24th, the Subcommittee's initial proposal to average bycatch rates over a three week period is obviously inadequate in dealing with a potential bycatch problem. The Subcommittee therefore recommends that bycatch rates be averaged over a substantially shorter period of time.

2) Discretionary authority

The Subcommittee recognizes the philosophical difference between the Council's action and the Emergency Rule in that NMFS does not want to be prohibited from allowing a fishery in the event bycatch caps will not substantially differ from levels established by the Council and will not adversely affect the conservation of the stocks at issue.

The Subcommittee recognizes that discretionary authority may be a necessary management tool. Situations may develop which could allow the use of discretionary authority to provide for continued fishing. However, under no circumstances should the Regional Director deviate from the objectives of the management goal. The subcommittee understands that the Regional Director's use of discretionary authority in this instance shall not be applied casually. Additionally, the Subcommittee recommends that criteria be developed relative to the use of discretionary authority including appropriate provisions for public comment.

3) Application of the Emergency Rule to DAP flatfish operations

The Subcommittee reiterates its intention to allow DAP trawl operations to continue and/or take place after bycatch caps have been reached. This provision was incorporated as a means to encourage the development of DAP operations while remaining cognizant of the objective of the emergency rule. The Subcommittee expresses its concern with the legal questions surrounding the processor preference amendment and fishery activity by JVP and DAP operations. The Subcommittee does not wish to debate the legal questions, but does point out that certain data requirements cannot be met until a fishery occurs.

4) 1986 directed C. bairdi fishery

The Subcommittee wishes to strongly reiterate its intention that a directed C. bairdi Tanner crab fishery take place in the fall of 1986 in the event that summer trawl survey results establish that a C. bairdi biomass of its March, 1986 calculations is present.

In conclusion, the Subcommittee will meet again prior to the September Council meeting at which time data will be available to allow the subcommittee to review in depth this year's performance. The Subcommittee requests that NMFS and Council staff be available to provide technical support and data. Additionally, the Subcommittee hopes that industry members will provide data concerning their 1986 operations in the eastern Bering Sea.

Tanner (*C. bairdi*) and red king crab catches in zone 1 of the Eastern Bering Sea, Feb-June, 1986

PERIOD	C. bairdi					Red King Crab					Yellowfin sole/ O. flatfish fishery
	Number	Cumulative Number	\$/MT	PER CENT	Cumulative %	NUMBER	Cumulative Number	\$/MT	PER CENT	Cumulative %	Total groundfish
FEB	2,550	2,550	3.8	2.2	2.2	0	0	0.0	0.0	0.0	677
MARCH	6,103	8,653	2.8	5.3	7.5	11,430	11,430	5.2	8.8	8.8	2,188
APRIL	10,773	19,426	0.5	9.4	16.9	12,600	24,030	0.5	9.7	18.5	23,755
MAY 10	13,316	32,742	0.7	11.7	28.6	10,135	34,165	0.5	7.8	26.3	19,468
MAY 17	7,368	40,110	0.4	6.5	35.1	9,533	43,698	0.5	7.3	33.6	18,683
MAY 24	52,093	92,203	4.2	45.6	80.7	65,038	108,736	5.2	50.0	83.6	12,525
MAY 31	21,615	113,818	2.7	18.9	99.6	21,445	130,181	2.7	16.5	100.1	7,924
JUNE 7	364	114,182	1.0	0.3	99.9	32	130,213	0.1	0.02	100.1	353
TOTAL	114,481					130,213					85,573
Yellowfin sole/Other flatfish only											73,974

M E M O R A N D U M

TO: Council, AP and SSC Members

FROM: Jim H. Branson
Executive Director

DATE: June 18, 1986

SUBJECT: Bering Sea Sablefish catch level

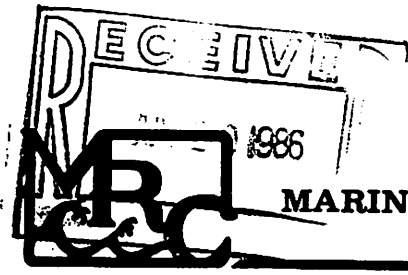
ACTION REQUIRED

Recommend catch limit to NMFS.

BACKGROUND

At the December 1985 meeting the Council set the Bering Sea sablefish TAC at 2,250 mt, with DAP set at 1,826 mt. At the March meeting we indicated that the TAC could be exceeded prior to the June meeting and that you should give the Regional Director an indication of when to close the fishery. The SSC advised the Council that the TAC could be increased to as high as 4,400 mt to allow the fishery to continue. Some Council members felt that there might be too much sablefish on the market already and that prices could fall if the quota were increased. The Council recommended that the fishery remain open at least till the June meeting and that they would review the situation again at that time. In early May NMFS increased the TAC by 500 mt, which increased DAP to 2,326 mt. The DAP harvest stands at approximately 2,074 mt.

The single species closure regulatory amendment being prepared by NMFS will not be in effect until at least mid-July, so management options prior to that time are limited. If TAC is reached prior to that time (1) it could be increased again, (2) the entire Bering Sea could be closed, or (3) a "200-fathom" type closure with prohibited species status could be implemented as in 1985. When single species closure authority is in place, the directed fisheries may be closed and other fisheries may continue with sablefish as a prohibited species



D-5(c)
SUPPLEMENTAL

MARINE RESOURCES COMPANY INTERNATIONAL

A Washington Partnership

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ACTION	ROUTE
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June 17, 1986

Mr. Robert W. McVey
Director, Alaska Region
National Marine Fisheries Service
P. O. Box 1668
Juneau, AK 99802

Dear Bob:

This is to express our embarrassment for so drastically over-catching our share of the bairdi incidental catch limit for zone one, and to assure you our operations will not lend to a total bairdi incidental catch in zones one and two combined greater than that established by your emergency rule and the Council's Industry Committee. We will restrict our operations in zone two so our total incidental catch in zones one and two does not exceed the total guideline level you assigned us. This should accomplish the Council's and the Industry Committee's goal to restrict the total incidental bairdi catch to 406,000 animals in zones one and two.

Raw observer data provided to us daily on the grounds show our incidental catch rate for the period up to the last five days we operated in zone one was 1.18 bairdi per ton of fish caught. However, during the last five days of operations in zone one the rate skyrocketed and our incidental catch in those five days nearly totaled what it was in the previous five weeks. We estimate our incidental bairdi catch in zone one totaled 82,319 animals. According to the raw observer data, our catch rate for the entire period we operated in zone one was 1.79 bairdi per ton of fish caught compared to the Industry Committee recommended limit of 2.0 bairdi per ton of fish.

Since we moved out of zone one on May 29, our operations have been in the northern part of zone two and in zone three. We anticipate remaining in those northern areas for the remainder of the season. The lesser abundance of bairdi in those areas and the recent reduction of our catcher fleet from 35 to 24

Robert W. McVey
June 17, 1986
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vessels should enable us to adequately monitor our operations
and avoid the anomaly that occurred in zone one.

Sincerely,



P. E. Chitwood
Director of Operations

PEC:ko

cc: Jim Branson