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September 13, 1982

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

Re: Comment on Proposed Amendment 6 to
 the Bering Sea/Aleutian Groundfish FMP

Dear Mr. Branson:

As attorneys for the Japan Deep Sea Trawlers Association and the Hokuten Trawlers Association, we are submitting this comment on proposed Amendment 6 to the Bering Sea/Aleutian Groundfish FMP. We anticipate that we will supplement this comment with an oral presentation at the September Council meeting.

Amendment 6 would close a rich groundfish fishing ground north of Unimak Pass to foreign trawlers on a year-round basis. This area is within the winter Halibut Savings Area and as such is already closed to foreign trawlers for six months from December 1, through May 31. The stated rationale for this closure is that the closure would somehow accelerate development of the domestic groundfish fishery in the Bering Sea; hence, the closed area has been referred to as "Fishery Development Zone" or FDZ.

Unlike most proposals for regulation of a foreign or domestic fishery in the FCZ, the FDZ proposal was conceived in the absence of any conservation or other need for it, and the rationale for it developed thereafter. The purported rationale does not support it; there is no scientific evidence to support it; and there is no evidence it is either needed or desired by any fishermen who allegedly would be in a position to take advantage of it.

A. A review of the written and unwritten justifications for Amendment 6 demonstrates the weakness of the rationale upon which it is based.

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1. The high CPUE in the proposed FDZ does not support closure.

Japanese data as well as U.S. trawl surveys have indicated that the proposed FDZ does yield a high CPUE for the groundfish fisheries conducted there. Japanese records show that the CPUE for each season in which Japan has fished in this area since 1979 has followed a consistent pattern.

The estimated CPUE for the Japanese fleet for each of these three years has been 4.02, 4.56 and 4.05 metric tons per hour, respectively. The CPUE has started relatively low in the first month (June) and then risen to above the annual average in the second through fourth months (July through September), and in the past two years (1980 and 1981) has remained very high even in October and November. The October 1981 CPUE in particular exceeded the average CPUE of each of the three years. See attachment A to this comment.

This pattern has reflected a high CPUE for groundfish in the area which has remained stable in recent years. Furthermore, the high CPUE during the middle and later periods of the recent seasons during which foreign fishing operations are permitted would tend to confirm a) that existing fishing patterns are not depleting the groundfish resource either on a season-to-season basis or during the course of the fishing season, and b) that fish caught early in the season are replenished either from stocks within the area or from stocks migrating there from nearby areas.

Since there already is a high CPUE in this area, and that CPUE has not been adversely impacted by foreign fishing, domestic fishermen already have all of the advantages they need to catch substantial quantities of groundfish in this area at low operating costs. There is no evidence that complete elimination of foreign trawling from this zone will either increase the CPUE for domestic fishermen or further lower their costs of operations. The high CPUE's in this area support maintaining fishing there at the present level.

The Plan Maintenance Team in its July 15, 1982 comments on proposed Amendment 6 indicated that the presence of foreign vessels in the zone has not lowered the CPUE. It stated:

"CPUE in the zone is generally higher than outside the zone but the present CPUE for [domestic] cod and other groundfish species is apparently very high, even though foreign

vessels are fishing in the zone during June 1 - November 30. Although foreign vessels can potentially preempt the fishing ground to a lower CPUE, it is not a problem at present."

PMT Comment at 4.

2. There is no evidence of grounds preemption or gear conflict.

The amendment package claims that exclusion of foreign trawling from the zone will allow domestic vessels to operate without interference or conflict and avoid gear losses. While it is true that exclusion of foreign fishing necessarily guarantees that there will be no interference between foreign and domestic vessels, there is a total lack of evidence that foreign fishing in this area has either preempted the grounds or caused any gear conflicts.

We were informed by NMFS Juneau on September 8, 1982 that there have been but two reported incidents of gear conflict between foreign and domestic vessels in the proposed FDZ since 1976. One of these involved a Japanese long-line vessel and an ARCO seismic survey vessel, while the other involved an alleged loss of nine crab pots to the German vessel Friedrich Busse. Thus, there is no evidence that there is a major gear conflict problem to be resolved by closure or any other drastic measures.

The proposed FDZ is not a major crab area. It is too deep. Therefore there is little interference with crab operations in this area.

Even if the foreign trawlers are removed from the FDZ, their removal would not reduce the threat of gear loss to domestic fishermen using stationary gear. If the FDZ succeeds as its proponents claim, the foreign trawlers will be replaced by domestic trawlers. Moreover, if the benefits to the domestic ground-fish fishermen are as great as claimed, and if the zone proves to be the high-yield bonanza they predict, it can be anticipated then the concentration of domestic trawlers in the zone would far exceed the present level of foreign trawl activity. Thus, creation of the zone could significantly increase gear conflicts between trawlers and fishermen using stationary gear.

3. The closure cannot be justified as a means of reducing foreign catch of Pacific cod.

The foreign catch of Pacific cod in the Bering Sea does not pose a threat to domestic harvesting of that species. The domestic harvest has increased dramatically. Assuming that the domestic fleets can and want to increase their catch of Pacific cod, there are no restrictions on their ability to do so. Under the MFCMA, foreign fleets are prohibited from catching cod or any other species of fish except to the extent that there is a surplus. If, as claimed, the domestic fleet is capable of catching the full OY of cod, then the proper action to take is to lower the TALFF for Pacific cod -- not to close off additional areas. A closure to "protect" Pacific cod also impacts the catch of other species. The primary target for foreign trawl operations in this area, as well as throughout the Bering Sea and Aleutians, is pollock. If Amendment 6 is adopted, then the abundant schools of pollock and other groundfish in this area will not be harvested.

4. Adoption of Amendment 6 will have an insignificant impact upon the desire of domestic fishermen to enter the groundfish fishery.

Even if the foreign trawl fleet were totally eliminated from the proposed FDZ, there is no evidence that this closure would induce any substantial increase in domestic groundfish fishing effort. At most, the advocates of Amendment 6 anticipate that the closure will provide some sort of modest "competitive edge," related to possible slight improvements in the already high CPUE and some marginal cost savings to the fishing fleet. As pointed out succinctly by the Plan Maintenance Team in its comments, the major impediments to growth of the domestic groundfish fishery relate to marketing and price, rather than catch rates and costs. The PMT report stated:

"The development of shore-based domestic groundfish fisheries, and to a lesser extent joint venture fisheries in the FDZ in the Bering Sea/Aleutians region in general, does not seem to be impeded due to the presence of foreign fisheries at this time. The major problems seem to be marketing and price paid for the fish, rather than catch rates. The presence or absence of foreign fisheries in the FDZ should have negligible or no effect on the market and the prices offered to the fishermen for fish. Moreover, since the CPUE

is apparently very high at present, the prices that fishermen are willing to sell at may not, necessarily, be lower if foreign vessels are excluded."

PMT Comments, supra, at 4.

The PMT's overall impression was that the proposed closure would not accomplish its purpose. It further stated:

"[T]here are doubts felt by most members of the team that the FDZ will be much of a stimulus for the development of shore-based or joint venture fisheries. The controlling factors for these developments may be difficult to identify but are not likely to be strongly related to whether the FDZ is established or not. . . .

"The PMT perceives that the FDZ will offer domestic vessels, especially those engaged in joint ventures, a competitive edge over their foreign competitors since CPUE in the zone is higher than outside it. The extent of this competitive edge, however, may not be sufficient encouragement for an accelerated development of domestic fisheries in the Bering Sea/Aleutians Regions."

PDT Comment at 5.

The prospects for the development of the domestic groundfish fishery depend primarily upon economic factors unrelated to the proposed closure. Amendment 6 cannot and will not impact these factors, which lie, ultimately, within the control of millions of consumers throughout the world who ultimately impact the price of groundfish by their daily purchase decisions.

B. Not only is there little, if any, scientific or other support for adoption of Amendment 6, but Amendment 6 creates a number of other problems which need to be addressed.

1. The closure will distort fishing patterns and increase pressure on stocks in other areas of the Bering Sea.

Although it may be possible, as claimed, that the foreign fishermen displaced from the proposed FDZ could catch their allocations of groundfish in other portions of the Bering Sea, it still would

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require a substantial shift of their effort. The amendment proposal asserts that 7% of the total foreign groundfish catch in the Bering Sea/Aleutians region comes from the proposed FDZ. If this amendment is adopted, this 7% must be taken out of the remainder of the Bering Sea/Aleutian region open to them. Such a shift necessarily will have a greater impact upon the groundfish species in those remaining areas than has been the case heretofore.

Even if the foreign trawlers can make up the loss by increasing their effort in other portions of the Bering Sea and Aleutians area, there will be a very substantial loss of efficiency, and they will experience much higher costs. These areas have lower CPUE's and require substantial increases in fuel and other expenses.

On page 4 of the amendment package it is claimed that the time-area closure model (Low et al. 1981) demonstrated that the foreign trawl fisheries would be able to catch their allocation elsewhere without prematurely achieving the catch quota of any particular species group. It was therefore concluded that there was a negligible impact upon the foreign trawl fisheries. However, the Low model did not focus upon the precise area now included within the proposed FDZ. The proposed FDZ most nearly equates to "Development Area C" as defined by Low. (Compare Figure 2 of Low with Figure 1 of the amendment package). That model did show that the closure would substantially increase the pressure upon POP. Table 1 of Low indicated that closure of his Development Area C would increase the foreign catch of POP by 35%. Other such anomalies could well develop should foreign fishing effort be shifted out of this area.

2. Adoption of Amendment 6 would severely impact efforts to cut down on the incidental catch of salmon.

The amendment package states at 5 that the Low Time-Area Closure model predicted a potential 10,052 fish increase in the interception of salmon by the foreign trawl fishery if Amendment 6 is adopted. It claimed that such an increase creates no problem because of the phased reduction in the permitted Chinook salmon by-catch over the next several years. This glib dismissal of the impact on salmon overlooks very serious technical and conservation problems.

As the Council well knows, the Japanese trawlers had voluntarily agreed to reduce their incidental catch of salmon even before the effective date of amendments to the FMP which incorporated this

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agreement. As part of this effort, the Japanese have taken measures to reduce this incidental catch. As can be seen by the 1982 statistics, so far these measures appear to have had good results. However, it is unclear at this time how much of the recent reduction in incidental catch is attributable to improved operating techniques and how much is attributable to population cycles and environmental conditions. There are serious concerns about whether the technology exists to meet the schedule of anticipated reductions in future years.

If the computer model is accurate and a 10,052 fish increase in the interception of salmon can be anticipated, this closure will severely impact the reduction program, affecting both foreign fishermen and those domestic fishermen concerned with the health of the Chinook salmon stocks. 10,052 fish represent 22% of the incidental catch limit imposed for 1983 and over 23% of the actual 1981 incidental catch for the entire Bering Sea/Aleutian area. The impact of such an increase upon the foreign fishermen is obvious. There is an increasingly greater risk that the Chinook salmon by-catch limit will be reached well before foreign groundfish allocations can be caught. Indeed, it may prove necessary to modify upward future limitations on salmon interception if this closure is adopted. The impact upon the salmon stock should be of at least equal concern to the Council. The foreign trawlers have been successful in reducing the salmon by-catch in recent years. Creation of the FDZ would substantially impair their ability to maintain this low level of interception. Thus, the over 10,000 fish increase in interception would directly and immediately impact the salmon population even if the total by-catch does not exceed the PSC limit.

C. The closure violates the equal protection component of the Fifth Amendment.

We once again wish to call the Council's attention to the serious constitutional issue posed by closures such as that in proposed Amendment 6. Foreign vessels fishing for that portion of a fishery surplus to domestic need should not be faced with time or area restrictions not applicable to American vessels of the same gear type, fishing in the same fishery for the same target species. We believe that these types of restrictions violate the Equal Protection component of the Fifth Amendment to the U.S. Constitution.

It is well established that the Fifth Amendment guarantees of equal protection and due process of law extend to aliens as well

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as citizens. Furthermore, non-citizens, whether resident in the United States or otherwise, who have subjected themselves to United States law are entitled to the benefits of its protection. Any thought that the equal protection guaranty applies only to resident aliens has been dispelled by the recent United States Supreme Court decision of Plyler v. Doe, 72 L.Ed.2d 786 (1982), which held that even aliens in the United States whose presence in this country is "unlawful" are persons guaranteed equal protection under our Constitution. We believe that proposed Amendment 6 must be considered in light of this decision, and that when so viewed, it fails to meet this constitutional standard.


CONCLUSION

Proposed Amendment 6 to the Bering Sea/Aleutian groundfish FMP should not be adopted. There is no scientific or management basis for it; it is not needed; it would unnecessarily distort fishing patterns and adversely impact other stocks of fish; and it unnecessarily raises serious constitutional issues.

Thank you very much.

Very truly yours,

GARVEY, SCHUBERT, ADAMS & BARER

By 
Donald P. Swisher
Attorneys for Japan Deep Sea
Trawlers Association and Hokuten
Trawlers Association

DPS:H/mf

Year	Vessel Type	JUNE			JULY			AUGUST			SEPTEMBER		
		Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)	Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)	Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)	Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)
1979	Mothership (Pollock)	3	739.0	88	4	122.5	11	6	1413.0	168	5	90.4	9
	Mothership (Yellowfin Sale)	-	--	-	-	--	-	-	--	-	-	-	-
	Lg. Trawler	12	708.6	94	123	8531.2	1288	274	13497.0	1601	280	15474.8	1626
	Medium Trawler	-	--	-	-	--	-	-	--	-	-	-	-
	Small Trawler	28	152.8	267	25	291.8	414	21	105.8	194	58	466.7	465
	TOTAL	43	1600.4	449	152	8945.5	1713	301	15015.8	1963	343	16031.9	2100
	CPUE:			3.56			5.22			7.65			7.63
Year	Vessel Type	JUNE			JULY			AUGUST			SEPTEMBER		
		Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)	Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)	Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)	Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)
1980	Mothership (Pollock)							1	65.3	8			
	Mothership (Yellowfin Sale)	-	--	-	-	--	-	-	--	-	-	-	-
	Lg. Trawler				48	1528.4	206	181	9346.9	1382	247	13389.6	1936
	Medium Trawler	1	11.0	5	19	2149.3	186	17	1175.0	164	28	2347.2	281
	Small Trawler	46	415.0	460	6	22.6	33	13	49.0	72	64	225.4	286
	TOTAL	47	426.0	465	73	3700.3	425	212	10636.2	1626	339	15962.2	2503
	CPUE:			0.92			8.71			6.54			6.38
Year	Vessel Type	JUNE			JULY			AUGUST			SEPTEMBER		
		Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)	Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)	Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)	Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)
1981	Mothership (Pollock)				4	167.8	8	17	686.8	40	32	3801.3	294
	Mothership (Yellowfin Sale)	-	--	-	-	--	-	-	--	-	-	-	-
	Lg. Trawler	1	28.9	12	94	1271.2	218	271	8710.9	1306	191	8310.7	1368
	Medium Trawler	-	--	-	-	--	-	2	4.9	6	-	-	-
	Small Trawler	41	94.3	325	39	79.9	231	75	186.9	429	130	558.3	875
	TOTAL	42	123.2	337	137	1518.9	457	365	9589.5	1781	353	12670.3	2537
	CPUE:			0.37			3.32			5.30			4.99

(ATTACHMENT A)

Year	Vessel Type	OCTOBER			NOVEMBER			TOTAL			NOTES:
		Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)	Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)	Vessel Days	TOTAL Catch (M.T.)	Effort (Hours)	
1979	Mothership (Pollock)	13	277.1	26	-	--	--	31	2642	291	1. Data covers J.D.S.T.A. only. Hokuten vessels do not fish in this area. 2. Data based on extrapolations from 1° by ½° statistical areas used by both Japan and US. For area bounded by 55° and 55°30' N latitude & 166' & 167° W. longitude, catch & effort assumed to be 1/24th of full catch & effort for total area. For areas S of 55°N latitude & W. of 166'W longitude, catch & effort assumed to be 1/6th of full catch & effort for these statistical areas. 3. Data for Danish Seine vessels belonging to motherships excluded from CPUE calculations but included in total catch. Amounts involved are negligible. 4. Each CPUE is based upon total catch for all vessels divided by effort (in hrs.) 5. SOURCE: Japan
	Mothership (Yellowfin Sale)	-	--	--	-	--	--				
	Lg. Trawler	130	4789.9	653	9	66.9	98	828	43068.4	5360	
	Medium Trawler	-	--	--	-	--	--				
	Small Trawler	267	2423.9	3220	203	1532.1	2378	602	4973.1	6938	
TOTAL	410	7490.9	3899	212	1599.0	2476	1461	50683.5	12600		
	CPUE:		1.92			0.65			4.02		
1980	Mothership (Pollock)	12	1542.7	117	2	206.6	18	15	1814.6	143	
	Mothership (Yellowfin Sale)	-	--	--	-	--	--				
	Lg. Trawler	89	2432.5	385	81	4896.8	799	646	31594.2	4708	
	Medium Trawler	9	672.2	88	2	4.6	2	76	6359.3	726	
	Small Trawler	160	1081.9	1146	201	2284.4	2048	489	4078.3	4045	
TOTAL	270	5729.3	1736	286	7392.4	2867	1226	43846.4	9622		
	CPUE:		3.3			2.58			4.56		
1981	Mothership (Pollock)	33	8906.0	655	-	--	--	86	13561.9	997	
	Mothership (Yellowfin Sale)	1	0	3	-	--	--	1	0	3	
	Lg. Trawler	192	8413.1	1332	231	10287.8	1320	980	37022.6	5556	
	Medium Trawler	-	--	--	-	--	--	2	4.9	6	
	Small Trawler	167	1432.5	1868	268	3261.8	3586	720	5613.7	7314	
TOTAL	393	18751.6	3858	499	13549.6	4906	1789	56203.1	13876		
	CPUE:		4.81			2.76			4.05		

Fisheries Agency. 6. Weighted average CPUE (1979-1981): (total catch per month divided by total effort per month): June: 1.72; July: 5.46; Aug.: 6.56; Sept.: 6.26; Oct.: 3.37; Nov.: 2.29.

INTERNATIONAL
LONGSHOREMEN'S & WAREHOUSEMEN'S
147 SOUTH FRANKLIN, JUNEAU, ALASKA 99801
(907) 586-6642

ILWU ALASKA COUNCIL

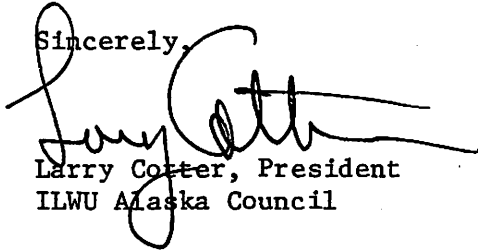
UNION



Mr. Jim Branson
North Pacific Fishery Management Council
September 2, 1982
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domestic industry is fully able to utilize the benefits of the FDZ without suffering from unfair competition from joint venture operations. We likewise feel the proposal protects the needs of joint ventures.

Sincerely,



Larry Cotter, President
ILWU Alaska Council

S ROACH
3710 WEST FULION
SEATTLE WA 98199



AUG 30 1982
Mailgram



ACTION ROUTE TO

4-023081S240 08/28/82 ICS IP4RHCZ CSP AHGB
2062845372 MCM TDNR SEATTLE WA 92 08-28 0427P EST

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NORTH PACIFIC MANAGEMENT COUNCIL
PO BOX 3136 DT
ANCHORAGE AK 99510

I FIRMLY SUPPORT THE ESTABLISHMENT OF THE FISHERIES DEVELOPMENT ZONE,
AND BELIEVE ALL 16 VESSELS IN THE DOMESTIC TRAWL FLEET WOULD ALSO.
THERE ARE 3 SUMMER COD SCHOOLING AREAS IN THE BERING SEA; CAPE
SENIAVAN, PORT MOLLER, AND AMLIA ISLAND. THE DOMESTIC FLEET IS IN
DIRECT COMPETITION WITH MARINE RESOURCES JOINT VENTURES IN ALL 3
AREAS, WE CANNOT COMPETE WITH CHEAP FOREIGN LABOR ON OUR GROUND. DUE
TO THIS I HAVE LEFT THE DOMESTIC FISHERY.

GEORGE FULTON
FISHING VESSEL, STORM PETREL

1627 EST

MCMCOMP MCM

Dr. Loh Lee Low
June 17, 1982
Page two

MUNDT, MacGREGOR, HAPPEL,
FALCONER & ZULAUF

longline vessels in the WHSA has had and will have no significant impact on the stocks of halibut which the closure is designed to protect. Indeed, the incidental catch of halibut in this area by foreign longline vessels was so low under the PMP, that the Team and the Council exempted such vessels from the halibut provisions of the Prohibited Species Amendment (Amendment #3 to the FMP) which was adopted last year.

Second, from an operational standpoint, such an exemption would alleviate the difficulties which are anticipated this year when both trawl and longline vessels will be forced to fish the area at the same time (e.g. June - December). Previously, longline vessels were allowed access to the area during those times when the WHSA was closed to trawling. This enabled longline vessels to take their groundfish allocations without having to compete head-to-head with trawlers for access to the grounds.

I have discussed this situation with Mr. Hoag on several occasions and plan to meet with him prior to next week's PDT meeting in an effort to develop a mutually acceptable proposal which we can make to the Team. In the meantime, if you or any of the other team members have any questions, please give me a call.

Sincerely yours,

MUNDT, MacGREGOR, HAPPEL,
FALCONER & ZULAUF



Paul MacGregor

PM:aes

cc: Bering Sea PDT Members
Mr. Y. Okazaki

July 16, 1982

Mr. Jim H. Branson
Executive Director
North Pacific Fishery Management Council
P. O. Box 3136DT
Anchorage, Alaska 99501

Dear Jim:

Today we received a draft copy of the "Bering Sea/Aleutians Groundfish Fishery Management Plan Amendment #6--Establishment of a U.S. Fishery Development Zone," dated July 15, 1982. Since we have just received Amendment #6 and feel that it deserves serious consideration, we ask that the NPFMC postpone any action on this issue until the October meeting so that we can study its merits and develop our positions. However, we would strongly urge that the Amendment be structured as a no foreign fishing area rather than a no foreign trawling area.

Sincerely,

Rudy A. Petersen

Rudy A. Petersen, President
The Highliners Association

R. Barry Fisher

R. Barry Fisher
Coalition for Open Ocean Fisheries

BSAI - Public

PLANTS
PELICAN COLD STORAGE COMPANY, PELICAN ALASKA 99832
ALEUTIAN COLD STORAGE COMPANY, SAND POINT, ALASKA 99661
PORT ALEXANDER COLD STORAGE COMPANY
PORT ALEXANDER, ALASKA 99836

SEAFOOD SALES OFFICE
PELICAN SALES COMPANY, SEATTLE, WASHINGTON 98105



PELICAN
COLD STORAGE COMPANY

GENERAL OFFICES: 653 N.E. NORTHLAKE WAY, SEATTLE, WASHINGTON 98105 - PHONE (206) 632-8000
GENERAL OFFICES MAILING ADDRESS: P.O. BOX 5538, SEATTLE, WASHINGTON 98105

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	BAIT AND ICE	
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June 3, 1982

North Pacific Fishery Management Council
P.O. Box 3136DT
Anchorage, AK 99510

Attn: Mr. Jim Branson &
Plan Development Team

Gentlemen:

I have reviewed with a great amount of interest the proposal for a fishing sanctuary in the Bering Sea for the exclusive use of the developing domestic groundfish fishery. I would appreciate anything that the North Pacific Fishery Management Council could do to establish this fishery development zone.

Yours truly,

J. G. Ferguson
President

JGF/ak

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JEFF POWOLLY
P.O. BOX 3136 DF
ANCHORAGE AK 99510

SEAREST SUPPORTS BART EATON'S PROPOSAL ON FISHERIES DEVELOPMENT ZONE.

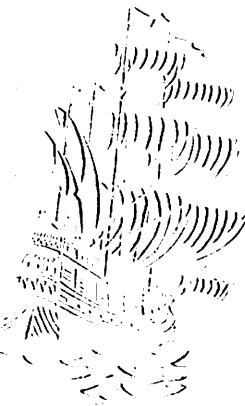
JERRY TILLEY
SEAREST, 152623

1746 EST

MG&COMP INC

BEAF pub

MAY 17 1982



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May 12, 1982

Mr Jeff Povolny
North Pacific Management Council
Box 3136 DT
Anchorage, Alaska 99510

I urge the council to favorably consider Bart Eaton's proposal for fishing sanctuaries in the Bering Sea.

Our company has been processing cod in Akutan Harbor since March and there is already some indication that the cod population has declined in size and quantity. We only buy from two small boats.

In fact, I think that when all the bottomfish operations now under construction are operating, you will be considering very substantial reductions in total foreign fishing quotas. This should be apparent later this year

Please don't wait for a decline in population to act,

Yours very truly,

A Jerome Anderson
President



Marine Resources Company

SEP 17 1982

HEAD OFFICE:
192 Nickerson
Suite 307
Seattle, Washington 98109
Phone: (206) 285-6424
Telex: 277115 MRC UR

	NAKHODKA OFFICE
	Verkhne Morskaya, 134
	Nakhodka 17
	Primorski Krai
	692900 U.S.S.R.
	Telex: 213118.MRK SU

September 14, 1982

Walter T. Pereyra

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

Re: Amendment No. 6

Dear Jim:

We have considered the Council proposed Amendment No. 6 to the Bering Sea/Aleutian Island Groundfish Plan and find the supporting justification incomplete. For this reason, we are unable to make a reasonable assessment of benefits and costs associated with the proposed FDZ.

As we are all aware, the concept of the FDZ is breaking new ground. Obviously, due to its precedental nature, it should not be entered into lightly; and any decision definitely must be based on a thorough analysis of all data and factors bearing on this subject. This requirement is specifically underscored in Director Gordon's July 31, 1982 guidance memorandum on area closures.

Accordingly, we feel that the Council should defer taking action on Amendment No. 6 at this time and pass it back to the PDT and SSC for further analysis and review.

Thank you for the Council's consideration on this important issue.

Yours truly,

Wally
Walter T. Pereyra
Vice President and General Manager

WTP:kb

cc: William Gordon
Harold Lokken
Rolland Schmitten
Rudy Peterson
Jack Donaldson

First, and most importantly, the depth restrictions as applied to longline vessels are simply unnecessary. As demonstrated in the years prior to the implementation of the FMP^{1/}, the year-round operation of foreign longline vessels in the WHSA has had and will have no significant impact on the stocks of halibut which the depth restriction was originally designed to protect. Indeed, the incidental catch of halibut by foreign longliners in this area was so low under the PMP that the team and Council exempted such vessels from the halibut provisions of the Prohibited Species Amendment (Amendment #3 to the FMP) which was adopted last year.

Second, from an operational standpoint, such an exemption would alleviate the difficulties which are anticipated this year when both trawl and longline vessels will be forced to fish the area at the same time (e.g. June - November). Previously, longline vessels were allowed access to the area during those times when the WHSA was closed to foreign trawling. This provided longline vessels with an opportunity to take their groundfish allocations without the risk of being pre-empted by other foreign gear types.

Following the May Council meeting, representatives of the NPL and the International Pacific Halibut Commission (the "IPHC") met to consider any concerns which the IPHC might have over the proposed amendment. As a result of those meetings, a proposal was submitted to the Plan Development Team for consideration at its meeting in Seattle last June. That proposal, with slight modifications, was adopted by the Team and forms the basis of the proposed WHSA amendment as contained in the amendment package. For the reasons stated above, the NPL fully supports the proposed amendment.

We would like to make two further comments on the WHSA portions of the amendment package. First, insofar as the proposed amendment's impact on the foreign harvest of cod is concerned, it should be noted that the amendment

^{1/} The FMP was implemented on January 1, 1982. Under the PMP, which governed foreign fishing operations between 1976 and January 1, 1982, foreign longline vessels were allowed to operate in the WHSA on a year-round basis.

Mr. Jim Branson
September 10, 1982
Page three

MUNDT, MACGREGOR, HAPPEL,
FALCONER & ZULAUF

will not increase the amount of cod or other species allocated to foreign fishermen. Although it might affect the distribution of such allocations among various foreign user groups, it will not affect the total amount available to them.

Second, it was the NPL's understanding and is certainly its desire, that the WHSA amendment was to be processed separately from the fishery development zone ("FDZ") amendment. The WHSA proposal is a simple, straightforward amendment which simply removes an onerous and unnecessary depth restriction and which could provide much needed relief in a relatively short period of time. The FDZ proposal, on the other hand, is a complex amendment, with serious implications for a number of different gear types, both foreign and domestic. The processing and implementation of such an amendment has, in the past, proven quite time consuming. Combination of the two proposals could, therefore, unduly delay implementation of the WHSA amendment. As the two proposals are separate and distinct from one another, the NPL requests that they be processed separately.

2. The Fishery Development Zone. The NPL is opposed to the establishment of the fishery development zone ("FDZ") proposed in the amendment package for several reasons. First, there appears to be little, if any, indication that the proposal would accomplish its desired effect--promotion of the domestic groundfish fishery in the area. As stated by the Plan Development Team in its written comments on the subject, "there are doubts felt by most members of the Team that the FDZ will be much of a stimulus for the development of shore-based or joint venture fisheries." The Team concluded that "the proposed amendment is not likely to be a very important factor to the development of domestic groundfish fisheries in the Bering Sea/Aleutians region." Thus, although the FDZ was originally conceived as a sanctuary which would foster the development of the domestic groundfish fishery, there is simply no data upon which to base a conclusion that the existence of such a zone would have the desired effect.

Second, while there is no identifiable benefit to be achieved from the establishment of such a zone, significant costs would, in fact, be imposed on the foreign

Mr. Jim Branson
September 10, 1982
Page four

MUNDT, MacGREGOR, HAPPEL,
FALCONER & ZULAUF

fishermen excluded from the FDZ. Furthermore, unless exempted from the closure^{2/}, foreign longliners would bear a disproportionate share of those costs. Approximately 25% of the NPL's total groundfish catch in the Bering Sea comes from the area proposed for the FDZ. As that area also encompasses a significant portion of the contour along which the longliners fish, it is doubtful that they would be able to make up much of their loss in other areas. As noted by Dr. Low in his analysis of the effect which the proposed FDZ would have on foreign catches (April 1982), "the impact on longliners will be greater because it will be much more difficult for them to make up their 'lost catches from the zone' since there are limited fishing grounds elsewhere" (pg. 3).

Thus, while the establishment of such a zone would provide dubious benefits at best, it would impose significant costs on foreign user groups in general and the NPL in particular. For these reasons, the NPL is opposed to the proposed amendment.

Thank you for the opportunity to present these comments. If you or any of the members of the Council, its AP or SSC have any questions concerning the points discussed in this letter, we would be happy to discuss them with you in Sitka.

Sincerely yours,

MUNDT, MacGREGOR, HAPPEL,
FALCONER & ZULAUF



Paul MacGregor

PM:aes

^{2/} The FDZ as originally proposed was restricted to foreign trawling and did not include longliners. It is not clear from the wording of the amendment package whether longliners would or would not be included in the current version of the proposed amendment.

(9/20/82)

Statement of Charles H. Bundrant
President, Trident Seafoods Corporation
Seattle, Washington

Before the
North Pacific Fishery Management Council
Sitka, Alaska

September 21 - 22, 1982

Introduction

Mr. Chairman, I am Charles H. (Chuck) Bundrant, President of Trident Seafoods Corporation of Seattle, Washington, and Akutan, Alaska. Trident Seafoods was founded in 1973 to harvest, process and market United States seafoods from the waters of the North Pacific and the Bering Sea. It is a wholly United States-owned-and-operated corporation, fully dedicated to the development of United States fisheries in line with the objectives of the Magnuson Fishery Conservation and Management Act and the American Fisheries Promotion Act of 1980.

I am here today to address Amendment #6 to the Bering Sea/Aleutian Islands Groundfish Fishery Management Plan, which would establish a Fishery Development Zone north of Unimak Pass. In this Zone, directed foreign fishing would be prohibited to promote the development and growth of the United

States domestic fishing industry. I strongly support this provision and urge the Council to vote in its favor. position is based on two grounds. First, to realize the fisheries development objectives of the Magnuson Act, we must continue to support and protect our industry's efforts to gain access to the resources in our 200-mile zone, establishing preferential fishing zones. Secondly, Trident Seafoods Corporation needs this Fishery Development Zone in order to successfully develop a shore-based bottomfish industry in the Bering Sea. We are now operating a large, multi-million-dollar bottomfish plant on Akutan Island. The economic viability of that facility will depend to a considerable extent on the actions that this Council and the Secretary of Commerce take regarding conservation and management of the groundfish fishery for the benefit of United States citizens.

The Policy Context

This Fishery Development Zone proposal is consistent with goals of the Magnuson Act as enacted in 1976 and subsequently amended. In the original statement of purposes, the Congress made clear that the Act should "encourage the development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen, including bottomfish off Alaska."

In the American Fisheries Promotion Act of 1980, this purpose was re-emphasized with the addition of the words, "and to that end, to ensure the optimum yield determinations to promote such development." Other amendments to the Act, including those dealing with the domestic processor preference, also support the proposition that conservation and management of United States fishery resources should ensure that the United States industry, both harvesters and processors, receives priority access to our fishery resources. Foreign nations' access should be permitted only where there is no reasonable likelihood that the United States industry can utilize the resource. This position was reiterated in the recent legislation dealing with foreign processing vessels' access to internal waters. Under this legislation, the Governor of any affected state cannot permit foreign fish processing in the state's waters if the fish processors in the state have, and will utilize, adequate capacity to process all United States harvested fish from the fishery under concern.

The development program of the National Marine Fisheries Service has also underscored this policy position. In the most recent solicitation for Saltonstall-Kennedy Research & Development grants, published in January 1982, NMFS identified, as its highest priority for Alaska, projects that would develop the bottomfish resources "to obtain the highest value for landed species" and develop a trained fisheries and processing labor force in Alaska.

To achieve these objectives requires a cooperative and active partnership among the fishing industry, the Council, and both state and Federal governments. I am not opposed to including in that partnership, where appropriate, those foreign nations which have historically fished in the North Pacific, but I feel very strongly that their role in the partnership has to be defined in terms of what is best for the United States, and not what is best or most convenient for them. Thus, while I do not advocate a wholesale termination of foreign fishing in the Bering Sea at this time, I understand what continued foreign fishing in the area proposed for a Fishery Development Zone can mean for the United States industry. Not only might a continuation of directed foreign fishing lead to unnecessary competition for United States fishermen and processors in that area, but also it could permit the foreigners, who are undoubtedly concerned about their future in the Bering Sea, to concentrate their fishing in such a way that any shoreside facility would find it virtually impossible to succeed. Let me explain briefly.

First, there is the direct competition for the resource. If the foreign vessels are permitted to enter this Zone on equal terms with American vessels, this will markedly reduce the availability of fishery resources for United States boats which might choose to fish there. Foreign vessels could even find it to their advantage to overfish this area. By

definition, this situation could essentially deprive my plant at Akutan, as well as other shoreside or domestic floating processors, from resources which are rightfully theirs under the laws of the United States. I cannot move my plant, but these vessels can fish elsewhere without harm to them.

Second, when foreign vessels harvest the fish, they cannot land them at our plant. Those fish are processed on board the foreign ship and ultimately landed in a foreign nation where they are reprocessed and sold on the international market. In many cases, these fish are exported back to the United States and fill markets in which United States processors cannot compete. When this is done fairly, under market-oriented conditions, then we cannot complain. When, however, this competition is based on economic factors and national policies in the countries which place our industry at a competitive disadvantage both here and abroad, as is true in many instances, then the Alaskan Bottomfish Industry will find it very difficult to develop, except in the joint venture mode.

I feel that the Trident Plant at Akutan can compete successfully in domestic and international markets with Alaskan bottomfish products if certain fundamental support is provided by this Council, the State of Alaska and the Federal Government. I do not seek subsidies or unfair market advantages. I request only that the American vessels and the processors to whom they sell are given the opportunity to harvest and process United

States fishery resources consistent with the Magnuson Act and other similar legislation. This means that where United States capacity exists, foreign access to our resources should be restricted. I feel that we have both the intent and the capacity to handle the bottomfish resources in the Fishery Development Zone proposed by your Council. Let me describe what we are doing in Akutan so that you may be aware of our present activities.

The Akutan Facility

In Akutan, Trident Seafoods Corporation has established a multi-purpose bottomfish facility which has been in operation throughout the summer, processing both salt cod for international markets and stock fish for markets in Africa and South America. We also intend to provide frozen fillets and whole fish for markets throughout the world. We have processed some salmon this summer and will continue to deal in traditional species during their seasons, but our main focus is on developing a twelve-month processing plant for Alaskan bottomfish. This includes Pacific Ocean perch, Yellowfin sole, Alaska pollock and halibut, as well as Pacific cod. To date, we have processed in excess of 5,000,000 Lbs. of cod and anticipate to harvest an additional 20,000,000 Lbs. prior to the 1st of the year.

Our capacity, when the plant is complete, will permit us to process 600,000 pounds of round fish per day and hold up to 8 million pounds in frozen storage. We have a 700-foot dock surrounding the facility and can handle the harvests of 10-12

large draggers on a regular basis. Five processing lines are set up, three with Baader 440's, one with a Baader 184, and one with a Baader 99. The most technologically advanced processing, freezing and unloading equipment has been incorporated into the plant, and the entire operation is designed for a permanent, year-round operation, employing over 150 people and housing them in modern, comfortable facilities which should ensure that qualified people will come to Akutan and stay for a reasonable period of time.

We are exploring markets all over the world for Alaskan bottomfish processed in Akutan. From Akutan, our products can be sent to many markets without further processing. In other words, we are not just the first stop in a process where most of the value will be added in Seattle or Seoul or Europe. We intend to add as much processing value to the product as we can right here in Alaska so that real economic development can take place up here, and Alaska can become a State that provides not only the resource, but also the fully-processed product.

The Akutan plant has the capacity to process virtually all the 80,000 metric tons of ground fish which foreign vessels have harvested in the Fishery Development Zone in the past several years. While we have not yet identified Pacific pollock markets, we are confident that the United States Industry can handle all the other ground fish species available for harvesting in that area at this moment. The Council's analysis has shown that the exclusion of foreign fishing

in the zone will not restrict foreign vessel's ability to obtain their allocations and will have a positive impact on domestic vessels ability to expand D.A.H. and deliver product to the shore side processors. Under these conditions I can see no reason for opposition to this proposal.

I might add that I understand and sympathize with the position taken by some Seattle vessel owners who fear that any geographic restrictions against foreign fishing might later be directed against them. I do not see where the Magnuson Act permits one group of American fishermen to discriminate against another and I am not advocating such a policy. Rather I feel that the United States industry must come together and work cooperatively for the development of all parts of our fisheries.

While I know that it is impossible for many of you to come to Akutan and see first hand what has occurred, I hope that my brief discussion of what we have accomplished so far and what we intend to complete this year will convince you that this is a living example of a year-round, fully integrated, shore-based bottomfish processing facility totally in line with what was envisioned when the original 200 mile legislation that was enacted in 1976. Although we have all been optimistic about our industry moving in this direction the Akutan facility is probably the first one of the scale needed to handle the volume of product needed for profitable operations in the bottomfish business on the international market.

Fishing zones dedicated to United States fishing and excluding foreigners are not anything new, either on the East Coast (as in the squid fishery) or on the West Coast. We are not unfairly excluding our foreign friends from our waters with this proposal. Rather, we are ensuring that United States fisheries development can and will take place by permitting our industry the opportunity to gain its rightful place--first in line for the resource. I urge you, the members of the North Pacific Fisheries Management Council, to support this Fishery Development Zone.

Thank you.

Charles H. Bunker

SEP 16 1982

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	Interpreter	
	Sec. / Typist	

John Connors *AM*
cc *JH*

September 9, 1982

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

Dear Jim:

The Coalition for Open Ocean Fisheries has reviewed the Bering Sea/Aleutian Islands Groundfish FMP amendment number 6--establishment of a U.S. Fishery Development Zone, and appreciates the opportunity to comment on this important issue.

The proposed U.S. fishery development zone concept appears close to motherhood and apple pie. Three or four years ago this zone could have been extremely useful as a short term boost for the U.S. industry. Presently, we are not convinced that it is truly desirable as U.S. fisheries have advanced substantially in the Southeast Bering Sea/Aleutian Islands arena.

Our opportunities to study this issue in the depth it warrants are hampered by a total lack of economic information. We would like to see an evaluation of what economic advantages and disadvantages such a zone would place on nearby shoreside processors and their wet fish trawlers, the salt cod fleet, factory trawler operations and joint venture trawlers. Foreign catches now stemming from this zone are provided by the PMT report but we have seen no data on present U.S. catches from this zone. U.S. cod catches from the Southeast Bering Sea/Aleutian region were about 29,000 metric tons in 1981 and will be about double that in 1982. How much stems from the proposed zone and who are the primary user groups? What would the proposed zone mean in the way of "increased protection" for the U.S. vessels compared to the current DAH-TALFF regulations and what are the economic advantages or disadvantages to U.S. user groups?

Mr. Jim H. Branson
September 9, 1982
Page 2

Until such issues are addressed, we cannot make recommendations as to the merits of the proposed FDZ. We are opposed to the basic carving up of FCZ waters to support special interest groups. Special exclusion zones seem to be a popular concept of late and we are sensitive to the proposed FDZ being worked into a poor precedent.

~~We ask that this issue be tabled until information~~
is available to carefully evaluate the issues and their economics.

Sincerely,

Wilhelm Jensen US Dominator
Konrad S. L., Assistant
Joseph C. Emagey, Westward Crawlers, Inc.
Alfred H. Hutter Fishing Ventures, Inc.

Attachment

Attachment

Specific Comments by the Coalition
for Open Ocean Fisheries on Proposed
Amendment #6 to the Bering Sea-
Aleutian Islands Groundfish Fishery
Management Plan (August 9, 1982 draft)

Part I - Establishment of a U.S.
Fishery Development Zone

Rationale

Why has development of the domestic fisheries in the Bering Sea-Aleutian Islands region been slow?

What shorebased processing facilities are located at Akutan and Unalaska? What are their estimated daily and yearly capacities for processing cod and pollock? At what level are they now operating? If they are not operating at full capacity, what is preventing them from reaching that level?

What joint ventures are now operating in the area proposed for the Fishery Development Zone (FDZ)? What have been their annual harvests of cod and pollock?

What domestic catcher/processors, if any, are operating in the FDZ? What are their annual harvests of cod and pollock?

What domestic floating processors, if any, are operating in the FDZ? How much cod and pollock have they been processing annually?

The amendment states that the FDZ would "stimulate further development of domestic groundfish fisheries." However, in a July 15, 1982 report, the Council's Plan Maintenance Team (PMT) noted that

"...[T]here are doubts felt by most members of the team that the FDZ will be much of a stimulus for the development of shore-based or joint-venture fisheries. The controlling factors for these developments may be difficult to identify but are not likely to be strongly related to whether the FDZ is established or not."

Why is there a disparity between the amendment and the PMT's views?

Please give references to those trawl surveys which were used in making comparisons of CPUE data.

The amendment notes that

"High CPUE's reduce operating costs for tonnage taken, allowing a higher margin on low ex-vessel prices, a necessity for both fisherman and processor."

Yet the PMT report declares that

"...[S]ince CPUE is apparently very high at present, the prices that fishermen are willing to sell at may not, necessarily, be lower if foreign vessels are excluded."

Are the amendment and the PMT declaration in conflict?

Where are the data which show that foreign vessels are now interfering or conflicting with American vessels operating in the proposed FDZ?

The amendment notes that domestic vessels relying on shorebased facilities will receive advantages from the implementation of the FDZ. What benefits, if any, would U.S. vessels in joint ventures, U.S. catcher/processors and U.S. floating processors derive from the proposed zone. Where are the economic data that would substantiate any benefits to be derived from the proposed FDZ?

When the population of Pacific cod declines, will domestic fishermen really need protection from foreign competition; won't OY and DAH be adjusted so there is no TALFF on Pacific cod? As the Pacific cod population declines what steps, if any, will be taken to ensure that the foreign fleets cut down on their incidental harvests of Pacific cod?

Where are the data showing that domestic fishermen using stationary gear are suffering losses from foreign trawlers? What domestic vessels, if any, are now using stationary gear in the proposed zone?

Effect on Foreign Groundfish Catches

The proposed amendment notes the total amount of groundfish caught by foreign fleets in the proposed zone average 7% of their entire Bering Sea and Aleutian Islands harvest (page 3). Earlier (page 1), it was indicated that the proposed zone is a very productive area. Are these two statements contradictory?

Effect on Foreign Incidental Catch of Prohibited Species

Although closing the FDZ to foreign vessels may result in a small increase in incidental catches of tanner crab and salmon elsewhere, will these increases have any detrimental effect on the resources?

Part II - Allow Foreign Longline Fisheries
in the Winter Halibut Savings Area

Discussion

The present regulation requiring foreign longliners to fish in waters deeper than 500 meters in the Winter Halibut Savings (WHS) Area was instituted in January 1982 to control the incidental catch of halibut. What effect has it had on reducing incidental catches of halibut in that area? Is a year's experience enough to justify lifting the restriction?

How has the present regulation affected the foreign longline catch of Pacific cod and other species in the WHS Area?

What has been the four-year average (1978-81) halibut by-catch by foreign longliners in the WHS Area?

Under the proposed amendment, the less-than-500 meter restriction would not be implemented until the halibut by-catch by foreign longliners from all areas of the Bering Sea and Aleutian Islands reaches 105 metric tons. If the incidental halibut catches can be taken anywhere before the restriction is implemented, how would this help reduce incidental catches of halibut from the WHS Area?



**North Pacific
Fishing Vessel
Owners' Association**

September 10, 1982

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

Dear Mr. Branson:

The North Pacific Fishing Vessel Owners' Association fully supports the September 9, 1982 comments of the Coalition for Open Ocean Fisheries regarding proposed Amendment #6 to the Bering Sea-Aleutian Islands Groundfish Fishery Management Plan.

The Association would, however, go one step beyond what the Coalition stated in its letter. Since the Pacific cod resource is of extreme importance to the development of the U.S. bottomfish industry, the Association suggests that the Council look at ways other than the Fishery Development Zone to make this resource more accessible to American fishermen. One such alternative that the Council might consider is a requirement that foreign fishing vessels operating throughout the Bering Sea and Aleutian Islands region use pelagic gear.

Sincerely,


Richard J. Goldsmith
Executive Director

Armstrong, Byrd
& Associates, Inc.


Mr. Jim H. Branson, September 12th 1982, page two,

The proposed "zone" would, in fact, be an instance of rank and outright protectionism -- a grab for resources which are the property of all mankind in an effort to establish a protected industry. The experience of other nations and industries which have attempted the artificial stimulation of industries against such odds has not been promising. As the Korean industry has pointed out on numerous occasions, ~~the establishment of a groundfish~~ industry off Alaska would seem to fly in the face of basic economics: it would call for the prosperous development of a labor-intensive industry based on a low-value, high-volume resource in America's highest-cost region.

Proposal to Allow Foreign Longline Fishing in the Winter Halibut Savings Area. The Korean industry is grateful for the recognition implied in the proposal of the extreme paucity of foreign longline catches of halibut. The removal of the depth restriction on foreign longlining is a welcome move toward simplification of the complexities of the American system. In view of the demonstrated paucity of catches, we would, however, have hoped that, in a climate of "deregulation," we might have been exempted from the proposed further provisions of a ceiling on halibut bycatches. They are de minimus, insignificant, and it is a waste of time on the part both of NMFS and the foreign fleets to impose the ceiling system.

Thank you for your consideration in this matter.

Sincerely yours,


Rodney E. Armstrong
Agent for the
Korean Fleet



REA/jr