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March 22, 2011

VIA FACSIMILE - 907.271.2817

RECEIVED
MAR 22 2011

Mr. Eric Olson
Chairman
North Pacific Fishery Management Council
605 W. 4th Avenue, Suite 305
Anchorage, AK 99501-2252

**Re: Comments Regarding Amendments to the Salmon FMP for the
Council's 203rd Plenary Session, March 30-April 5, 2011**

Dear Chairman Olson:

On behalf of the United Cook Inlet Drift Association ("UCIDA"), I respectfully submit the following comments in regard to Agenda Issue C-3(a) – "Preliminary Review of Salmon FMP Changes" – scheduled for the March 30 – April 5, 2011 meeting of the North Pacific Fishery Management Council (the "Council"). Although the Council has not yet released documents related to the upcoming meeting, UCIDA is submitting these preliminary comments to meet the Council's March 22 comment deadline. UCIDA will submit additional comments at the meeting as well.

UCIDA's members are commercial drift net fishermen operating in Cook Inlet, Alaska. UCIDA and its members are dedicated to securing commercial drift net fishing opportunities in Cook Inlet and ensuring that salmon in Cook Inlet are sustainably managed and harvested, consistent with sound scientific management practices. These sound management practices are essential to preserving commercial fishing as a way of life and to ensure sustained yields for current and future generations in Cook Inlet. Drift net fishing in Cook Inlet is not only a way of life for UCIDA's members and their families, but an important part of the local and regional economy – supporting local fishing communities by delivering high-quality, sustainable, wild salmon to market around the world.

Why UCIDA Cares About the Salmon Fishery Management Plan

The most productive salmon fishing for UCIDA's members occurs in the EEZ waters of Cook Inlet. Under the Magnuson Stevens Act ("MSA") the Council and the Secretary of Commerce



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through the National Marine Fisheries Service ("NMFS") have an obligation to ensure that these fisheries are managed in a manner consistent with the MSA's ten national standards. To that end, the Council was required to, and did, produce a fishery management plan for salmon fishing in Alaska in 1990 (the "Salmon FMP"). Although the Salmon FMP was required to provide guidance for the management of these fisheries in a manner consistent with the national standards, it did not do so with respect to those fisheries in the West Area. Instead, the Salmon FMP effectively abdicated management responsibility for the EEZ fisheries in the West Area to the State of Alaska. The Council made this decision, presumably, because it believed Alaska would continue to manage these fisheries as it had in the years prior to the passage of the MSA.

But the State of Alaska has not lived up to that expectation. In the two decades since the Council and NMFS last addressed salmon fishing in the West Area, the Alaska Board of Fish and Game (the "BOF") has transitioned from scientific based management principals towards decisions that are openly hostile towards the commercial fishing industry. Nowhere is this more apparent than in Cook Inlet, where a well organized sport fishing industry and a growing population that catches hundreds of thousands of salmon in a resident only "personal use" salmon fishery each year, place enormous political pressure on the BOF to make decisions that are more in line with the "best available politics" rather than the MSA's best scientific and commercial data requirement.

Commercial fishing in Cook Inlet has suffered as a result of these BOF decisions. Not only has commercial fishing in the EEZ of Cook Inlet faced restrictions on fishing times and dates that have no scientific basis, but the BOF's management decisions have led to depressed overall returns through over-escapement of sockeye. The BOF has also reduced or eliminated fishing opportunities on highly abundant pink and chum stocks, as well as on highly valuable coho stocks. As a result of these management decisions, UCIDA's members face both fewer fishing opportunities in terms of total fishing days, and smaller total returns of salmon.

What would UCIDA like to see happen to fix the problem?

The Council and NMFS cannot continue to give the State a blank check for managing fishing in the EEZ in the West Area. The MSA entrusts the Council (and failing that, NMFS) to develop a fishery management plan that ensures compliance with the MSA's ten national standards. Although the Council's current review of the Salmon FMP is the result of statutory deadlines to develop annual catch limits and accountability measures under national standard 1, the simple fact is that the current Salmon FMP for the West Area does not comply with any of the national standards. Indeed, it is completely silent on how those fisheries should be managed. UCIDA wants the Council to fulfill its Congressional mandate, and update the Salmon FMP in a manner



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that provides guidance on how the fishery should be managed to comply with all ten national standards.

UCIDA also wants the Council and NMFS to fulfill its statutory obligations to ensure that this revised fishery management plan is *implemented* in a manner consistent with the MSA. Although the Council may decide to continue delegating implementation of the Salmon FMP to the state of Alaska, the Council and the Secretary have a continuing obligation to ensure that these delegated fisheries are managed by the State in a manner that is consistent with the MSA, and that every regulation promulgated by the state of Alaska complies with both the MSA and the FMP.

UCIDA believes that this oversight is essential to ensuring that the State abandons its openly political regulatory process – a process devoid on interest in long term health of salmon and a return to scientific based decision making in developing salmon fishing regulations.

We appreciate your consideration of these comments. If you have questions, or would like any additional information, please do not hesitate to contact UCIDA's Executive Director, Dr. Roland Maw, at (907) 260-9436.

Very truly yours,

Jason T. Morgan

JTM:sdl

PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: C-3(a) SALMON FMP changes

	NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1	Jason Morgan	United Cook Inlet Drift Assoc
2		
3	Poland Mann	Fisherman Upper Cook Inlet
4	JOHN RENNER	CORONA DISTRICT FISHERMAN
5	Jim Butler	Self - can fisher
6	Bob Linville	self - Cordova District Fisherman
7		
8		
9	Foul Shadawa	self
10	Christina Brade	self
11		
12	Eric Huelbsch	self - commercial fisherman
13	David Brindle	Processor
14	Mayor Carey	Kenai Penn Borough
15	Rick Cook	City Mgr. Kenai
16	Greg Gabriel	Concerned Citizen
17	Ilia Kuzmin	Russian Community
18		
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25		

NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

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March 31, 2011

Mr. Eric Olson
Chairman
North Pacific Fishery Management Council
605 W. 4th Avenue, Suite 305
Anchorage, AK 99501-2252

Re: Supplemental Comments Regarding Amendments to the Salmon FMP for the Council's 203rd Plenary Session, March 30-April 5, 2011

Dear Chairman Olson:

On behalf of the United Cook Inlet Drift Association ("UCIDA"), I respectfully submit the following supplemental comments with respect to Agenda Issue C-3(a) – "Preliminary Review of Salmon FMP Changes" – scheduled for the March 30 – April 5, 2011 meeting of the North Pacific Fishery Management Council (the "Council"). UCIDA previously submitted comments to the Council by letter dated March 22, 2011. This letter is intended to supplement those comments to specifically respond to the Council's release of its "Preliminary Review of the Fishery Management Plan for the Salmon Fisheries in the EEZ of the Coast of Alaska" (the "Preliminary Review Document") and the Advisory Panel's ("AP") March 29, 2011 decision recommending selection of alternative 3 of that Document as its preliminary preferred alternative.

There are at least four reasons why it is simply premature at this time for the Council to select a preferred alternative and to begin preparing a draft fishery management plan.

First, the Preliminary Review Document does not provide a full analysis of whether alternatives 3 or 4 meet the legal requirements set forth in the Magnuson-Stevens Act ("MSA"). Under the MSA, a fishery management plan is required for every fishery that may require conservation and management. Although the Preliminary Review Document identifies seven factors from the guidelines to National Standard 7 that should be considered when determining whether a fishery requires federal management, the Preliminary Review Document makes no effort to apply those factors. Consideration of these factors all point to one conclusion: federal management is



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necessary because the State of Alaska is not managing these fisheries in a manner that complies with the MSA's national standards. Moreover, the Preliminary Review Document reveals a regulatory loop-hole with respect to alternatives 3 and 4 that would allow unregistered vessels to fish in an unrestricted manner in the EEZ. This loophole has been exploited in the past, and was ultimately rectified only by producing a fishery management plan for that fishery. *See Trawler Diane Marie v. Brown*, 918 F.Supp. 921 (E.D.N.C. 1995) (scallop fishing vessel exploited the absence of an FMP by denouncing Alaska registration and catching more scallops than was allocated for the entire scallop fishing fleet in Prince William Sound area). For these reasons, the Council should instruct staff to determine whether federal management is necessary – either as a result of the application of the National Standard 7, or to close the identified regulatory loophole – before selecting a preliminary preferred alternative. If alternatives 3 and 4 are revealed to ultimately be not legally tenable, as UCIDA strongly suspects, it would make no sense to commit resources to drafting a fishery management plan at this time in furtherance of these alternatives.

Second, the Preliminary Review Document does not provide any discussion on the State of Alaska's preferred alternative. The Preliminary Review Document explains that “in areas where the Salmon FMP applies, management under any alternative would be deferred to the State of Alaska.”¹ But the Preliminary Review Document does not explain whether the State would be willing to accept federal oversight of its management of fisheries in the West Area in the form of a fishery management plan. Instead, the Document explains only that the State believes that its current management practices are an appropriate proxy for annual catch limits. This information on the State's willingness to manage a federally delegated fishery is critical. If the State is not willing to accept management of fisheries in the West Area of the EEZ subject to some federal oversight, then alternative 2 is not a legitimate alternative either, and other viable options should be considered.

Third, the Preliminary Review Document does not consider other possible alternatives such as the partial or total rationalization of the EEZ fisheries. Such an alternative could be both viable and useful especially in the event that the state is unwilling to accept federal oversight of EEZ

¹ Although the Preliminary Review Document uses the term “deferred” the MSA uses the term “delegate.” *See* 16 U.S.C. § 1856(a)(3)(B) (“A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances . . . [t]he fishery management plan for the fishery in which the fishing vessel is operating delegates management of the fishery to a State, and the State's laws and regulations are consistent with such a fishery management plan.”).



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fisheries in the West Area. This and other possible alternatives could be more fully considered by convening a salmon management team consisting of stakeholders and regulators.

Fourth, the alternatives outlined by the Council implicate broad policy decisions that have not yet been fully considered. Alternatives 3 and 4 effectively abdicate federal management in the three historic net fishing areas. This sort of federal abdication would be worse than the "status quo" for the fisheries in the West Area. Under the current FMP, fishermen in the West Area at least have the option to petition the Secretary of Commerce if they believe that the State of Alaska's EEZ fishing regulations are contrary to the MSA. As proposed, Alternatives 3 or 4 would eliminate that important option and accompanying federal oversight, rendering the MSA inapplicable in these areas. UCIDA is aware of no circumstances where the Council has completely abandoned an EEZ fishery to state management, let alone a fishery that is as important to the national and regional economies as the Cook Inlet salmon fishery.

In short, these important decisions should not be "fast-tracked" through the Council process. As things stand, the Council will not meet its statutory deadline to establish ACL's by fishing year 2011 (now just a few months away). Given that this deadline has slipped anyway, the Council should not continue to rush to select a preliminary preferred alternative without more fully considering the legal and policy implications of its actions.

For all of these reasons, UCIDA asks that the Council:

1. Select no preferred alternative at this time;
2. Instruct staff to convene a salmon planning team to analyze the existing alternatives and consider additional potential options for updating the Salmon FMP and developing a feasible solution for not only the private stakeholders, but the State of Alaska, NMFS and the Council as well. The salmon planning team should consist of representatives of the (a) commercial fishermen (at least one each from the three net fisheries in the West and from the East Area); (b) recreational and subsistence fishing interests; (c) processors; (d) the State of Alaska; (e) NMFS; (f) the Council; and (g) local government;
3. Instruct staff to provide an update on the development of the salmon planning team and its progress in accomplishing the tasks set forth above, by the September 2011 meeting; and
4. Instruct staff to further investigate whether alternative 3 complies with the MSA.



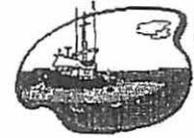
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We appreciate your consideration of these comments and thank you for the opportunity to present them at this time. If you have questions with respect to these comments or UCIDA's broader concerns, or would like any additional information, please do not hesitate to contact UCIDA's Executive Director, Dr. Roland Maw, at (907) 260-9436.

Very truly yours,

Jason T. Morgan

JTM:sdl



The Integrated Fishing Community of the Kenai Peninsula

The Kenai is richly endowed with abundant renewable and non-renewable natural resources. In many ways we are an island community much like Kodiak. The Kenai Peninsula has a huge coastal area that is one of the largest in the United States. The Kenai has some of the most productive fresh and salt water fish habitat areas in Alaska. This productive and diverse resource base provides one of the economic foundations for our communities. Since World War II there have been thousands of families that have made the Kenai home and have economically invested in the infrastructure necessary for the production, harvesting, processing and marketing of these abundant fishery resources. Along with the fishery infrastructure, the families of Alaska and the Kenai have made very large economic investments to build a society comprised of the Borough schools, roads, banks, electrical, medical and transportation infrastructures. We have encouraged many families and small business owners involved in support industries to locate and develop on the Kenai.

Fishing Activity of the Kenai

Halibut:

One out of every three halibut (35%) caught in the entire Pacific Ocean are brought to the docks of the Kenai Peninsula. In 2008, there were 16,766,653 million pounds of halibut delivered. These halibut generate in excess of \$300,000,000 of economic activity. As families are paid for harvesting these halibut, they in turn spend these funds throughout the Kenai, Anchorage and Alaskan economy for the purchase of goods and services.

Black Cod (Sablefish):

Most Alaskans are not familiar with this premium quality fishery. In 2008 there were 7,930,892 pounds of sablefish delivered across the Kenai Peninsula docks. These deliveries represent 30% of the total landing generating in excess of \$70,000,000 of economic activity. Again, as the harvesters are paid, these families in turn purchase goods and supplies throughout Alaska. The 3,000,000 - 4,000,000 pounds of bait needed to harvest the 26,000,000 pounds of halibut and black cod are purchased locally. This bait industry is integrated into the halibut and black cod production.

Salmon:

The Kenai Peninsula has the second largest sockeye salmon fishery in the world. In 2008 the landings of salmon came to 97,395,505 pounds representing over \$225,000,000 in economic activity. Like halibut and sablefish landings, these funds provide for families, schools, roads, professional services and governments all supported by the payment of taxes.

All seafood products from the Kenai or its residents collectively amount to over 158,731,633 pounds of seafood worth over a half a billion dollars. The integration of vessels, fuel stations, docks, ice plants, processing facilities, crews, processing workers, truck drivers, packaging, marketing, management and recordkeeping add thousands of jobs for Alaskan families. Millions of dollars are spent in Anchorage, the Mat-Su and the Kenai by all these harvesters, processors, workers and their families. There are dozens of semi-truck loads of packaging, cardboard boxes and plastic materials purchased in Anchorage in order to prepare these seafood products for shipment to the lower 48.

These harvesters and infrastructure workers are volunteer firemen and paramedics; they sit on assemblies, city councils, school boards, planning commissions and hundreds of local civic groups.

Roland Maurer

Economic New Money and Indirect Benefits

As seafoods from Kenai residents and the Peninsula enter the larger USA and world economy, there is a transfer of money from their economy to our local economy. These resources bring new money to the Kenai much the same as oil and gas when they are sold outside of Alaska. This new money is much different than money that already exists in the Kenai/Alaskan economy. Economic health and wealth are created as we bring new money to our economy, as compared to trading the same dollar back and forth.

Every semi truck or ocean container that leaves the Kenai loaded with seafood represents a savings for all of us. It costs us all to ship empty semis or containers back to the Lower 48. Every full semi or container going south helps to reduce the transportation costs to get groceries and consumable goods delivered into Alaska. This reduced freight subsidy generated by the export of over 3,000 truckloads of seafood annually is an economic blessing to all Alaskan families and businesses. This 158,700,000 pounds of seafood produced by the Kenai provides for over 190,000,000 meals for Alaskans and families across America. It takes a well-integrated seafood industry to provide this quantity and quality of seafoods.

Kenai Peninsula Borough and Resident Landings 2006-2008

Fishery Group	Number of Fishermen Who Fished			Number of Permits Fished			Total Pounds Landed			Estimated Ex-Vessel Earnings		
	2008	2007	2006	2008	2007	2006	2008	2007	2006	2008	2007	2006
Crab	7	10	11	11	13	13	3,582,223	3,461,323	1,504,821	\$8,374,224	\$7,824,664	\$3,212,603
Halibut	637	661	674	637	664	677	16,766,653	17,431,455	17,762,774	\$72,505,702	\$76,553,650	\$66,897,960
Herring	23	25	33	30	32	42	**	**	**	**	**	**
Other Finfish	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0
Other												
Groundfish	103	109	88	110	113	93	13,819,943	15,592,780	15,632,269	\$7,692,608	\$7,717,196	\$6,016,077
Other Shellfish	28	18	31	29	18	32	**	**	**	**	**	**
Sablefish	226	241	251	237	251	260	7,930,892	8,814,491	9,975,098	\$22,359,199	\$21,637,674	\$23,556,306
Salmon	1,345	1,213	1,260	1,339	1,214	1,261	97,395,505	124,919,564	76,569,129	\$62,429,723	\$57,060,439	\$37,619,569
Unknown	0	0	0	0	0	0	0	**	**	\$0	**	**
Total	1926	1828	2,348	2,393	2,305	2,378	158,731,633	186,621,428	139,263,760	\$175,968,454	\$172,835,548	\$139,225,621

2006 - 2008

Grand Total Pounds- 484,616,821

Grand Total Ex-Vessel - \$488,029,623

**Numbers in table are estimated due to confidentiality

Total Expenditures - \$2,400,000,000

