

PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: D-2 STAFF TASKING

	NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1		
2	George Plsniakoff	AITC
3	George Plsniakoff	SNSAC/KAWERAK
4	TIM SMITH	NONE FISHERMEN'S ASSOCIATION
5	ART IVANOFF	SNSAC/KAWERAK
6	LORI SWANSON, John Gruver	Halibut workgroup
7	Stephanie madson, Heather McCarty,	
8	Paul Macgregor, Jake Bonney	
9	Heather McCarty	CBSEA
10	Nancy Hillstrand	Pioneer Fisheries
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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.

Nome Fishermen's Association

Box 396 Nome, Alaska 99762 Phone (907) 443-5352

NPFMC
Meeting testimony
June 13, 2011
Nome, Alaska

Agenda Item D-2 Staff Tasking — CDQ Program Economic, Social and Cultural Review

The MSA requires the State of Alaska to conduct a decennial review of the CDQ program beginning in 2012; twenty years after the program's inception.¹

It is unclear how the State of Alaska will address this unfunded mandate. Because of the importance of the CDQ program to western Alaska and its profound impacts on the economy, society and culture of western Alaska communities it is essential to ensure that the decennial review will be done well.

We heard from the SSC and the AP about the need for additional analysis of the impacts of chum salmon bycatch on coastal communities. These impacts and others associated with management of fisheries within the U.S. EEZ are intimately connected to the CDQ program and I recommend that the council direct its staff to actively participate in the CDQ program decennial review.

Previous attempts to evaluate the CDQ program suffered from significant shortcomings. The National Research Council of the National Academy of Sciences published the findings of its review in 1999. The report discussed the program's newness and data limitations, particularly the lack of financial data upon which to base quantitative analysis.

Governor Murkowski's 2005 Blue Ribbon Committee report suffered from the same lack of detailed economic data and lacked objectivity.²

Many of the decisions this council makes impact the CDQ program and a comprehensive decennial review will be a valuable reference in your deliberations.

In dealing with the salmon bycatch issue, we have seen how the profit making goals of the CDQ groups can put them in direct opposition to the economic, social and cultural interests of their rural Alaska stakeholders. The decennial review should identify the areas where these conflicts occur, how

¹ 16 U.S.C. 1855 MSA § 305(1)(H)(i) IN GENERAL- During calendar year 2012 and every 10 years thereafter, the State of Alaska shall evaluate the performance of each entity participating in the program based on the criteria described in clause (ii).

(ii) CRITERIA- The panel shall establish a system to be applied under this subparagraph that allows each entity participating in the program to assign relative values to the following criteria to reflect the particular needs of its villages:

- (I) Changes during the preceding 10-year period in population, poverty level, and economic development in the entity's member villages.
- (II) The overall financial performance of the entity, including fishery and nonfishery investments by the entity.
- (III) Employment, scholarships, and training supported by the entity.
- (IV) Achieving of the goals of the entity's community development plan.

² Carl Marrs, the Blue Ribbon Committee's facilitator was a CDQ group lobbyist. 12-07-2005 Alaska firms use 'big guns' to catch fishing rights. Sitka News.

they have been resolved and quantitatively assess outcomes for the CDQ groups and rural Alaska residents.

The following comments primarily relate to NSEDC, the CDQ group I am most familiar with but I have heard from numerous residents of other CDQ program eligible communities that the same situation is widespread.

In Norton Sound, NSEDC has become a de facto monopoly, dominating all fisheries related economic activity and impacting many segments of the society and culture including the subsistence economy.

In my personal experience, NSEDC has become an oppressive monopoly. Ironically, I have been forced out of fisheries related economic activities by the program that was created specifically for the purpose of developing self-sustaining fisheries related economies in this region.

At best, it is difficult to engage in any kind of business where a near-monopoly exists; for me it has been impossible. Unfortunately, neither the MSA nor the state and federal laws governing the CDQ program contain provisions for prohibiting the CDQ groups from engaging in unfair competition to the detriment of coastal community residents. The need for additional rulemaking to minimize these negative consequences of the CDQ program should be addressed in the decennial review.

Furthermore, there are no mechanisms in the governance structures of the CDQ groups for resolving conflicts. CDQ groups are privately owned nonprofit corporations with no members. In addition, some if not all of them have moved a substantial portion of their assets into for-profit subsidiaries in which their community residents are not shareholders.

The residents of coastal communities have none of the statutory protections or rights provided to members by the Alaska Nonprofit Corporation Act or the rights provided to corporate shareholders by the Business and Industrial Development Act.

CDQ groups and their subsidiaries are not regulated by the SEC and are exempt from the shareholder protections provided by the Sarbanes-Oxley Act.

Prior to 2006, the council along with the State of Alaska and NMFS provided substantial regulatory oversight over the business activities of the CDQ groups. The 2006 amendments to MSA privatized the CDQ groups and today they are controlled by a very small number of individuals without a clearly codified relationship to their stakeholders. There are no other corporations similar to the CDQ groups, no precedents for how they are supposed to work and little quantitative information except from the CDQ industry on how they are working.

The council was a major player in creating and overseeing the CDQ program. Because of the importance of the program to western Alaska communities and Bering Sea and Aleutian Islands fisheries, I hope that the council will actively participate in the decennial review by assigning staff to participate in designing, implementing, conducting and analyzing the review to ensure that it is thorough, objective and comprehensive.



**The Community Development Quota Program in
Alaska and Lessons for the Western Pacific**

Committee to Review Community Development Quotas
Ocean Studies Board
Commission on Geosciences, Environment and Resources

National Research Council
National Academy Press
Washington DC 1999

Excerpts

Page 2. Perhaps the greatest weakness of the CDQ program as implemented is a lack of open consistent communication between the CDQ groups and the communities they represent, particularly a lack of mechanisms for substantial input from the communities into the governance structures. There has also been a lack of outreach by the state to the communities to help ensure that the communities are aware of the program and how to participate. For the CDQ program to be effective there must be a clear, well-established governance structure that fosters exchange of information among the group's decisionmakers, the communities they represent, and the state and federal personnel involved in program oversight.

Page 57. In general, some of the quantifiable factors can be evaluated by comparing conditions before the CDQ program and changes since the program's implementation. However, in some cases the data are not available to adequately measure such changes. Data about the CDQ program that precisely details the benefits received by the CDQ communities can be difficult to obtain. One of these difficulties is due to the newness of the program and the inability to draw clear conclusions from the limited data that are available. A second difficulty is a State of Alaska law...that certain financial and catch data can be maintained as confidential. These conditions make it difficult to provide detailed analysis of the benefits received by the CDQ program.

Page 65. To improve the effectiveness of developing a well trained workforce, the CDQ groups need a strategic plan for education and training programs. This would include internships and technical training for direct employment with the industrial fishing partners of the CDQ groups, formal university education in fields pertinent to the development goals of native residents, and training of administrators and board members of CDQ organizations. The ultimate objectives would be to develop both the business acumen and labor productivity of village residents.

Page 106-107. Perhaps the greatest weakness of the CDQ program as implemented is lack of open consistent communications between the CDQ groups and the communities they represent, particularly a lack of mechanisms for substantial input from the communities into the governance structures.

Page 107. There has also been a lack of outreach by the state to the communities to help ensure that the communities are aware of the program and how to participate.

Page 107. Some controversy has surrounded the uncertainty about the intended beneficiaries of the program—essentially, whether the program is intended primarily for the Native Alaska residents of the participating communities, and if not, review the governance structures to ensure that non-Native participation is possible.

Page 109. One way to improve responsiveness of the CDQ group's managers to the communities would be to improve communication. Although the idea of locating the headquarters of the CDQ groups near potential business partners and the State government may have made sense in the early years of the program, as it matures and the management proves its business capability, relocation of the headquarters to the communities may have significant benefits in terms of responsiveness to the desires of the community members.

Page 109. Although some of the CDQ groups have created newsletters, a requirement that newsletters to communicate with constituents, town meeting, or other forms of communication appropriate to reach community members might be a helpful step in improving communication in the communities.

Page 110. To be truly effective CDQ groups must have education and training elements. These elements should not be haphazard, but carefully planned and coordinated so they meet community needs. Both vocational training and support for higher education will help members of the community acquire the skills and knowledge needed for more advanced technical and managerial positions. The number of people receiving education and training should be provided.

Page 110. CDQ groups need to do a better job disseminating information that describes the educational and training opportunities open to the use of program funds. They also need to improve their record keeping of education and training initiatives so the results can be monitored over time. A common framework for recording and reporting their efforts would be useful.



Alaska firms use 'big guns' to catch fishing rights

By WESLEY LOY
Anchorage Daily News

December 07, 2005
Wednesday

ANCHORAGE, Alaska - Alaska fishing companies are mounting an intense lobbying battle in Washington to try to lock up Bering Sea commercial fishing rights worth millions of dollars.

The six companies, divided into two competing factions, have hired lobbyists with close ties to members of Alaska's congressional delegation.

The lobbyists include Art Nelson, Rep. Don Young's son-in-law and chairman of the Alaska Board of Fisheries; Carl Marrs, former Cook Inlet Region Inc. chief executive and a friend of Sen. Ted Stevens; Trevor McCabe, an Anchorage attorney and former fisheries aide to Stevens; and C.J. Zane, a Washington lobbyist and political consultant who worked for eight years as Young's chief of staff.

The lobbyists are all working to persuade Congress how to settle a long-standing feud among the six companies over lucrative catch rights.

All involved hope to use a pending Coast Guard reauthorization bill to settle the fish fight in their favor.

The Senate and the House have passed versions of the bill, which now rests with a conference committee to iron out the differences. That could happen by year's end.

Young is chairman of the conference committee, and Stevens is a member.

Morgen Crow, executive director of one of the fishing firms, Anchorage-based Coastal Villages

Region Fund, said Monday the six companies have fought with one another for years over catch rights, and now they're looking to Congress to settle the issue once and for all.

"We've got some big guns that we're sharing, yes," Crow said of lobbyists that his and three other companies have hired. "We need some great father to settle it."

The six companies involved in the struggle are part of the federal Community Development Quota program.

Fishery regulators, with the help of Young and Stevens, established the CDQ program in 1992 as a way to help impoverished Western Alaska villages reap some of the value of the industrial fisheries occurring off their shores.

The program annually sets aside up to 10 percent of the fish and crab available to the Bering Sea commercial fishing fleet for the exclusive benefit of 65 participating villages. Each village is represented by one of the six companies, which sell the seafood catch.

Although the program has been a powerful wealth builder for the villages - the six tax-exempt CDQ companies collectively hold more than \$350 million in vessels and other assets - the companies have competed bitterly for shares of the 10 percent reserved for them.

Each company's share is subject to change every three years or so, based on a state oversight panel's evaluation of each firm's business and community development efforts.

In March, the panel recommended taking away some of one CDQ company's pollock - a white fish that accounts for most CDQ revenue - and redistributing it to other companies. The governor and federal regulators have not adopted the recommendation.

The company, Aleutian Pribilof Island Community Development Association, can't afford to lose fish worth more than \$1.3 million a year, said Larry Cotter, chief executive of the Juneau, Alaska-based firm.

Cotter's company, which counts one other CDQ company as an ally, is paying lobbyist Zane to battle Nelson, Marrs and McCabe, who have

submitted draft legislation to the Alaska delegation to make the state panel's recommended allocations permanent. Federal records show Aleutian Pribilof Island paid Zane about \$40,000 through the first half of this year.

McCabe said Monday he doesn't believe any of the fishing companies are doing anything wrong in hiring lobbyists with strong ties to the lawmakers. Most of the Bering Sea fishing industry no longer competes for fish but enjoys set shares of the available harvest, and the CDQ companies want the same security, he said.

"This is an allocation battle, and it needs to be settled," McCabe said. "The tensions are running high, and that's normal for an allocation battle in the fishing business."

Federal records show McCabe has received at least \$20,000 this year through June to lobby for CDQ companies.

Nelson, married for 12 years to Young's daughter, Joni, said he recently inked a contract to lobby for Coastal Villages Region Fund, one of the four CDQ companies that McCabe and Marrs also are representing.

Nelson, 36, said he's worked since college in various jobs related to commercial fishing and knows the industry well. Until he resigned recently, he headed an Anchorage nonprofit called the Alaska Fisheries Development Foundation. In a prior position with a trade association of Seattle-based fishing ships, Nelson's boss was McCabe.

Nelson acknowledged his family tie to Young "probably does have some benefit to it" in landing the CDQ lobbying job. But he said he expects no favoritism from his father-in-law.

"I've got a long history with these guys," he said of his new clients. "They know me, they trust me and I understand their issues. I believe they feel I'll be a good advocate."

Nelson is chairman of the state Board of Fisheries, which regulates crab, salmon and herring fisheries that some of the CDQ companies participate in, including Coastal Villages. Nelson said he will recuse himself from any issue that might pose a conflict of interest.

And Nelson added that he might resign from the board in the spring "because I don't want to give anybody the opportunity to question my integrity or that of the board and its process."

Marrs, the former CIRI chief executive, this year was facilitator for Gov. Frank Murkowski's "blue-ribbon committee" on reforming the CDQ program. The report was finished in August, and Marrs said it was only after the committee's report was done that he signed a contract as a consultant for the four CDQ companies, including Coastal Villages, the Bristol Bay Economic

Development Corp., Norton Sound Economic Development Corp. and Yukon Delta Fisheries Development Association.

Marrs said the CDQ program is "something that's near and dear to me" and that he wants to help settle the fish fight among the six companies. Giving the CDQ companies stability will help them grow and wrest more control of Alaska's huge fisheries from Seattle and Japanese interests that historically have dominated them, he said.

Young could not be reached Friday or Monday. Stevens, in a prepared statement Monday, said his office has had many meetings on the CDQ issue, but the Coast Guard bill "is still in conference and I cannot discuss that bill."

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Staff Tasking recommendations from Kawerak

Northern Bering Sea Research Area

- Given the Council's action at this meeting, Kawerak recommends that the September workshop not take place. We instead recommend that a meeting with Tribes be held after the white paper is produced to update them on the information and recommendations that come out of the white paper. At that time there can be further discussions as to whether or not Tribes are interested in participating in additional workshops and when those might occur.

Chum Bycatch

- Kawerak recommends that NMFS continue with Tribal Consultation on this issue and that the Council participate in these consultation meetings. This includes meeting with Tribes that have requested consultation but did not participate in the June 1 meeting, and following up with the Tribes that participated in the June 1 meeting. We also recommend that a summary of the Council's action at this meeting, and how it relates to Tribal concerns already expressed, be prepared for Tribes to review.
- Kawerak also recommends that the Council, NMFS and Tribes develop some kind of formalized process whereby NMFS communicates Tribal concerns to the Council on a regular and timely basis so that they can be incorporated into Council deliberations and decision making. The Rural Outreach Committee also recommended a similar action to the Council in the minutes of their February 23, 2010 meeting.

Tribal Consultation in general

- Kawerak recommends that NOAA legal staff provide Tribes with a formal statement/opinion outlining why they believe that the Council is not responsible for following Executive Order 13175. We have requested this several times in the past; having this issue settled would assist the Tribes and NMFS and the Council in moving forward.