

MEMORANDUM

TO: Council, SSC, and AP Members

FROM: Chris Oliver *Chris*  
Acting Executive Director

ESTIMATED TIME  
16 HOURS

DATE: January 30, 2002

SUBJECT: Crab Rationalization

**ACTION REQUIRED**

- (a) Initial review of crab rationalization alternatives.
- (b) Scoping Summary Report on the EIS for the FMP for BSAI king and Tanner crabs.
- (c) Consider the timing of submission of the Council's report to Congress on rationalization of the BSAI crab fisheries.

**BACKGROUND**

At its June 2001 meeting, the North Pacific Fishery Management Council (Council) adopted a suite of alternatives, elements and options for analysis of a rationalization program for the Bering Sea and Aleutian Islands (BSAI) crab fisheries. After a status report and pre-initial review at its December 2001 meeting, the Council amended its motion to its current form (Item C-5(a)) and scheduled this item for initial review at this meeting. A document was provided to the Council family prior to the meeting. If the document is deemed to be sufficient, selection of a preferred alternative on the proposed crab rationalization alternatives would be scheduled for the April 2002 Council meeting.

The proposed action would develop an IFQ or cooperative program to manage the BSAI crab fisheries. A change in management from the current License Limitation Program (LLP) may be necessary to alleviate problems of resource conservation, bycatch and handling mortality, excessive harvesting capacity, lack of economic stability, and safety that have arisen because of the race to fish that has occurred LLP management.

Final action for this package is unlike most final actions taken by the Council, since Congress will need to lift and modify their moratorium on IFQ programs (and perhaps jurisdiction over inshore processors) before the Council could submit either an IFQ or cooperative alternative to the Secretary of Commerce (SOC). Once the Council's preferred alternative is identified, it would then need to be melded as the preferred alternative into the crab EIS that is also currently being developed. It is expected that this can be completed during the summer of 2002 for action by the Council in October, so that the formal EIS/RIR/IRFA package could be submitted to the SOC by the end of this year (assuming Congressional action allowing such action by that time).

The analysis considers three overriding alternative management structures for the BSAI crab fisheries; status quo (or continued management under the LLP), an IFQ program, or a cooperative program. The IFQ program alternative includes options defining either a one-pie harvester only IFQ program or two-pie program, which would include both harvester shares and processor shares. The cooperative program alternatives include two program alternatives. The Voluntary Cooperative alternative is a program that would allocate shares to harvesters and processors and allow each harvester to join a cooperative with one or more other harvesters associated with one or more processors. The Plurality Assignment Cooperative alternative is a program that

Table E3 is a summary of the first wholesale prices derived from Commercial Operator Annual Report data. These prices were calculated by dividing the total first wholesale value reported by the processor by the total pounds of the product form produced.

- 1) Fishing seasons span two years
- 2) Some fishing seasons spanned two calendar years while others took place in a single year
- 3) The fishing seasons that took place in one calendar year are identified by the first year listed in the year column.

Year (Fishing Season)	WAI golden king <sup>1</sup>	Adak Bristol Bay red <sup>1</sup>	BS red king <sup>3</sup>	C. opilio <sup>3</sup>	C. bairdi <sup>3</sup>	EAI golden king crab <sup>2</sup>	Pribilof blue king <sup>3</sup>	Pribilof red king <sup>3</sup>	St. Matthew blue king <sup>3</sup>
1998-1999	\$ 2.04	closed	\$ 6.26	closed	closed	\$ 1.87	\$ 2.34	\$ 2.39	\$ 1.87
1999-2000	\$ 3.14	closed	\$ 4.81	closed	closed	\$ 3.22	closed	closed	closed
2000-2001	\$ 3.15	closed	\$ 4.14	closed	closed	\$ 3.50	closed	closed	closed

Table E2: Weighted average annual ex-vessel prices from ADF&G fishsticks (prices have not been adjusted for inflation)

Table E2 reports the weighted average annual ex-vessel price of the various crab fisheries under consideration. These data were derived from ADF&G fishsticks. The data in the report generally show that the mid-1990s were in general strong years for ex-vessel prices. Ex-vessel prices also increased in 1999 and 2000 (relative to the 1997 and 1998) except in the Bristol Bay red king crab fishery.

Fishery	Maximum GHL (millions of pounds)	Minimum GHL (millions of pounds)	Closures (Years/Season)
Bering Sea Snow Crab (C. opilio)	333 (1992)	25.3 (2001)	None
Bristol Bay Red King Crab	18 (1991)	5 (1996)	1994, 1995
Bering Sea Tanner (C. bairdi)	39.2 (1991/92)	2.2 (1996)	1997, 1998, 1999, 2000, 2001
Pribilof Islands Red King Crab	3.4 (1993)	1.25 <sup>a</sup> (1998)	1991/92 & 1999, 2000, 2001
Pribilof Islands Blue King Crab	2.5 <sup>a</sup> (1995)	1.25 <sup>a</sup> (1998)	1991/92 & 1999, 2000, 2001
St. Matthew Blue King Crab	5 (1997)	2.4 (1995)	1999, 2000, 2001
Western Aleutian Islands (Dutch Harbor)	3.2	3.0	None
Golden (Brown) King Crab	(1996, 1997, 1998)	(1998, 1999, 2000, 2001)	None
Eastern Aleutian Islands (Adak) Golden (Brown) King Crab	2.7	(1996, 1997, 1998)	None
Eastern Aleutian Islands (Adak) Red King Crab	(1996, 1997, 1998)	1996/97, 1997/98, 1999/2000, & 2000/2001	None

<sup>a</sup>Continued red and blue king crab.

Table E1: Maximum and Minimum GHLs for various crab fisheries and years the fishery was closed

The analysis examines several different aspects of the proposed programs and their impacts on the fisheries. Background (Section 2). As a foundation for the analysis of alternatives, the analysis contains an extensive background section that describes the current conditions in the different fisheries under consideration for rationalization. The section includes subsections describing the fishery biology, fishery management, harvesting sector, processing sector, community and social impacts, prices, and various market and economic conditions. Table E1 shows the maximum GHL, the minimum GHL, and closure years (if any) for the fisheries under consideration for rationalization.

(a) Initial review of crab rationalization alternatives

would allow each harvester to join a cooperative associated with the processor that it delivered the most crab on qualifying catch history. Harvesters that elect not to join a cooperative would be limited to participating in an open access fishery. This program alternative includes several different options that would protect processor interests to varying degrees and that would define movement between cooperatives.

Table E3: First Wholesale Crab Prices by Species and Product Form, 1991-2000 (prices have not been adjusted for inflation)

Species	Product	1998	1999	2000
Red King Crab	Shellfish Sections	\$ 5.52	\$11.25	\$ 9.11
	Whole	\$ 3.83	\$10.69	\$ 7.74
Blue King Crab	Shellfish Sections	\$ 4.80	Conf.	Conf.
Golden King Crab	Shellfish Sections	\$ 4.24	\$ 6.90	\$ 7.22
	Whole	\$ 4.90	\$ 3.79	\$ 4.60
C. bairdi	Shellfish Sections	\$ 4.81	\$ 4.23	\$ 5.83
	Whole	\$ 2.95	\$ 3.71	\$ 3.33
C. opilio	Shellfish Sections	\$ 2.03	\$ 2.92	\$ 4.16
	Whole	\$ 2.05	\$ 1.06	

Source: Commercial Operator's Annual Reports (1998-2000)

Biology and Management (Section 3.2). The analysis includes an extensive discussion of the biological and management impacts of rationalization of the BSAI crab fisheries. This section examines the appropriateness of the different fisheries for rationalization, potential changes in deadloss, size limits, incidental catch, seasons, pot limits, the potential impacts of overlapping seasons of different species, and the effects of rationalization on rebuilding programs. The section concludes with discussions of the division of management authority between State and federal managers and the impacts of rationalization on safety in the fishery. The analysis in this section was provided to Council staff by representatives of State of Alaska ADF&G and NMFS.

The analysis suggests that the Bering Sea *C. opilio*, Bristol Bay red king crab, Bering Sea *C. bairdi*, Pribilof blue king crab, Pribilof red king crab, St. Matthew blue king crab, and the two Aleutian Islands golden king crab fisheries be included in the rationalization program. The Aleutian Islands red king crab, the Aleutian Islands *C. bairdi*, the Pribilof golden king crab, and Bering Sea Tanneri fisheries are suggested for exclusion from rationalization.

Rationalization should have environmentally-friendly impacts on the crab stocks and their habitat as long as concerns over highgrading and ghost fishing from lost pots do not evolve. Managers are concerned that highgrading may occur when the time pressures are removed from the fishery. Fishermen will be more likely to keep only the highest valued catch since any catch landed will be counted against their quota. Therefore, keeping second quality crab (especially when there are large differences in ex-vessel price) might not maximize profits. Under the current low GHs and race-for-fish management system all marketable crab are currently being retained. The State of Alaska feels that new regulations will likely need to be developed to protect the biological integrity of the stock. They also indicate that onboard observer coverage and dockside sampling are needed to determine if changes in fishery selectivity occur and the mechanisms that cause those changes.

Overly restrictive pot limits may not be needed in a rationalized fishery. For pot limits to be changed the BOF would need to be petitioned or a proposal would need to be submitted to the BOF requesting that pot limits be modified.

Seasons for the different species proposed for inclusion in the rationalization program are considered. The primary biological objective in scheduling seasons is avoidance of mating and molting. Table E4 shows the molting and mating seasons for the different species being considered for rationalization. The analysis also considers the use of concurrent seasons for species included in the rationalization program. An advantage of multispecies fisheries is the potential decrease in mortality of discards. As crab fishing seasons are lengthened the possibility of gear conflicts with trawl and longline vessels increase. Those conflicts would need to be monitored to ensure that they were not increasing to an unacceptable level.

Table E4: Bering Sea Crab Fishery Molting/mating time periods as determined by the Crab Plan Team in September 2001

Species	Molting/mating time period
C. opilio	May 15 to July 31
C. bairdi	April 1 to July 31
blue king crab	February 1 to July 31
red king crab	January 15 to June 30
red king crab (Norton Sound)	September 15 to October 31
golden king crab	January 1 to December 31

The analysis also supports provisions which would create no allowance for overages or underages on the principle that overages and underages should be fully avoidable in a rationalized fishery. The analysis also supports full accounting of deadloss. The analysis suggests that the slower pace of a rationalized fishery will improve sorting of crab by gear, thereby decreasing handling mortality and deadloss.

The analysis also provides that the rationalized fisheries would need to be managed with TACs instead of the current GHM management. TAC management would provide certainty of allocations necessary to realize the full benefits of rationalization. The allocation of a minor open access fishery, as proposed in the Plurality Assignment cooperative program alternative, could also be problematic for managers that are required to monitor a small GHM in an open access fishery. The more precise management under a TAC (without provision for overages) could also aid rebuilding efforts in the fisheries.

Monitoring participants in a rationalized fishery would be challenging due, in part, to the extended seasons. The analysis supports the use of Vessel Monitoring Systems (VMS). VMS would not only improve monitoring activities of participants but also would improve data collection. ADF&G has suggested that the costs of this system could be borne by either participants in the fisheries or the federal government. Additional monitoring of landings may also be required. Observer requirements and the disbursement of costs of those requirements will also need to be assessed in a rationalized fishery.

The analysis also assesses the need to maintain a minimum fleet size to ensure that harvests reach an optimum level. Caps on ownership could be used to ensure that fleets are maintained at a size necessary to maintain harvests in the event excessive stocks require additional harvesting power.

The section includes a discussion of the interaction of State and federal management and monitoring of the fisheries. Limitations of delegation of management authority by the federal government may require that NMFS assume responsibility for allocations of quota in the fisheries. Setting of TACs (or GHMs), regulating fishing activity, and collecting harvest data for monitoring harvest limits and enforcement of regulations are currently conducted by the State and could, for the most part, continue to be subject to State management in a rationalized fishery. Further detail on the joint management of the fisheries is provided in this section.

The section concludes with a discussion of the implications of rationalization on safety in the fisheries.

The Allocation of Harvest Shares (Section 3.3). This section of the analysis examines the different alternatives for allocating harvest shares. The analysis examines the rules that define eligibility to receive an initial allocation and the calculation of those allocations. Both proposed options would base eligibility on whether a vessel has met the requirements for an LLP license. Table E5 shows the number of endorsed LLP licenses in the fisheries and the estimated number of vessels that would qualify for a crab endorsed LLP license and hence an initial allocation in each fishery being considered for rationalization.

Table E5: LLP licenses and the Estimated Number of Vessels that Qualify for LLP licenses endorsed for BSAI Crab Fisheries.

Fishery	Number of Permanent LLP Licenses	Number of Interim LLP Licenses	Number of Vessels Estimated to Qualify for an LLP License
WAI (Adak) Golden King Crab	27	14	23
WAI (Adak) Red King Crab	24	22	28
Bristol Bay Red King Crab	260	89	266
Bering Sea <i>C. Opilio</i>	260	93	256
Bering Sea <i>C. Bairdi</i>	260	93	266
EAI (Dutch Harbor) Golden King Crab	27	14	20
Pribilof Blue King Crab	110	48	84
Pribilof Red King Crab	110	48	122
St. Matthew Blue King Crab	154	59	180

Source: NMFS Alaska Region RAM Office and State of Alaska ADF&G Fish ticket files.

The sum of permanent and interim licenses is the maximum number of vessels that could qualify. The “number of vessels estimated to qualify for an LLP license” is the minimum number that could qualify, as that does not include vessels that rely on Amendment 10 exemptions for qualification, which define limited exemptions and circumstances when activities from multiple vessels may be combined to meet the qualification criteria. The consistency of the different allocation options with the current LLP management is discussed. The section also includes quantitative analysis of the allocations under the different qualifying year options for each fishery. The analysis shows that the allocations in the Bering Sea *C. opilio*, Bristol Bay red king crab, Bering Sea *C. bairdi*, Pribilof blue king crab, St. Matthew blue king crab, and Western Aleutian Islands (Adak) red king crab are very similar under all of the qualifying year options. In the Pribilof red king crab fishery, the allocation to the leading four vessels varies somewhat under the different options. In the two Aleutian Islands golden king crab fisheries (particularly in the Western subdistrict), the allocations under the various options show greater variation. Graphical representations of the allocations and descriptive statistics appear in the section. Graphs included in this section show groupings of four vessels to protect confidential data. The same vessels are not always in the same groups for the different allocation options. The portion of the total allocation to catcher/processors in each fishery under each option is also shown.

The IFQ Program Elements (Section 3.4). This section analyzes the options for development of an IFQ program. The section includes analyses of the various measures that define the rights to own, purchase, and use harvest shares in the different fisheries. The section includes an analysis of the two-pie IFQ alternative, including the initial allocation, transfer rights, and ownership and use caps on processor shares and limits on vertical integration.

The analysis examines use and ownership caps on harvest shares in the different fisheries at the initial allocation. These caps are intended to limit consolidation of harvest shares, in part, to ensure competition in the harvest sector. This analysis is limited by the poor availability of vessel and LLP license ownership information. Based on available data, no persons would exceed a 5 percent ownership cap in the Bering Sea *C. opilio*, Bristol Bay red king crab, Bering Sea *C. bairdi*, or St. Matthew blue king crab fisheries. Four persons would exceed the 5 percent cap in the Pribilof blue king crab fishery. Data concerning the number of persons exceeding an 8 percent or 5 percent cap in the Pribilof red king crab fishery cannot be shown because of confidentiality restrictions on the release of data. Several persons would exceed a 1 percent cap in all of these fisheries. In the Western Aleutian Islands golden king crab fishery, the number of persons exceeding a 40 percent, 20 percent, or 10 percent cap cannot be shown because of confidentiality restrictions on the release of data. In the Eastern Aleutian Islands golden king crab fishery, no persons would exceed the 40 percent cap. The number of persons exceeding the 20 percent cap in this fishery cannot be shown because of confidentiality restrictions on the release of data. If the allocation in Aleutian Islands golden king crab fisheries is based on the combined participation in both areas, no persons would exceed the 40 percent cap and the number of persons exceeding the 20 percent cap cannot be shown because of confidentiality restrictions on the release of data.

A complete analysis of the two-pie IFQ program is also contained in this section. Program elements including the initial allocation of shares, transfer rights, and ownership and use caps are examined. In the Bering Sea *C. opilio*, the Bristol Bay red king crab, and the Bering Sea *C. bairdi* fisheries slightly more than 30 processors will receive an allocation. The leading four processors would receive an average allocation of between 12 and 14 percent depending on which qualifying year option is selected. The average allocation would be less than 5 percent and the median<sup>1</sup> allocation would be approximately 1 percent or less. In the Pribilof red king crab, Pribilof blue king crab, and St. Matthew blue king crab fisheries approximately 15 processors would receive allocations. The leading four processors would receive on average less than 20 percent of the total allocation. The median allocation would be less than 5 percent. In the two Aleutian Islands golden king crab fisheries, between 8 and 13 processors would receive an initial allocation. The four largest processor allocations would be between 20 and 25 percent of the total allocation. In the Eastern Aleutian Islands fishery, the median allocation would be between approximately 4 and 8 percent of the total allocation. In the Western Aleutian Islands fishery, the median allocation would be less than one percent.

Ownership and use caps on processor shares are analyzed based on the initial allocations. These caps are intended to limit consolidation of processing shares, in part, to ensure competition in the processing sector. The analysis is limited because of confidentiality restrictions on the disclosure of data. The analysis shows that with the exception of the Western Aleutian Islands (Adak) golden king crab fishery, no processors would exceed a 50 percent cap based on the initial allocation. In the Bering Sea *C. opilio*, the Bristol Bay red king crab, the Bering Sea *C. bairdi*, the Pribilof red king crab, and the Pribilof blue king crab fisheries, no processors would exceed a 30 percent cap. A complete analysis of the caps appears in this section.

The section also examines vertical integration in the crab fisheries by analyzing the allocation of harvest shares to persons affiliated with processors. The Council has proposed limiting processor ownership of harvest shares to 8, 5, and 1 percent of the total allocation of harvest shares to restrict vertical integration in the fisheries. In the Bering Sea *C. opilio*, the Bristol Bay red king crab, and the Bering Sea *C. bairdi* fisheries in excess of 40 vessels are affiliated with processors (including independently owned catcher/processors). Under almost all of the allocation options between 4 and 5 processors would exceed a 1 percent cap on harvest share ownership in these fisheries. No processors would exceed a 5 percent cap in the Bering Sea *C. opilio* or the Bering Sea *C. bairdi* fisheries. In the Aleutian Islands golden king crab fisheries, between 1 and 4 processors would receive harvest share allocations depending on the allocation option selected. In the Western subdistrict, the number of processors exceeding any caps cannot be shown because of confidentiality restrictions. In the Eastern subdistrict, no processors would exceed either an 8 or 5 percent cap. Under the option that would determine the allocation based on combined harvests in the two subdistricts, the number of processors exceeding any caps cannot be shown because of confidentiality restrictions. In the Pribilof red king crab and Pribilof blue king crab fisheries, between 4 and 6 processors would receive an allocation of harvest shares. In the Pribilof red king crab fishery, no processors would exceed an 8 percent cap. No further information on the caps can be disclosed for this fishery. In the St. Matthew blue king crab fishery, 11 processors would receive an allocation of harvest shares. No processors would exceed either an 8 or 5 percent cap in this fishery. The number of processors exceeding the 1 percent cap cannot be disclosed. In the Western Aleutian Islands red king crab fishery, three processors would receive an initial allocation of harvest shares. No information concerning the number of processors exceeding the proposed share caps can be disclosed for this fishery.

The section concludes with an analysis of the provisions affecting catcher/processors. Catcher/processors have a unique role in any fishery and require particular attention under the two-pie IFQ program since these vessels participate in both sectors. Issues concerning the mismatch of allocations of harvest and processing shares to these vessels are discussed.

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<sup>1</sup>The median allocation is the allocation at the midpoint of the distribution, for which half of the allocations would be larger and half of the allocations would be smaller.

Cooperative Program Alternatives (Section 3.5). This section examines the cooperative program alternatives advanced in the Council motion. The section begins with a brief discussion of the cooperative alternatives that the Council has considered and excluded from analysis. These cooperative program options were deemed unsuitable for the crab fisheries. These options would potentially distort allocations from the historical participation, providing limited share protection to both harvesters and processors.

More importantly, the section examines the Voluntary Cooperative program and Plurality Assignment Cooperative program currently under consideration. The Voluntary Cooperative program would allocate harvest and processing shares similar to those under the IFQ program alternatives. The program would permit harvest share holders to form cooperatives associated with one or more processors holding a processing allocation. The program is intended to provide maximum flexibility, allowing the development of cooperative arrangements between participants that see an advantage to creating those arrangements. These agreements could help to ensure that more of each person's allocation is more harvested. This would be accomplished through pooling remaining shares at the end of a season so one vessel from the cooperative could be sent out to "mop-up" the remaining quota. This has been done in the BSAI pollock cooperatives, where the percentage of the TAC being left unharvested each year is very low relative to the halibut and sablefish IFQ programs.

Under the Voluntary Cooperative program share allocations would be made to both harvesters and processors regardless of whether cooperative agreements are entered. Because of this allocation system there would be no "open access" fishery. Persons that do not elect to join a cooperative would still receive a protected allocation.

The second cooperative program (the Plurality Assignment Cooperative program) would permit each harvester to enter a single cooperative associated with the processor to which he/she delivered the most pounds of crab during the qualifying period. Allocations are made to each cooperative based on the catch history of its members. Allocations of harvesters that do not join a cooperative are made to an open access fishery that is fished competitively by harvesters that do not join cooperatives. Because of the eligibility rules and a requirement that a cooperative have at least two members, over half of the processors that received deliveries from the crab fisheries during the qualifying period (but were not the recipient of the most catch from at least two harvesters) would not be able to associate with a cooperative in the first year of the program. Also under a 1994-99 qualifying period, five vessels would not be eligible to join a cooperative because they were the only vessel qualified to form a cooperative with their primary processor. These vessels would be required to participate in an open access fishery the first year of the program. Each year, participants in the open access fishery would become eligible to join a cooperative associated with the processor to which it delivered the most crab in the open access year.

The all-or-nothing allocation of catch history to processors under this alternative could result in disparities between processing history and processor allocations. Historical data show that many catcher vessels made deliveries to multiple processors over the qualifying period. For example in the Bristol Bay red king crab for the open season from 1993-1999, a total of 255 vessels had qualifying landings. Only 163 of the vessels delivered at least 50 percent of their catch to the same processor. That means that only about 64 percent of catcher vessels delivered at least half of their catch to one processor. Under the Plurality Assignment Cooperative all the catch would be assigned for delivery to a single processor. To lessen the impact of requiring all of the catch to be assigned to a specific processor, alternatives are included that would require a cooperative to deliver a set percentage (ranging between 10 and 100 percent) of its allocation to its associated processor. Members of the catcher vessel sector have indicated that requiring only 80 percent of the catch to be delivered to the cooperative's processor would benefit harvesters, in terms of bargaining power and maintaining traditional markets, much more than requiring a 90 percent delivery rate. Processors on the other hand feel that as the percentage decreases from 100 percent they tend to be in a much weaker position to negotiate prices and make long term plans for their operations.

This program is difficult to characterize because several options have been proposed with vary degrees of connection between harvesters in a cooperative and the associated processor. The most stringent option would require delivery of all or most of a cooperatives allocation to an associated processor. The most lenient option

would not require any deliveries to the associated processor. Similarly, the program has options defining the ability of harvesters to move between cooperatives. These range from unrestricted movement, subject only to the approval of the cooperative to which the harvester is moving, to options that require a year in the open access fishery.

The alternatives for allocation of shares to vessels under the cooperative program are the same as under the IFQ alternatives. Therefore, the discussion of quota allocations is only covered in the section on IFQ allocations.

Regionalization (Section 3.6) - This section examines the two alternatives that would establish a regionalization program. Regionalization of the fisheries is intended to protect community interests. The first alternative would divide the fishery into north and south regions, creating a requirement that landings and processing activity be distributed between the regions in accordance with historic participation patterns. Estimates of the distribution of shares under the alternatives are provided. North allocations in the Pribilof red king crab and Pribilof blue king crab, and St. Matthew blue king crab fisheries exceed 50 percent of the fishery. The allocations, however, vary by more than 10 percent in the Pribilof blue king crab fishery and by more than 5 percent in the Pribilof red king crab fishery depending on whether the allocation is made under the years designated for allocating regional shares or the years designated for determining processor allocations. The significance of this difference is that use of different years for determining regional allocations and processor allocations could result in some processors being allocated shares for use in a region in which they have no processing history or facilities. In the Bering Sea *C. opilio* fishery the allocation to the north would be approximately 40 percent of the fishery. In the Bering Sea *C. bairdi* fishery the north allocation would be less than 5 percent under the only applicable regionalization option. Allocation of shares under the processor allocation option would allocate more than 20 percent to the north, because this allocation would be based on activity in the *C. opilio* fishery. In the Bristol Bay red king crab fishery, the allocation to the north would be less than 10 percent under either the regionalization options or the processor allocation option. In the Aleutian Islands golden king crab fisheries, the north would receive no allocation.

The second regionalization alternative would create a link between processing activity and communities in which processing historically occurred. Under this option, processing would be permitted to relocate from a community only with permission of the community. In this draft, analysis of this option is strictly qualitative. The allocation of shares to communities has the potential to impose hardships on both harvesters and processors. Determining the appropriateness of this option requires balancing these potential hardships against the potential benefit to communities of establishing a link between the processing activity and communities. Small allocations could burden processors by requiring that they either run processing facilities with small processing allocations or forgo processing a portion of their allocation. In addition, coordinating deliveries of crab to communities to exactly match the community allocation could be very challenging. Inability to reach an exact match would result in a portion of the GHL (or TAC) going unprocessed (and unharvested).

Binding Arbitration (Section 3.7) - This section examines two alternative binding arbitration agreements proposed by industry to govern ex-vessel price determinations between harvesters and processors. The two agreements differ only in that one would provide for an administrator to oversee the binding arbitration process. The administrator would appoint the arbitrator in cases where the two sides cannot agree on an arbitrator. Therefore the administrator would have substantial power in the process. The literature on binding arbitration suggests that implementing a binding arbitration process increases the conflicts between the two sides, and suggests that better outcomes are reached when two sides reach a negotiated agreement.

Options for Skippers and Crew (Section 3.8) - This section examines four options that are intended to protect skipper and crew interests. The first option would make an initial allocation of quota shares to skippers and/or crew. The allocation would be intended to provide those actively working in the fishery with an interest in the fishery. Several options for determining the allocation have been proposed. Eligibility would be based on either landings, verifiable by ADF&G fish tickets (or affidavits in the case of crew), or a point system, under which points are awarded based on participation verified by fish tickets or affidavit. Allocations could be made equally



to all eligible participants or could be based on landings or points or some combination of these measures. Quantitative analysis of the option is limited by available data.

The second option would provide skippers and crew with a first-right-of-refusal on a portion of each share allocation, when those shares are first transferred. The first-right-of-refusal is intended to provide a method of entry to skippers and crew that wish to have an interest in the fishery. The third option would protect skippers and crew by guaranteeing their historical crew share and prohibiting vessel and quota share holders from reducing crew shares to cover the cost of participation in a share based fishery. This option is based on a system in the Canadian groundfish fishery. Preliminary research on this option suggest that enforcement of the provision could be problematic. The last option would create a low interest loan program to fund the purchase of quota shares by skippers and crew. This option would establish a program similar to that in the halibut and sablefish fishery.

CDQ Allocations (Section 3.9) - This section examines options for changing the allocations to CDQ groups in the different fisheries proposed for inclusion in the rationalization program. The analysis examines the allocations to both the CDQ groups and non-CDQ participants. Based on the GHL in the most recent fisheries, assuming the option for the highest CDQ allocation is adopted, the allocations to CDQ groups could range from a high of 3.3 million pounds in the Bering Sea *C. opilio* fishery to approximately 150 thousand pounds in the Pribilof red and blue king crab fisheries combined. These allocations would result in a decrease of approximately 13 thousand pounds and 1.3 thousand pounds from eligible non-CDQ participants in these fisheries.

Other Management and Allocation Issues (Section 3.10) - This section examines various management implications of the rationalization program, including the effects of rationalization on other fisheries, the possible need to continue AFA sideboards to limit activities of AFA participants in the BSAI crab fisheries, options that would specify the duration of the rationalization program and schedule periodic review of the program, and the need for a cost recovery program to cover the cost of management of the rationalized fisheries.

Crab rationalization may increase the opportunities for BSAI crab vessels to participate in other fisheries. LLP data indicates that 253 of the crab vessels hold at least one groundfish endorsement (this includes the 42 AFA catcher vessels). These vessels would be allowed to participate in groundfish fisheries using that license. However the options for many of these vessels are limited in groundfish. Groundfish endorsements are area specific and licenses are expected to have gear endorsements added in the next year. Pacific cod endorsements are expected to be added to BSAI groundfish licenses as a result of Amendment 67 (47 pot catcher vessels are expected to qualify for a cod endorsement). Pacific cod is the most likely candidate for expansion by the crab fleet. However, the restrictions currently in place for the cod fishery limit the expansion that can occur in that fishery. The quota is already split among fixed, trawl, and jig gear vessels and Amendment 67 limits new entry. However, Amendment 64, which further allocates the quota among the fixed gear components, sunsets at the end of 2003. There may be more concern in the GOA cod fisheries where fewer restrictions are placed on entry. If the GOA cod fishery is a concern it could be protected as part of the GOA rationalization program or by a trailing amendment to this package.

Increases in participation of BSAI crab vessels in State managed fisheries, including the GOA crab and the State of Alaska GOA cod fishery, could be limited by State regulations. The State waters cod fisheries are often managed with pot limits and vessel size restrictions. Those limits either make the fisheries unavailable or less attractive to large crab vessels. The GOA crab fisheries have had relatively low GHLs, when open in recent years. The pot limits applied to those fisheries may also make them less attractive to large BSAI crab vessels.

Including AFA vessels/processors in the quota allocation process may eliminate the need for harvesting processing sideboards in the BSAI crab fisheries. The allocation alternatives would result in AFA vessel harvests and processing allocations similar to the caps. Limits on the amount of quota AFA vessels and processors can purchase after the initial allocation could prevent them from using BSAI pollock monies to

increase their share holdings. These limits could also be accomplished through the ownership caps being considered.

A cost recovery program is mandated for all new IFQ programs. The maximum fee that can be levied against the fleet is 3 percent of the ex-vessel value for harvest IFQ programs. However, the possible processor allocations raise the question of whether cost recovery should apply to processors under a two-pie IFQ program. Since they are benefitting from an allocation that would have management costs associated with it, should they be included in a cost recovery program to pay for its management?

Comparison of the Rationalization Models (Section 3.11) - This section compares the different rationalization alternatives, giving particular attention to the differences in competition and bargaining power of harvesters and processors under the different program alternatives. A theoretical economic model is developed and is applied to the crab fisheries. The analysis is contained primarily in Appendix 3-7, and considers how interests created by the different rationalization alternatives will affect the value of harvesting, processing, and human capital used prior to the program's introduction.

Effects of Rationalization on Products and Consumers (Section 3.12) - This section examines potential changes in products and other effects on consumers of rationalization of the fisheries. The analysis draws on prior experiences in North Pacific fisheries as well as conversations with participants in the industry. The expected slower pace of the fishery and less compacted delivery times should allow processors to improve sorting and grading of crab and improve employee training. Improved product grading could benefit both participants in the fisheries and consumers. Also expanding season lengths should decrease storage costs and allow consumers to purchase a fresher product as harvests can be better timed to market demand. Freezing techniques could also be modified to make more use of plate and blast freezers which would result in a higher quality product.

The Effects of the Crab Vessel Buyback Program (Section 3.13) - This section of the analysis examines the effects of the vessel buyback program on the rationalization program. We have assumed that the buyback program will purchase vessels, LLP licenses, and catch history. The analysis is qualitative because the participation in this voluntary program cannot be quantitatively predicted.

The buyback program will tend to increase the allocation of the harvesters that remain in the fishery by the percentage of qualifying catch that was removed from the quota share pool. Because the buyback program is specific to harvesters, it will cause a redistribution of processor "allocations" under the Plurality Assignment Cooperative. Processors that have more of their fleet bought out (in terms of cooperative allocation) relative to other processors would be worse off as a result of the buyback. Also, because catcher/processors are not part of the buyback, they will receive a larger harvest allocation under all of the rationalization alternatives. Depending on whether processing allocations to catcher/processors are based on their harvest allocations or their processing history, buyback could either allow them to process their entire harvest and increase their processing allocations or prevent catcher/processors from processing their entire allocation and have no effect on their processing allocations.

(b) Scoping summary report on the Environmental Impact Statement for the FMP for the BSAI king and Tanner crabs

This report, which follows this memo and attachment, will summarize the environmental issues and describe the potential alternatives raised during the scoping process for the EIS for the BSAI crab fisheries. NMFS held three scoping meetings to describe the proposed EIS and scoping process and invite written public comment. NMFS received three public comments. In addition to the issues raised during scoping, the EIS will incorporate significant issues and possible alternatives raised at the Council meetings where rationalization was discussed and at the Council's Rationalization Committee meetings. The issues are not enumerated here because they are also discussed in the Initial Council Review Draft of the BSAI Crab Rationalization Alternatives. NMFS staff will provide additional detail on this report.

- c) Consider the timing of submission of the Council's report to Congress on rationalization of the BSAI crab fisheries.

The Consolidated Appropriations Act of 2001 provides:

*"The North Pacific Fishery Management Council shall examine the fisheries under its jurisdiction, particularly the Gulf of Alaska groundfish and Bering Sea crab fisheries, to determine whether rationalization is needed. In particular, the North Pacific Council shall analyze individual fishing quotas, processor quotas, cooperatives, and quotas held by communities. The analysis should include an economic analysis of the impact of all options on communities and processors as well as the fishing fleets. The North Pacific Council shall present its analysis to the appropriations and authorizing committees of the Senate and House of Representatives in a timely manner."*

The rationalization alternatives currently under consideration include all of the program options that Congress requested the Council consider in its analysis. The timing of delivery of the report to Congress, however, has not been decided. The adequacy of the current analysis for purposes of satisfying the requirement of reporting to Congress and the timing of delivery the report to Congress need to be considered by the Council. Council guidance will assist staff in completing an analysis to satisfy both the report to Congress requirement and the needs of the Council. Currently, the only program alternative that could be implemented without legislative change is a traditional, harvester only IFQ program, which itself could not be submitted for Secretarial review until expiration of the current IFQ moratorium. Because the rationalization alternative selected in April will become the central alternative in the Crab EIS, which will be developed over the summer for action by the Council this fall, effective final action by the Council will occur via the EIS vehicle. This would allow for the Council to react as necessary to potential legislative changes from Congress.

Our original plan was to submit a synthesized version of the current analysis to Congress following the February meeting. Likely we would submit the entire analysis with a detailed Executive Summary. Under that schedule, it seems highly unlikely that Congressional action would occur prior to the Council's identification of a Preferred Alternative (currently scheduled for April). Another option is to delay submittal of that analysis to Congress until after the Council selects its Preferred Alternative in April. That way Congress would receive both the analysis and the Council's preferred rationalization program at the same time, and could potentially craft legislation to accommodate the Council's program. Depending on Congressional action the Council would still finalize its rationalization program through the EIS decision later this year, at which time we would presumably know what is authorized by Congress. This alternative approach would require staff to develop an executive summary of the overall analysis, with additional emphasis placed on the Council's preferred alternative. Given that the Council currently plans to select a preferred alternative in April, it would probably be May before the report could be submitted to Congress under this approach.

Draft Council Motion for Item C-4 BSAI Crab Rationalization  
December 10, 2001

C-4 BSAI Crab Rationalization

The Council adopted elements and options for analysis of alternative rationalization programs for the BSAI crab fisheries. The alternative models under consideration include several IFQ-style and cooperative-style rationalization models that may be structured as either harvester-only or harvester-processor programs depending on the Council's choice of options. Additional features may be included to address coastal community and skipper/ crew issues. The following elements and options apply to any rationalization model under consideration as applicable:

1. Harvesting Sector Elements

1.1 Crab fisheries included in the program are the following fisheries subject to the Federal FMP for BSAI:

- Bristol Bay red king
- Brown king (AI Golden king)
- Adak red king
- Dutch Harbor red king
- Pribilof Islands blue king
- St. Matthew blue king
- Pribilof Islands red king
- Opilio (EBS snow crab)
- E AI tanner
- W AI tanner
- Bairdi (EBS tanner)

Other FMP species not included here are discussed under item L at the end of the alternatives section.

1.2 Persons eligible to receive an initial allocation of QS must be:

Option 1. Any person that holds a valid, permanent, fully transferrable LLP license; or

Option 2 A person, defined as a U.S. citizen that owns a MarAd certified and/or USCG documented BSAI crab vessel that: (i) was used to satisfy the General Qualification Period (GQP) and Endorsement Qualification Period (EQP) landings requirements of the License Limitation Program (LLP), and (ii) either was used to satisfy the Recent Participation Period (RPP) landings requirement of Amendment 10 or meets the exemption requirements of Amendment 10.

Suboption: A person who has purchased an LLP, with GQP, EQP, and RPP qualifications to remain in a fishery is eligible to obtain a distribution of QS on the history of either the vessel on which the LLP is based or on which the LLP is used, NOT both.

1.3 Categories of QS/IFQs

1.3.1 Crab Fishery Categories - QS/IFQs will be assigned to one of the crab fisheries included in the program as identified in paragraph 1.1, except Dutch Harbor red king, E AI tanner, and W AI tanner. (Note also that the Adak red king crab fishery has been closed for several years.)

1.3.1.1 Brown king crab (AI golden king crab) option.

Option 1. Split into two categories: Dutch Harbor brown king crab and Western Aleutian Islands brown king crab

- 1.3.2 Harvesting sector categories - QS/IFQs will be assigned to one of the following harvesting sector categories:
- (a) catcher vessel (CV), or
  - (b) catcher/processor (CP)
- 1.3.3 Processor delivery categories - QS/IFQs for the CV sector may be assigned to processor delivery categories if processor quota shares (PQs) are included in the program. Two processor delivery categories (options for the percentage split between class A/B shares for initially allocated QS appear under the Processing Sector Elements):
- (a) Class A - allow deliveries only to processors with unused PQs
  - (b) Class B - allow deliveries to any processor
- 1.3.4 Regional Categories - QS/IFQs for the CV sector may be assigned to regional categories if Regionalization is included in the program. Two regions would be defined as follows (see Regionalization Elements for a more detailed description of the regions):
- (a) North Region - All areas on the Bering Sea north of 56° 20' N. Latitude.
  - (b) South Region - All areas on the Bering Sea south of 56° 20' N. Latitude and on the Gulf of Alaska

#### 1.4 Initial allocation of QS

##### 1.4.1. Calculation of initial QS distribution will be based on legal landings excluding deadloss.

(a) Calculation of QS distribution. The calculation is to be done, on a vessel-by-vessel basis, as a percent of the total catch, year-by-year during the qualifying period. Then the sum of the yearly percentages, on a fishery-by-fishery basis, is to be divided by the number of qualifying years included in the qualifying period on a fishery-by-fishery basis to derive a vessel's QS.

(b) Basis for QS distribution.

Option 1. For eligibility criteria in paragraph 1.2, Option 1, the distribution of QS to the LLP license holder shall be based on the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per vessel. However, the initial allocation of quota share will allow stacking or combining of valid, permanent, fully transferable LLP licenses and of histories of vessels as permitted under the LLP.

Option 2. For eligibility criteria in paragraph 1.2, the distribution of QS to the LLP license holder shall be based on the catch history of the vessel (including replacement vessels) on which the LLP license and endorsements are based and shall be on a fishery by fishery basis. The catch history upon which the fishing quota shares are derived, must have been earned on vessels that are currently MarAd certified and/or USCG documented fishing vessels. The initial allocation of quota share will allow stacking or combining of LLPs and histories that satisfied (i) the GQP and EQP landings requirements of the LLP, and (ii) either the RPP landings requirement, or one or more of the specific exemption requirements of Amendment 10 to the LLP.

Suboption: Persons who have an purchased LLP, with GQP, EQP, and RPP qualifications to remain in a fishery may obtain a distribution of QS on the history of either the vessel on which the LLP is based or on which the LLP is used, NOT both.

##### 1.4.2 Qualifying Periods for Determination of the QS Distribution:

- 1.4.2.1 Opilio (EBS snow crab)
- Option 1. 1994 - 1999 (6 seasons)
    - (a) Best 5 seasons
  - Option 2. 1992 - 1999 (8 seasons)
    - (a) Best 7 seasons

Option 3. 1995 - 1999 (5 seasons)

- (a) All seasons
- (b) Best 4 seasons

Option 4. 1996 - 2000 (5 seasons)

- (a) Best 4 seasons

1.4.2.2 Bristol Bay red king crab

Option 1. 1993 - 1999 (5 seasons, closed in '94 and '95)

- (a) All seasons
- (b) Best 4 seasons

Option 2. 1992 - 1999 (6 seasons)

- (a) All seasons
- (b) Best 5 seasons

Option 3. 1996 - 2000 (5 seasons)

- (a) Best 4 seasons

1.4.2.3 Bairdi (EBS tanner crab)

Option 1. 1992 - 1996 (5 seasons)

- (a) All seasons
- (b) Best 4 seasons

Option 2. 91/92\* - 1996 (6 seasons)

- (a) Best 5 seasons

Option 3. Based on a 50/50 combination of Bristol Bay red king crab and opilio harvests.

\*The biological season extended over a calendar year

1.4.2.4 Pribilofs red king crab

Option 1. 1993 - 1998

- (a) Best 4 seasons

Option 2. 1994 - 1998

- (a) All seasons
- (b) Drop one season<sup>1</sup>

1.4.2.5 Pribilofs blue king crab

Option 1. 1993 - 1998

- (a) Best 4 seasons

Option 2. 1994 - 1998

- (a) All seasons
- (b) Drop one season

1.4.2.6 St. Matthew blue king crab

Option 1. 1993 - 1998

- (a) Best 4 seasons

Option 2. 1994 - 1998

- (a) All seasons
- (b) Drop one season

1.4.2.7 Brown king crab (based on biological season)

(Options apply to both Dutch Harbor and western Aleutian Island brown king crab)

Option 1. 92/93 - 98/99 (7 seasons)

- (a) All seasons
- (b) Drop one season

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<sup>1</sup>All potential recipients would drop their worst season during the qualifying period.

- Option 2. 95/96 - 98/99 (4 seasons)
  - (a) All seasons
  - (b) Drop one season
- Option 3. 96/97 - 98/99 (3 seasons)
  - (a) All seasons
  - (b) Drop one season
- Option 4. 96/97 - 2000/01 (5 seasons)
  - (a) Best 4 seasons

Suboption: Award each initial recipient QS based on:

- (a) GHL split Dutch Harbor/western Aleutian Island brown king crab
- (b) historical participation in each region.

1.4.2.8 Adak Red King Crab

- Option 1. 1992 - 1996
  - (a) All seasons
  - (b) Best 2 seasons
  - (c) Not appropriate for rationalization

1.5 Annual allocation of IFQs:

1.5.1 Basis for calculating IFQs:

- Option 1. GHL
- Option 2. Convert GHL to a TAC and use the TAC as the basis.

1.6 Transferability and Restrictions on Ownership of QS/IFQs:

1.6.1 Persons eligible to receive QS/IFQs by transfer:

- Option 1.
  - (a) All persons or entities eligible to document a U.S. fishing vessel are eligible to own or purchase harvester QS and IFQs
  - (b) Persons or entities with 75% U.S. ownershipSuboption: Initial recipients of harvesting quota share are grandfathered

- Option 2. US citizens who have had at least (3 options):
  - a. 30 days of sea time\*
  - b. 150 days of sea time\*
  - c. 365 days of sea time\*Suboption: Initial recipients of harvesting quota share are grandfathered

- Option 4. Entities that have a U.S. citizen with 20% or more ownership and at least
  - a. 30 days of sea time\*
  - b. 150 days of sea time\*
  - c. 365 days of sea time\*Suboption: Initial recipients of harvesting quota share are grandfathered

\*Definition of sea time (3 options):

- Option 1. Sea time in any of the US commercial fisheries in a harvesting capacity
- Option 2. Sea time in a harvesting capacity in any commercial fishery of the State of Alaska or the Alaska EEZ
- Option 3. Sea time in any BSAI crab fishery

- 1.6.2 Leasing of QS (Leasing is equivalent to the sale of IFQs without the accompanying QS.)  
 Leasing is defined as the use of IFQ on vessel which QS owner holds less than 5-50% ownership of vessel or on a vessel on which the owner of the underlying QS is present:  
 Option 1. Leasing QS is allowed with no restrictions  
 Option 2. Leasing QS is not allowed  
 Option 3. A brown king crab QS holder may annually swap with any other brown king crab QS holder, on a pound for pound basis, IFQ in one district for IFQ in the other district.
- 1.6.3 Separate and distinct QS Ownership Caps - apply to all harvesting QS categories pertaining to a given crab fishery with the following provisions:
- (a) initial issues that exceed the ownership cap would be grandfathered;
  - (b) apply individually and collectively to all QS holders in each crab fishery;
  - (c) percentage-cap options for the Bristol Bay red king crab, Opilio, Bairdi, Pribilofs red king crab, Pribilofs blue king crab and St. Matthew blue king crab fisheries (a different percentage cap may be chosen for each fishery):
    - Option 1. 1 % of the total QS pool for the fishery
    - Option 2. 5% of the total QS pool for the fishery
    - Option 3. 8% of the total QS pool for the fishery
  - (d) percentage-cap ranging from 10%-40% for the Dutch Harbor and western Aleutian Island brown king crab (a different percentage cap may be chosen for each fishery or may be applied to the combined fisheries if not categorized separately).
  - (e) percentage-cap ranging from 10%-30% for Adak red king crab (if QS for this fishery are issued).
  - (f) in the opilio fishery, the cap can be reduced to 0.5% of the total QS pool in the event the GHIL increases to over 400 million pounds (with those over this cap prior to the reduction grandfathered).
- 1.6.4 Controls on vertical integration (ownership of harvester QS by processors):
- Option 1: No controls
  - Option 2: A cap of 1%, 5% or 8%, with grandfathering of initial allocations
  - Option 3: An entity that owns PQs may not own harvester QS in addition to those harvester QS that were issued to the PQ holder in the initial allocation.

Vertical integration ownership caps on processors should be analyzed using both the individual and collective rule and the threshold ownership rule using 10%, 25%, and 50% minimum ownership standards for inclusion in calculating the cap. PQS ownership caps are at the company level.

1.7 Use of IFQs

- 1.7.1 Use by harvesting sectors - IFQs must be used in accordance with the privileges defined for the associated QS category. The following provisions also apply:
- (a) "A" class CV-IFQs may be processed by either a shoreside processor or a catcher/processor so long as sufficient processor shares are held by the processor.
  - (b) "B" class CV-IFQ's may be processed by either a shoreside processor or a catcher/processor.
  - (c) "A" or "B" class CV-QS initially issued to a catcher/processor shall not be regionally or community designated.
  - (d) "A" or "B" class CV-QS purchased or obtained by catcher/processers shall retain their regional or community designation.
  - (e) No allowance of the use of purchased class B share IFQ crab on catcher processor vessels.
- 1.7.2 Catcher/Processor shares:
- 1.7.2.1 Catcher/Processors shall be granted "A" and "B" class CV-QS in the same manner as catcher vessels.



1.7.2.2 Catcher/Processors shall be granted PQ's based on their processing history.

1.7.2.3 Allowances for Catcher/Processors:

- Option 1. Catcher/Processors are prohibited from purchasing additional PQs from shore based processors but are free to acquire PQs from other Catcher/Processors.
- Option 2. Catcher/Processors shall be allowed to purchase additional PQs from shore based processors as long as the shares are processed within 3 miles of shore in the designated region.
- Option 3. Catcher/Processors may purchase additional CV-QS but cannot process unless sufficient unused IPQs are held.
- Option 4. Catcher/Processors may sell processed or unprocessed crab. Depending on the type of model (one-pie, two-pie, etc.), unprocessed crab may be delivered to:
  - (a) processors that hold unused IPQs, or
  - (b) any processor
- Option 5. Catcher processors that processed crab for any BSAI crab fishery during 1998 or 1999 will be included in the IFQ program.

1.7.2.4 Transfers to shore-based processors:

- (a) Catcher/Processors shall be allowed to sell PQ's to shore based processors.
- (b) When CP-PQ shares without a regional designation are sold to a shore based processor, the shares become designated by region.

1.7.3 Catch accounting under IFQs - All landings including deadloss will be counted against IFQs. Options for treatment of incidental catch are as follows:

- Option 1. No discards of legal crab will be allowed and sufficient IFQs for legal crab must be available.
- Option 2. No discards of "marketable" crab will be allowed for opilio crab and sufficient IFQs for "marketable" crab must be available. (Legal size for opilio is 3.1 inches but the industry standard is 4 inches.)
- Option 3. No discards of opilio crab with a carapace of 4 inches or greater in width.
- Option 4. Discards of incidentally caught crab will be allowed. (This option would allow, for example, incidental catch of bairdi crab in a red king crab fishery to be discarded without counting against bairdi IFQs.)

1.7.4 Use caps on IFQs harvested on any given vessel:

- Option 1.
  - a) fleet average percent of the catch
  - b) highest single vessel percentage of the catch

Time periods considered for determining the catch shall be:

- a) the IFQ qualifying years;
- b) the IFQ qualifying years plus the years from the end of the qualifying period through the year of the final Council action.

Option 2. No use caps

1.8 Other Optional Provisions

1.8.1 Options for skippers and crews members:

Option 1.

I. Percentage to Captains and/or crew:

A range of percentages for initial allocation from 0% to 20% should be analyzed.

(i.e. 0%, 10%, 20%)

A crewman is defined as a US citizen who held a a commercial fishing landing permit or crew license during the qualifying period.

II. Species specific:

As with vessels.

III. Eligibility:

(a) Determined on a fishery by fishery basis by 1) having at least one landing in the qualifying years used by the vessels and 2) having recent participation in the fishery as defined by at least one landing per year in the fishery in the last two years prior to adoption of a rationalization program by the Council.

(b) As a second option, eligibility could be determined by a point system modeled after that used by the State of Alaska in SE Alaska for limited entry in the Dungeness, King, and Tanner crab fisheries there.

(c) Eligibility will include:

1. Skippers only
2. All crew

IV. Qualification period:

As with vessels.

V. Distribution per Captain:

- i) Shares based on landings (personal catch history based on ADF&G fish tickets).
- ii) Shares distributed equally among qualified participants.
- iii) distribution based on a point system
- iv) A mix of one or more of the above, with a range of 0-50% distributed equally and the balance based on landings and/or points

VI. Distribution for All Crew:

- i) Shares distributed equally among qualified participants.
- ii) distribution based on a point system
- iii) A mix of one or more of the above, with a range of 0-50% distributed equally and the balance based on points

VI. Transferability criteria:

- (1) Sale of QS
  - a) QS is fully transferable
  - b) QS is only transferable to active participants
- (2) IFQ leasing
  - a) IFQ is fully leasable
  - b) IFQ is only leasable to active participants
  - c) IFQ is leasable to smaller, distant fisheries (i.e. St. Mathew, Pribilof and Adak King Crab)
  - d) No leasing of IFQ

Use it or lose it would apply to all skipper/crew QS, with a one year hardship provision. If the skipper/crew QS holder does not maintain active status in the fishery they would be required to transfer their QS to another active participant in the fishery.

An active participant is defined by participation in at least one delivery in the subject crab fishery in the last year as evidenced by ADF&G fish ticket or affidavit from the vessel owner.

VII. Skipper/Crew on Board requirements

- a) No onboard requirement for skipper/crew with QS
- b) Initial issues of QS would not be required to be onboard the vessel, subsequent tranferees would be required to be onboard the vessel when harvesting QS.
- c) Requirement for skipper/crew to be onboard vessel when harvesting QS.

Option 2: First Right of Refusal on Quota Share Transfers

- (1) A range of 0-20% of initially issued QS would be designated as crew shares, these shares would remain as a separate class of QS. Transfer of initially issued QS must include transfer of 0-20% crew shares for which there will be a first right of refusal for eligible crew to buy. The owner of the QS being offered for sale would have to give notice to NMFS RAM division of the impending sale. RAM in turn could then notify the fleet of the available QS. After this initial transfer crew QS will be available for transfer to any active participant in the fishery.
- (2) If a qualified buyer cannot be found then 50% of the 0-20% crew QS offered for sale would have to be gifted to a pool available to qualified buyers and the remaining 50% of the 0-20% could then be offered for sale on the open market to any buyer.
- (3) The crew pool of QS would be overseen by RAM. The proceeds from the sale of this QS by auction to the highest qualified bidder would go into a dedicated low interest loan program for crew.
- (4) Time frame for the first right of refusal is 1-3 months.
- (5) Eligibility of a U.S. citizen to purchase crew shares would be defined by participation in at least one delivery in the subject crab fishery in the last year as evidenced by ADF&G fish ticket or affidavit from the vessel owner.

Option 3. Protection of traditional and historical crew share percentages with no sunset based on the Canadian Groundfish Development Authority Code of Conduct.

Option 4. A low-interest rate loan program for skipper and crew purchases of QS would be established or made part of the existing loan program for IFQ purchases.

1.8.2 Overage Provisions:

- (a) Allowances for overages during last trip:
  - Option 1. 1%
  - Option 2. 3%
  - Option 3. 5%
- (b) Any overage would be deducted from the QS holder's IFQs (during the next season) at:
  - Option 1. same amount as overage
  - Option 2. twice the amount as overage

1.8.3 AFA vessels option: Eliminate AFA harvester sideboard caps on crab species upon implementation.

1.8.4 Discussion in the analysis of season opening dates under an IFQ program and the potential for concurrent seasons and multi-species fishing to reduce bycatch.

## 2. Processing Sector Elements

2.1 Eligible Processors - processors eligible to receive an initial allocation of processing quota shares (PQs) are defined as follows:

- (a) U.S. Corporation or partnership (not individual facilities) that
- (b) processed crab for any crab fishery included in the IFQ program during 1998 or 1999.

2.2 Categories of Processing Quota Shares

2.2.1 Crab fishery categories - processing quota shares may be issued for the following crab fisheries:

- Bristol Bay red king
- Brown king (AI Golden king)
- Adak red king
- Dutch Harbor red king
- Pribilof Islands blue king
- St. Matthew blue king
- Pribilof Islands red king
- Opilio (EBS snow crab)
- E AI tanner
- W AI tanner
- Bairdi (EBS tanner)

2.2.2 Regional categories - processing quota shares will be categorized into two regions if regionalization is adopted (see Regionalization Elements for description of regions):

- (a) Northern Region - All areas on the Bering Sea north of 56° 20' N. Latitude
- (b) Southern Region - All areas on the Bering Sea south of 56° 20' N. Latitude and all areas on the Gulf of Alaska

2.3 Initial allocation of processing quota shares

Option 1. Processing quota shares shall be initially issued to Eligible Processors based on three-year average processing history<sup>2</sup> for each fishery, determined by the buyer of record listed on ADF&G fish tickets, as follows:

- (a) 1997 - 1999 for Bristol Bay red king crab
- (b) 1996 - 1998 for Pribilof red king crab
- (c) 1996 - 1998 for Pribilof blue crab
- (d) 1996 - 1998 for St. Mathew blue crab
- (e) 1997 - 1999 for opilio crab
- (f) Bairdi crab based on 50/50 combination of processing history for BBRKC and opilio
- (g) 1996/97, 1997/98 and 1998/99 seasons for brown king crab
- (h) The council shall/may determine if the 4 species not included are appropriate for PQs, Dutch Harbor red king, E AI tanner, W AI tanner, and Adak red king

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The three-year average shall be the three-year aggregate pounds purchased by each Eligible Processor in a fishery divided by the three-year aggregate pounds purchased by all Eligible Processors in that fishery.

Option 2. Processing quota shares shall be initially issued to Eligible Processors based on the processing history for Opilio, BBRKC or brown king crab, determined by the buyer of record listed on ADF&G fish tickets, using the best 4 seasons during the 1996 - 2000 seasons.

Option 3. If an eligible processor is no longer active in the crab fisheries, the history of the processor will be allocated to open access shares but will retain its regional designation.

2.4 Percentage of season's GH L or TAC for which IPQs are distributed:

2.4.1 IPQs will be issued for a portion of the season's GH L or TAC for each species to provide open access processing as a means to enhance price competition:

- Option 1 100% GH L (or TAC) would be issued as IPQs
- Option 2 90% GH L (or TAC) would be issues as IPQs - the remaining 10% would be considered open access.
- Option 3 80% of GH L (or TAC) would be issued as IPQs - the remaining 20% would be considered open access.
- Option 4 70% of GH L (or TAC) would be issued as IPQs - the remaining 30% would be considered open access.
- Option 5 0% - no processing shares

2.5 Implementation of the open access processing portion of the fishery:

Catcher vessel QS/IPQs are categorized into Class A and Class B shares. Purchases of crab caught with Class A shares would count against IPQs while purchases of crab caught with Class B shares would not. Crab caught with Class B shares may be purchased by any processor on an open-access basis.

2.6 Transferability of processing shares - provisions for transferability include the following:

- (a) Processing quota shares and IPQs would be freely transferable, including leasing
- (b) IPQs may be used by any facility of the Eligible Processor (without transferring or leasing)
- (c) Processing quota shares and IPQs categorized for one region cannot be transferred to a processor for use in a different region.

2.7 Ownership and use caps - different percentage caps may be chosen for each fishery:

- 2.7.1 Ownership caps
  - Option 1. based on maximum share for processors by fishery plus a percentage of 5%, 10% or 15%.
  - Option 2. Ownership cap equal to largest share issued to processor at initial issuance.
  - Option 3. Range of caps from average to maximum with grandfather clause.

PQS ownership caps should be analyzed using both the individual and collective rule and the threshold ownership rule using 10%, 25%, and 50% minimum ownership standards for inclusion in calculating the cap. PQS ownership caps are at the company level.

- 2.7.2 Use caps
  - Option 1 Annual use caps ranging from 30% - 60% of the GH L (or TAC) by fishery.
  - Option 2. Annual use caps of quota share equal to the largest PQ holder's share in each specific fishery.

2.8 Other Optional Provisions:

- 2.8.1 The crab processing caps enacted by Section 211(c)(2)(A) of the AFA would be terminated.
- 2.8.2 Penalties - Eligible Processors must fully utilize their processing quota shares in the season while a fishery is open or lose the amount that is not utilized for one season in the next season.
  - (a) Distribution of unused quota:
    - Option 1. Distributed to other processors proportionally

Option 2. Distributed to other processors equally

Option 3. Allocate to open access

Suboption 1. If QS is reclassified from Class A to Class B:

- a) reclassification of Class A QS will be distributed proportionally among all Class A QS holders
- b) reclassification of Class A QS will be distributed equally among all Class A QS holders
- c) reclassification of the unused Class A QS to B class

All three options for reclassification of these temporary B QS should require a regionalization designation to maintain the appropriate regional allocations. Additionally, include discussion of reasons a processor may not use its quota, including physical inability (e.g. plant breakdown); harvesters being unable to deliver when the processor is able to process; bona fide price disagreement; concern over exceeding the processor quota allotment (when there is only a small amount of processor quota remaining); and bonafide dispute over quality of the crab.

(b) Hardship provisions

- 2.8.3 Option for use of a private sector managed (non-governmental), binding arbitration process, for failed price negotiations, between fishermen and processors. To the extent that this may be a key design feature in a two pie IFQ program, the analysis should consider the mechanics and applicability to a two pie IFQ program.

Considerations for analysis of binding arbitration:

- Individuals and groups of fishermen holding QS will negotiate independently and separately with individual processing companies holding PQs at any time, before season openings, the earlier the better, to seek best market prices;
- Only required if negotiations fail to achieve acceptable price to both parties;
- Private-sector financed and managed and conducted on a company-by-company basis;
- Individuals, groups and companies that request binding arbitration jointly bear the cost;
- Requires statutory definition, along with harvesting and processing quota shares;
- Harvesting and processing sectors must agree to participate;
- Agreements on price settlements are binding and will likely require an enforcement mechanism (i.e. contracts or statement of agreement between parties);
- Biological seasons, overlap of the biological seasons, crab quality, weather and other considerations need to be contemplated in development of the process framework;
- Need to establish criteria for pool of arbitrators

Elements of the binding arbitration process:

- Requires independent market analyses for specified BSAI king, tanner (Bairdi) and snow (Opilio) crab species by a designated market analyst to be chosen by industry (fishermen and processors);
- Arbitrator, chosen by industry (fishermen and processors) before start of negotiations, sits in on presentation of market analysis but does not sit in on negotiations;
- Need to establish and adhere to deadlines for:
  - (a) Presentation of market analysis to industry (i.e. 8 to 10 weeks prior to season opening)
  - (b) Agreement on date to go to arbitration
    - (1) Pre season
    - (2) In season
  - (c) Agreement on deadline for price settlement
    - (1) Date certain
    - (2) or based on % of GHLL caught

- Arbitration will require the parties to submit best price and arbitrator picks one or the other price, but does not split the difference or other options
  - Options to establish a price:
    - Option 1. Prices established are a minimum price, based on market analysis, with processors agreeing to pay at least the minimum price (allows variability on prices between companies).
    - Option 2. Formula approach similar to some Bering Sea pollock operations, where the fleets share in the percentage of the sale price of the products. In this case, the arbitrator would decide the formula percentage.
3. Regionalization Elements
- 3.1 Two regions are proposed:
- (a) Northern Region - All areas on the Bering Sea north of 56° 20' N. Latitude. (This region includes the Pribilof islands and all other Bering Sea Islands lying to the north. The region also includes all communities on Bristol Bay including Port Heiden but excludes Port Moller and all communities lying westward of Port Moller.)
  - (b) Southern Region - All areas on the Bering Sea south of 56° 20' N. Latitude and all areas on the Gulf of Alaska (This region includes all parts of the Alaska Peninsula westward of and including Port Moller. All of the Aleutian Islands are included in the South Region as are all ports and communities on the Gulf of Alaska.)
- Suboption: Regional categories for deliveries of Aleutian Islands brown king and Adak red king crab split into a "Western" (west of 174 degrees West longitude) and "Eastern" (east of 174 degrees West) area with an option that up to 50% of W AI brown king crab must be processed in the W AI region.
- 3.2 Regional categorization of processing and/or harvesting quota shares
- 3.2.1 Categorization will be based on all historical landings. Periods used to determine regional percentages are as follows (two options):
- Option 1. 1995 - 1999
  - Option 2. 1997 - 1999
- 3.2.2 Options for the harvesting sector:
- Option 1. all CV quota shares are categorized by region
  - Option 2. only Class A CV quota shares are categorized by region
- 3.2.3 Options for the processor sector:
- Option 1. Processing quota shares and IPQs are categorized by region
  - Option 2. Regional restrictions apply to deliveries made on an open access basis
- 3.2.4 Once assigned to a region, processing and/or harvesting quota shares cannot be reassigned to a different region.
- 3.3 Delivery and processing restrictions - the following provisions apply to the delivery and processing of crab with IFQs or IPQs that are categorized by region:
- (a) Crab harvested with catcher vessel IFQs categorized for a region must be delivered for processing within the designated region
  - (b) Crab purchased with IPQs categorized for a region must be processed within the designated region.
- 3.4 Alternative Regionalization/Community Protection Option: Processing history may leave the region of origin (in which history was established) with permission of the community in which the crab was processed in the base period. The processing QS may change regions with negotiated agreement between processors and the originating communities. These agreements will be filed with the Secretary of Commerce 30 days prior to the quota share leaving the community.

4. Community Development Allocation (based on existing CDQ program):
- Option 1. No change from existing program
  - Option 2. Expand existing program to all crab fisheries under this analysis.
  - Option 3. Increase for all species of crab to 10%
  - Option 4. Increase for all species of crab to 12.5%
  - Option 5. For the Aleutian Islands brown king crab fishery, the percentage of resource not utilized (difference between actual catch and GHL) during base period is allocated to the community of Adak.

5. Program Duration and Review

The following options apply to all program elements:

- Option 1. Program review after 2 years and every 3 years thereafter to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities by addressing concerns, goals and objectives identified in the Crab Rationalization problem statement and the Magnuson Stevens Act standards. This review should include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts.
- Option 2. Program review every 3 years to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities by addressing concerns, goals and objectives identified in the Crab Rationalization problem statement and the Magnuson Stevens Act standards. This review should include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts.
- Option 3. No program review
- Option 4. Sunset in 5 or 7 years

6. Cooperative model options:

6.1 Coop model with the following elements and options:

**State Voluntary Cooperative:** The purpose of the voluntary cooperative for BSAI crab fisheries is to allow harvesting, processing and community interests to share in the benefits of a rationalized fishery, enhanced by formal cooperation between buyers and sellers. A cooperative structure encourages entities with common and mutual interests to approach those interests through a common perspective.

- 1) Individual harvesting and processing histories are issued to both catcher and processors. (Harvesters under Section 1.3.2 a) which meet program qualifications. Processors under Section 2.1, 2.3, and 2.4 (Options 1-4) which meet qualifications of the program).
- 2) Cooperatives may be formed through contractual agreements among fishermen who wish to join into a cooperative with one or more processors holding processor history for one or more species of crab. Fleet consolidation within this cooperative may occur either by internal history leasing and vessel retirement or by history trading within the original cooperative or to a different cooperative.
- 3) There must be at least 2 or more unique vessels/owners to form a coop with a processor. Vessels are not restricted to deliver to a particular plant or processing company.
- 4) New processors may enter the fishery by acquiring processor history from an initial issuee. Cooperative formation with a new processor lacking processing history requires the new processor to offer both an adequate payment to the vessel and to the originating plant where the prior processing history resided.
- 5) Custom processing would continue to be allowed within this rationalization proposal.



6) Provide an opportunity for communities. Processing history may leave the region of origin (in which history was established) with permission of the community in which the crab was processed in the base period. The processing QS may change regions with negotiated agreement between processors and the originating communities. These agreements will be filed with the Secretary of Commerce 30 days prior to the quota share leaving the community.

7) Regional Categories:

- Option 1. No regional categories.
- Option 2. Harvester cooperatives' regional categories for deliveries of Bering Sea crab as in paragraph 1.3.4.
- Option 3. Harvester cooperatives' regional categories for deliveries of Aleutian Islands brown king and Adak red king crab split into a "Western" (west of 174 degrees West longitude) and "Eastern" (east of 174 degrees West) area.

8) Duration of coop agreements.

- Option 1. 2 years
- Option 2. 4 years
- Option 3. 6 years

9) Community Development Allocation (under existing CDQ program)

- Option 1. No change from existing program
- Option 2. Expand existing program to all crab fisheries under this analysis.
- Option 3. Increase for all species of crab to 10%
- Option 4. Increase for all species of crab to 12.5%
- Option 5. For the Aleutian Islands brown king crab fishery, the percentage of resource not utilized (difference between actual catch and GHL) during base period is allocated to the community of Adak.

10) Observer requirements. For crab vessels greater than 60' in length, maintain observer coverage at:

- Option 1. Status quo.
- Option 2. 10%
- Option 3. 20%
- Option 4. 30%

11) Length of program:

- Option 1. Sunset in 5 years
- Option 2. Program review to objectively measure the success of the program by addressing concerns identified in the Crab Rationalization problem statement and the Magnuson Stevens Act standards.
  - Suboption 1. Program review after 2 years
  - Suboption 2. Program review every 3 years

12) Option for skipper and crew members: Protection of traditional and historical crew share percentages with no sunset.

13) Catch Accounting - All landings including deadloss will be counted against a vessel's quota. Options for treatment of incidental catch are as follows:

- Option 1. No discards of legal crab will be allowed, and sufficient quota for legal crab must be available.
- Option 2. No discards of "marketable" crab will be allowed for opilio crab and sufficient quota for "marketable" crab must be available. (Legal size for opilio is 3.1 inches, but the industry standard is 4 inches.)
- Option 3. No discards of opilio crab with a carapace of 4 inches or greater in width.
- Option 4. Discards of incidentally caught crab will be allowed. (This option would allow, for example, incidental catch of bairdi crab in a red king crab fishery to be discarded without counting against a vessel's bairdi quota.)

6.2 Use a co-op model that would have the following options:

1. Formation of Coop

A. There would be one coop formed with each eligible crab processor. Coops would be formed with the processor at the company level, not the plant level. Two or more vessels are sufficient to form a coop. The coop would handle all species of crab.

B. Crab processor eligibility would be determined using the qualifying period identified for allocation of initial IPQs (Eligible Processors, including C/P as revised in 1.7.2.3 option 5. Processors eligible to receive an initial allocation of processing quota shares (PQs) are defined as follows: U.S. Corporation or partnership (not individual facilities) that processed crab for any crab fishery included in the IFQ program during 1998 or 1999.)

C. Each crab vessel is eligible to join only one coop. Which coop the vessel is eligible to join is determined based on which eligible processor that vessel delivered the highest pounds of crab to during the processor qualifying period used for 1.B above.

D. Vessels that join a coop will have their catch history from the vessel qualifying period protected. A vessel that does not elect to join in the coop for which it is eligible remains under an open access fishery.

E. Each vessel's catch history is determined using the formulas identified for calculation of initial quota shares selected under section 1.4 as modified above.

F. A coop agreement would be filed annually with the Secretary of Commerce, after review by the Council, before a coop's catch history would be set aside for their exclusive use. The processor and each boat that is eligible and elects to join the coop must sign the agreement. Only the histories of those boats that sign will be protected.

2. Operation of Coop

A. The coop is responsible for allocating fishing quotas for each species of crab to the coop members. Each vessel is entitled to one vote, and decisions will be made by majority vote unless otherwise agreed to by the coop members.

B. The processor with which the coop is formed gets

- i. first right of refusal for all crab harvested by coop members, with coop free to deliver crab to another eligible processor if no agreement is reached; or
- ii. a guaranteed amount of coop crab to be delivered, with the amount ranging from 10% to 100%, the remainder of which can be delivered by the coop to either—

I. any eligible processor, or

II. any processor, eligible or not (i.e., new entrant allowed).

C. If the processor buys the coop crab, it may process the crab itself or may arrange to have it processed by any other crab processor (i.e., the processor acts as broker for coop crab it does not wish to process).

D. In the alternative, the processor may elect to have the coop act as its own broker for crab the processor does not wish to buy, with the coop free to either sell the crab to another processor or allow individual vessels to make arrangements on their own.

E. Cooperatives may arrange to swap, purchase, or trade deliveries of crab by mutual agreement of the cooperatives concerned.

3. Movement of Vessels Between Coops

A. Three alternatives would be analyzed.

i. Vessels are free to transfer between coops once each year, with agreement of the coop to which they are moving. Vessel catch history goes to new coop.

ii. Vessels may move to a new coop after spending one year in the open access fishery. Coop must agree to entry of new vessel. Vessel catch history is not protected in open access, but is restored upon entering new coop.

iii. Vessels may only leave coop with agreement of the processor. Catch history only goes with vessel if processor agrees.

B. Vessels that did not join a coop in the first year coops are formed may join the coop of the processor to which they delivered the highest dollar value of crab in the previous year after spending one year in the open access fishery.

4. Regionalization, Etc.

A. All other options in the June Draft Council motion regarding regionalization, skipper/crew shares, etc. would be applied to the Lead Fishery Cooperative Model based on the options identified for analysis in those areas.

5. Taxes

Require owners of CP vessels to pay a fee equivalent to the tax that would have been imposed had the CP operated in State waters.

Further, the Council reaffirmed its earlier policy statement that catch history in the crab fisheries beyond December 31, 1998 may not count in future rationalization programs, including a fishery cooperative system.

Finally, the Council requested that the Analysis include to the extent possible a comprehensive qualitative and, where possible, quantitative consideration and examination of the following:

- A. Processor ownership interest in BSAI crab harvesting vessels
- B. CV ownership interest in processors
- C. Processor ownership interest in BSAI crab fishing history
- D. CV ownership interest in BSAI processing history
- E. Foreign ownership interest in the BSAI crab processing sector
- F. Foreign ownership in the BSAI crab harvesting sector
- G. The percentage of Harvester QS that will be allocated to the processor sector as a result of processor sector ownership interest in BSAI crab harvesting vessels and BSAI crab fishing history.
- H. The percentage of processor PQs that will be allocated to the harvesting sector as a result of harvesting sector ownership interests in the BSAI crab processing sector and BSAI crab processing sector history including CPs.
- I. The anti-competitive impacts and economic barriers that may result from the cumulative and combined impacts of Individual Processing Quotas (IPQs) coupled with Regionalization. For example, are the combined impacts and barriers of IPQs and Regionalization different than the individual and respective impacts of IPQs or Regionalization and, if so, to what extent.
- J. The general economic and social impacts and the impacts on free and open competition and markets of IPQs, including the Halverson report and Matulich report on a 2-pie IFQ-type program.
- K. The impacts of IPQs on free markets and vigorous competition in the BSAI crab industry that may result from (1) processor sector ownership interest in BSAI crab harvesting vessels, (2) processor sector ownership interest in BSAI crab fishing history, and (3) the percentage of harvester QS that may be allocated to the processor sector as a result of processor sector ownership interest in BSAI crab vessels and BSAI crab fishing history.
- L. Staff should provide information describing the issues related to recency and potential proxy QS from other crab fisheries for determining the initial allocations in the EAI tanner, WAI tanner, and EAI (Dutch Harbor) red king crab fisheries. The State of Alaska should be consulted on potential options which can be implemented as trailing amendments.
- M. An analysis of the implications of rationalization on BSAI and GOA groundfish and other crab fisheries (including tanneri and Pribilof Islands brown king crab fisheries) shall be included in the analysis.
- N. A comprehensive section on environmental consequences (including bycatch, high grading, stock rebuilding) of the rationalization alternatives shall be included in the analysis.
- O. An analysis of the impact of the crab vessel buyback on the rationalization alternatives (including the distribution of allocations and caps of harvester and processor shares and the regionalization alternatives) shall be included in the analysis.
- P. The analysis shall include a discussion of the cost recovery program and its interaction with the current State fee program.
- Q. The general impacts of IPQs on free markets and vigorous competition, price mechanisms, costs, distribution of rents and other competitive mechanisms:

- (1) in the BSAI crab processor sector
- (2) in the BSAI crab harvester sector.
- (3) in the BSAI crab industry,
- (4) in the non-AFA processor sector,
- (5) in the Kodiak processor sector,
- (6) in the BSAI and GOA fishing industry,
- (7) that may result from mergers, acquisitions, combinations and concentrations in the processing sector,
- (8) that may result from foreign ownership interest in the processing sector.

- R. Restrictions of ownership of Harvester QS by processing entities that have more than 25% foreign ownership interest.
- S. Spillover effects on other fisheries.
- T. Include a discussion of the percent of GHQ purchased by non-eligible processors on an annual basis and the effect on the final QS pool.
- U. Include a conceptual discussion on how co-op management might work in the harvesting and processing sectors and a comparison of IFQs/IPQs, to co-ops including the Dooley-Hall co-op structure in addressing the problem statement.
- V. Conservation benefits and other implications of each component of the program (IFQ, IPQ, Regionalization Co-ops). Present the analysis of these issues in a consolidated section in the EA/RIR.

**Draft Scoping Summary Report to the  
North Pacific Fishery Management Council on the  
Environmental Impact Statement for the  
Fishery Management Plan for Bering Sea/Aleutian Island King and Tanner Crabs**

January 28, 2002

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## **Introduction**

This report summarizes the comments received during the scoping period from September 20 to December 10, 2001, on the Environmental Impact Statement (EIS) for the Fishery Management Plan for Bering Sea/Aleutian Island King and Tanner Crabs (FMP). In this report, we identify the environmental issues and describe potential alternatives raised during the scoping process. The primary purpose of this report is to provide information to the North Pacific Fishery Management Council (Council) and invite Council input on the scope of issues and range of alternatives for the EIS.

NMFS held three scoping meetings to describe the proposed EIS and scoping process and invite written public comment. NMFS received three public comments. In addition to the issues raised during scoping, the EIS will incorporate the significant issues and possible alternatives raised at the Council meetings where rationalization was discussed and at the Council's Rationalization Committee meetings. These issues are not presented in this document because they are discussed in detail in the Council's Initial Council Review Draft of Bering Sea and Aleutian Islands (BSAI) Crab Rationalization Alternatives.

## **Purpose and Need for the Action**

The Council is in the process of developing alternatives for a rationalization program. A rationalization program is proposed as an FMP alternative to address excess harvesting capacity and resource allocation problems in the BSAI crab fisheries. Under current management, a race for fish exists due to the fact that the number of vessels participating in the fishery greatly exceeds the amount of crab available for harvest. This race causes short, unprofitable seasons, resource /conservation problems, unsafe fishing conditions, and management difficulties. The Council identified its concerns in the following BSAI Crab Rationalization Problem Statement:

The crab fisheries in the BSAI are fully utilized. Despite amendments to the Licence Limitation Program (LLP) and American Fisheries Act (AFA) sideboards, capacity in these crab fisheries far exceeds available resources. The ability of crab harvesters to diversify into other fisheries has been severely curtailed under the LLP program and other management actions designed to bring stability to other gear groups and species. Many of the concerns identified by the Council at the beginning of the comprehensive rationalization process in 1992 still exist for the BSAI crab fisheries. The race for fish continues to result in:

1. Resource/conservation management problems
2. Bycatch/handling mortality and dead loss
3. Excess harvesting capacity
4. Lack of economic stability
5. Safety issues

In the continued process of comprehensive rationalization, prompt action is needed to protect the crab resource and to promote stability for those dependent on the crab fisheries. In order to achieve a balanced resolution, the concerns of harvesters, processors and coastal communities must be addressed.

The Council will choose a preferred alternative from the rationalization program alternatives, and this will be the proposed action. Once a preferred alternative is identified, the EIS will analyze the effects on the human environment of the proposed action and alternatives to the proposed action, including management under the existing FMP. The EIS will disclose the direct and indirect environmental effects, as well as any cumulative impacts that the alternatives, including the proposed action and status quo, will have on the human environment.

The proposed action will have two parts, the rationalization program itself and the resulting changes to the State and Federal management of the BSAI crab fisheries. An underlying principle of the EIS is that a rationalization program will affect most aspects of BSAI crab fishery management by making some existing management measures unnecessary and requiring modification of other management measures. Thus, the EIS will be programmatic. As such, this analysis is broader in scope than strictly analyzing alternative limited access programs. The EIS will recognize that a rationalization program will require other changes to the FMP required to implement the program. In addition, the State of Alaska will make changes to State regulations that manage the BSAI crab fisheries so that fisheries management responds to the unique demands of a rationalization program. To the extent possible, the EIS will identify alternative rationalization programs, alternative modifications to the existing management measures in FMP, and ranges of potential changes to State management measures. Once these have been identified, the EIS will then analyze the effects on the human environment of each alternative and discuss ways in which these effects might be avoided or mitigated.

The stakeholders impacted by the crab FMP and proposed rationalization programs include crab vessel owners, skippers who do not own vessels, crew, owner/operators, crab processors, communities, crab consumers, participants in other State and Federal managed fisheries, and the general public.

### **Public Scoping Meetings**

Scoping is an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to the proposed action. A principal objective of the scoping and public involvement process is to identify a reasonable range of management alternatives that, with adequate analysis, will delineate critical issues and provide a clear basis for distinguishing between those alternatives and selecting a preferred alternative.

Scoping for the EIS began with the publication of a Notice of Intent in the Federal Register on September 20, 2001 (66 FR 48410). Public comments were initially due to NMFS by November 16,

2001; however, NMFS extended the scoping period until December 10, 2001 to provide the public with more time to develop comments (66 FR 59771). Copies of the Federal Register notices are in Appendix B. The Council on Environmental Quality has issued informal guidance for the scoping process, which we have followed. The Draft EIS is based on and prepared from the issues identified in the scoping process.

NMFS held three public scoping meetings. At the scoping meetings, NMFS requested written comments from the public on the range of alternatives to be analyzed and on the environmental, social, and economic issues to be considered in the analysis. Each scoping meeting was held in conjunction with another formal public meeting on BSAI crab fishery management to make it convenient for interested public to attend. In addition to the Notice of Intent, the scoping meeting was on the agenda for each of these meetings. The scoping meetings were attended by fishermen; vessel owners; fishing and processing industry representatives; representatives from environmental organizations; ADF&G, Council, NMFS, and NOAA-GC staff; community representatives; and the general public. Attendance lists for each meeting are filed in the administrative record and available on request.

Three public scoping meetings were held as follows:

Anchorage, Alaska: Thursday, September 20, 2001, from 2-4 p.m., at the Hilton Hotel, 500 West 3<sup>rd</sup> Street. This meeting was held in conjunction with the Council's Crab Plan Team meeting and approximately 15 people attended, including Plan Team members.

Seattle, Washington: One on Monday, October 1, 2001, from 2:30-4:30 p.m., at the Leif Erikson Hall, 2245 N.W. 57<sup>th</sup> Street. This meeting was in conjunction with the Annual Bering Sea/ Aleutian Islands Crab Industry Meeting and approximately 86 people attended. The second meeting was on Thursday, October 4, 2001, from 7-9 p.m., at the airport Doubletree, 18740 International Blvd., in conjunction with the October Council meeting. Approximately 23 people attended this meeting.

### **Summary of Comments and Issues Addressed in Written Comments Received During Scoping**

NMFS receive three written comments during the scoping period. The three comments are attached in Appendix C.

#### **Comment 1: Consider Alaskan Communities.**

This comment requested consideration of the impacts of proposed rationalization programs on Alaskan coastal communities, and the City of Unalaska specifically. The comment explained the importance of crab harvesters and processors to the economic viability of the city and the need for the development of an alternative management system that will lead to industry consolidation. The comment focused on four main areas of concern:



- Vessel safety
- Resource management
- Economic stability
- Excess harvesting capacity

The comment also recommended NMFS comply with NEPA and the Magnuson-Stevens Act national standards as it develops the EIS.

**Comment 2: Analyze a harvester-only IFQ alternative.**

This comment recommended moving forward with a harvester-only individual fishing quota (IFQ) program before analysis of a processor quota (PQ) program. The comment discussed issues in support of an harvester-only IFQ program over a two-pie IFQ program, which include:

- considering processor quota along with IFQ will delay implementation of an IFQ program because of the complexities of a PQ program,
- IFQs are an accepted and reasonable management tool for rationalization of the BSAI crab fleet, and will address significant resource conservation and management objectives, as well as specific economic and social objectives,
- PQs are not authorized by Congress and there is no precedent PQ program,
- PQ has anti-trust implications,
- PQs equate to a distribution of ownership rights to a natural resource to a small class of large businesses, many of which are vertically integrated and multinational.

**Comment 3: Make conservation and sustainability of biological resources the highest priority for a rationalization program.**

This comment recommended that the EIS evaluate rationalization alternatives against the following conservation and community objectives:

- Reward clean fishing (promote low bycatch and minimize impact on ocean floor).
- Create opportunity for future generations of independent fishermen.
- Prevent excessive consolidation and vertical integration of the seafood industry.
- Preserve healthy competition among seafood processors and prohibit processor monopolies.
- Promote healthy community fishing economies and maintain diverse independent fishing fleets.
- Recognize historic regional fishing and processing patterns.
- Require good stewardship of the public's marine resources as a condition for continuing participation in IFQ fisheries.

This comment also recommends that the EIS evaluate the success of the crab pot escape rings and mesh size required by State of Alaska regulations in reducing crab bycatch in the crab fisheries. In addition, the comment recommends that the EIS detail with GIS mapping the spatial extent of the crab fisheries, degree of fishing effort, and spatial extent of the crab stocks.

This comment also raises a number of issues outside of the scope of this EIS. The comment recommends changes to the groundfish fisheries which are not under the management jurisdiction of the BSAI crab FMP and therefore will not be directly considered in the EIS for the BSAI crab FMP.

### **Additional Comments**

In addition, one verbal public comment suggested an alternative structured around exclusive Federal management of the BSAI crab fisheries.

### **Other Scoping Efforts**

Significant issues were also raised during a trip Mark Fina (Council staff) and Gretchen Harrington (NMFS staff) took to Dutch Harbor/Unalaska and Akutan in October 2001. The purpose of the trip was to meet with members of industry, harvesters (vessel owners, skippers, and crew) and processors (shore-based and catcher/processors), and ADF&G staff to listen to their position on various issues surrounding crab rationalization. In addition, we observed the landing and processing of Bristol Bay red king crab. Gretchen's trip notes are included in Appendix A.

In developing alternative rationalization programs, a number of meetings to discuss rationalization have occurred in the Council arena. Beginning in late 1999, interested parties met on an informal basis in a series of meetings to discuss rationalization. This ad hoc industry committee was formalized into a Council committee, the BSAI Crab Rationalization Committee in December 2000. The Council appointed members to the BSAI Crab Rationalization Committee, which included representatives for harvesters, processors, skippers and crewmen, communities and environmental organizations. The Committee was tasked with developing elements and options for analysis and reporting to the Council at the April 2001 meeting. The Committee met once in February and once in March, 2001. In summary, the BSAI Crab Rationalization Committee made significant progress during its meetings in developing a set of elements and options for Council consideration and analysis of a crab rationalization program. Also, the Council, the Advisory Panel and Scientific and Statistical Committee have discussed rationalization at a number of meetings since October 1999, focusing on the alternatives, elements, and options under consideration during the June, October, and December 2001 meetings. The public comments received and the issues discussed during these meetings are part of the scope of the EIS, however, they are not included in this document because they are discussed in detail in the Initial Council Review Draft of BSAI Crab Rationalization Alternatives.

### **Alternatives**

This EIS will consider three kinds of alternatives, the no action alternative, alternatives describing other reasonable courses of action, and an alternative that advances mitigation efforts to the proposed action. The preferred alternatives in the EIS will be the rationalization program the Council identifies as its preferred alternative. A 'no fishing' alternative, as the conservation mitigating

alternative, will allow the EIS to properly evaluate the severity of the adverse effects on the human environment caused by the proposed action and no action alternatives. The potential range of alternatives include the alternatives analyzed in the Council's analysis, with the addition of the mitigation alternative and alternatives raised during scoping.

The Council's general management alternatives for rationalization of the BSAI crab fisheries:

- Alternative 1. No action
- Alternative 2. Crab IFQ Program
- Alternative 3. Crab Co-op Program

Alternatives raised during scoping and following CEQ guidance (40 CFR 1502.16 and 1508.25):

- Alternative 4. Crab IFQ Program without the processor quota element
- Alternative 5. Exclusive Federal management of the BSAI crab fishery
- Alternative 6. No Fishing

### **Cooperating Agencies and Tribal Governments**

ADF&G and the U.S. Coast Guard have agreed to participate in the preparation of the EIS as cooperating agencies. ADF&G is also preparing sections of the EIS, as discussed below. On November 1, 2001, NMFS mailed a letter to 113 Alaska tribal governments, providing information about the EIS and soliciting input from interested parties. As of the date of this report, no meetings have been scheduled and no correspondence has been received from any of the tribal governments.

### **Preparation of the EIS**

A steering committee was created for the EIS. The steering committee consists of Jim Balsiger, NMFS; Chris Oliver, Council staff; Kevin Duffy, ADF&G; Robert Otto, NMFS-Alaska Fisheries Science Center (AFCS); Tom Meyer, NOAA-GC; Ramona Schreiber, NOAA; and Tamra Faris, NMFS. The Steering Committee's charge is to ensure the scope of analysis adequately spans the action being taken and to coordinate staff tasking among the various government agencies and departments.

We have determined that the best way to organize the preparation of this analysis is to convene an analytical team comprised of NMFS staff, Council staff, and ADF&G staff, supplemented by contracts for the environmental justice and cumulative impact analysis. We have established staff assignments for the preparation of this analysis and confirmed the staff assignments with ADF&G, the Council, and the AFSC. The analytical team consists of Gretchen Harrington, NMFS; Robert Otto, Brad Stevens, AFSC Kodiak Lab; Herman Savikko, Wayne Donaldson, Forrest Bowers, ADF&G; Mark Fina, Council; and Jessica Gharrett, NMFS-RAM. We have also established

deadlines for completing each section to ensure timely completion of the EIS. NMFS will obtain a contractor for writing the environmental justice and cumulative impacts sections, revising these sections in response to public comments between draft and final EIS, and editing the entire document for internal consistency.

The first analytical team meeting was in November 2001. At this meeting, the team developed an analytical framework for identifying the affected environment and reviewed the FMP issues that arise from rationalization. These issues are reflected in the draft outline. In addition, potential modifications to the FMP and to State regulations have been identified and are listed below under FMP issues to consider under rationalization.

### **Organizational Structure and Time line of the EIS**

The Council on Environmental Quality (CEQ) regulations that implement National Environmental Policy Act (NEPA) recommend a format of organizing an EIS (40 CFR 1502.10). Federal agencies are given the flexibility to modify the standard format to encourage good analysis and provide for a clear presentation of the alternatives including the proposed action. A draft outline has been prepared for this EIS that encompasses all of the required elements for an EIS, but organizes the presentation of information, alternatives, and issues in a way that best meets the needs of this project. The draft outline is a work in progress and many sections and subsections are likely to change, be moved, or be added as the analysts prepare the draft EIS.

The draft outline also includes deadlines for completing sections. Some sections will be completed before others so that the document will be coherent. Also, some sections are not possible to complete until after the Council has chosen a preferred alternative. The proposed time line assumes the Council will choose a preferred alternative in April 2002, Congress will provide statutory authority before August, and that the Council will take final action to recommend a program to the Secretary in October. With this schedule, a draft of the first three chapters must be finished by March, so that a draft of chapter 4 can be completed by June. The Council would then review the draft EIS at its June meeting. NMFS would then publish a draft EIS for public review and to be filed with EPA. Public comment received by NMFS on the draft would be summarized and responded to, to the extent possible, prior to the October Council meeting. This way, the Council would have the draft EIS and public comments when it takes final action to recommend a rationalization program. Any delays in Council or Congressional action will lengthen the time for preparation of the draft EIS.

Alternatively, Congress may decide to enact the rationalization program as a statute, similar to their action for the AFA or the crab vessel buyback program. In this case, the Congressional action would become the preferred alternative and the draft EIS would proceed as planned.

## **Draft Outline and Deadlines**

Notes: 1) Due dates assume the Council will recommend a preferred alternative in April 2002 and that Congress will make the required statutory changes necessary for the Council to take final action on a rationalization program in October 2002. Following this schedule, a draft EIS will be ready for initial Council review in June 2002. 2) This outline may change as the EIS is written and in response to Council input and public comments.

<b>Section</b>	<b><u>Due Date</u></b>
<b>Chapter 1 Purpose and Need for Action</b>	<b>May 2002</b>
1.1 Introduction	
1.2 Action Area	
1.3 Purpose of FMP	
1.4 Purpose of Rationalization	
1.4 Public participation	
1.4.1 Notice of Intent and Scoping	
1.4.2 Public participation in development of rationalization	
1.5 Coordination with other agencies	
1.6 Issues to be addressed in the EIS	
1.7 Related NEPA Documents	
1.8 Relationship of this action to other federal laws and action	
<b>Chapter 2 Alternatives</b>	
2.1 Development of the Alternatives	<b>April 2002</b>
2.1.1 How the alternatives are constructed	
2.2.2 Key policy issues and decision points in the development of the alternatives	
2.2.3 NMFS and Council development of Alternatives	
2.2 Alternative 1: Status Quo - FMP	<b>February 2002</b>
2.2.1 Category 1 - Federal management measures fixed by the FMP	
2.2.2 Category 2 - framework management measures ( <i>What is in the FMP, what is in the State regs, and why</i> )	
2.2.3 Category 3 - management measures deferred to State	
2.3 Alternative 2: Rationalization FMP <sup>1</sup>	<b>April 2002</b>
2.3.1 Description of rationalization alternative ( <i>preferred</i> )	
2.3.2 Alternative types of rationalization programs ( <i>the alts. the council is analyzing now</i> )	
2.3.3 Description of potential changes to FMP measures resulting from rationalization ( <i>These are changes to FMP text required to implement the rationalization program</i> )	
2.4 Alternative 3: No Fishing <sup>2</sup>	<b>April 2002</b>
2.5 Comparison of the alternatives	<b>April 2002</b>
2.6 Alternatives considered and rejected <sup>3</sup>	<b>April 2002</b>
2.6.1 Exclusive Federal management	
2.6.2 State management (no Federal FMP)	
2.6.3 Discuss possible shifts in responsibility	

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<sup>1</sup>Details of this alternative recommended by the Council.

<sup>2</sup>This is the default alternative for purposes of constructing the outline. The alternatives will be determined through public participation in the scoping process and input from the Council.

<sup>3</sup>These are also for discussion purposes and may change in response to public and Council input.

2.6.4 Changes to appeals process

**Chapter 3 Affected Environment**

- 3.1 BSAI Ecosystem March 2002
- 3.2 Crab Life History Approach (physical and biological environment) March 2002
  - 3.2.1 Larval stage
  - 3.2.2 Settlement stage
  - 3.2.3 Juvenile stage
  - 3.2.4 Adult stage
  - 3.2.5 Spawning stage
- 3.3 Other Biological Resources March 2002
  - 3.3.1 Benthic species caught as bycatch in the crab fishery
  - 3.3.2 Benthic species impacted by pot gear
  - 3.3.3 Marine mammals
  - 3.3.4 Seabird
  - 3.3.5 ESA listed species present in action area
  - 3.3.6 Environment in vicinity of crab processors
- 3.4 Features of the human environment March 2002
  - 3.4.1 History of the BSAI crab fishery (*This section can be summarized from the ADF&G AMR*)
  - 3.4.2 Profile/Description of the BSAI crab industry
  - 3.4.3 Affected communities
  - 3.4.4 CDQ groups

**Chapter 4 Environmental and Economic Consequences of the Alternatives**

- 4.1 Predicted effects of the alternatives on BSAI crab fishing patterns April 2002
  - (*This section can be largely summarized from the Council's economic analysis*)
  - 4.1.1 Scenario 1: Status quo fishery (Alternative 1--No action)
  - 4.1.2 Scenario 2: Rationalized fishery (Alternative 2)
  - 4.1.3 Scenario 3: No Fishing (Alternatives 3)
  - 4.1.4 Projected changes to fleet composition (*vessels, skippers, crew*)
  - 4.1.5 Projected changes to processing practices (*shore-based, floaters, CPs*)
  - 4.1.6 Projected changes to State management of BSAI crab fisheries
  - 4.1.7 Projected change to Federal management of BSAI crab fisheries
  - 4.1.8 Projected changes to other State and Federal fisheries <sup>4</sup>
  - 4.1.9 Summary of expected changes in BSAI crab fishery
- 4.2 Predicted effects of the alternatives on the BSAI Ecosystem May 2002
- 4.3 Predicted effects of the alternatives on the life history stages of crab May 2002
  - 4.3.1 Effects of the alternatives on larval life stage
  - 4.3.2 Effects of the alternatives on settlement stage
  - 4.3.3 Effects of the alternatives on juvenile stage
  - 4.3.4 Effects of the alternatives on adult stage
  - 4.3.5 Effects of the alternatives on spawning stage
- 4.4 Predicted effects of the alternatives on other biological resources May 2002
  - 4.4.1 Effects of the alternatives on benthic species caught as bycatch in the crab fisheries

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<sup>4</sup>Federal groundfish fisheries, jointly managed scallop fishery, and State managed snail, GOA crab, Pacific cod, and hair crab fisheries.

4.4.2	Effects of the alternatives on benthic species impacted by pot gear	
4.4.3	Effects of the alternatives on marine mammals ( <i>non-ESA</i> )	
4.4.4	Effects of the alternatives on seabirds ( <i>non-ESA</i> )	
4.4.5	Effects of the alternatives on ESA listed species present in action area	
4.4.6	Effects of crab processing on water quality and substrate	
4.4.7	Other environmental consequences	
4.5	Essential Fish Habitat assessment	May 2002
4.6	Economic and socioeconomic effects of the alternatives ( <i>This section can be largely summarized from the Council's economic analysis</i> )	May 2002
4.6.1	Crab allocations and eligible participants	
4.6.2	Economic structure under FMP - status quo	
4.6.3	Economic structure under Rationalization FMP	
4.6.4	Economic structure under Alternative 3	
4.6.5	Effects of the alternatives on management and enforcement <sup>5</sup>	
4.6.5	Effects of the alternatives on communities	
4.6.7	Effects of alternatives on other State and Federal Fisheries	
4.6.8	Effects of alternatives on CDQ groups	
4.7	Regulatory Impact Review (RIR)	May 2002
4.7.1	Introduction	
4.7.2	Benefit-Cost Analysis	
4.7.3	Distributional impacts	
4.7.4	Evaluation of significance	
4.8	Initial Regulatory Flexibility Analysis (IRFA)	May 2002
4.8.1	Statement of Problem	
4.8.2	Objective Statement of Proposed Action and its Legal Basis	
4.8.3	Description of each Action	
4.8.4	Reasoning for, and focus of, an IRFA	
4.8.5	Requirement to prepare an IRFA	
4.8.6	What is a Small Entity?	
4.8.7	Description of Fleet, Fishery, & Industry Directly and Reasonably Indirectly Impacted by Proposed Action	
4.8.8	Discussion of the potential negative effects of alternatives on small entities	
4.8.9	Mitigation of negative impacts	
4.8.10	Recordkeeping and reporting requirements	
4.8.11	Summary and conclusions	
4.9	Environmental Justice Considerations	May 2002
4.10	Energy Requirements and Conservation Potential of Alternatives	May 2002
4.11	Cumulative Effects	May 2002
4.12	Summary and Conclusions	May 2002
<b>Chapter 5:</b>	<b>List of Preparers</b>	<b>May 2002</b>
5.1	EIS Steering Committee	
5.2	Project leaders	
5.3	Contributors	
5.4	Consultant contributors	
<b>Chapter 6:</b>	<b>List of Agencies, organizations, and persons to whom copies of the statement are sent</b>	

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<sup>5</sup> Includes full discussion of recordkeeping, reporting, and catch accounting requirements of proposed programs.

**Chapter 7:** Literature cited

**Appendix 1:** Council Analysis of BSAI Crab Rationalization Program Alternatives - Report to Congress

**Appendix 2:** Scoping process documentation (NOI, meeting records, summary of comments, issues identified for analysis)

**Appendix 3:** History of FMP (previous FMPs, approval dates, NEPA analysis, list of FMP amendments, list of regulatory actions)

**Appendix 4:** State crab regulations

**FMP ISSUES TO CONSIDER UNDER RATIONALIZATION:**

**Potential changes to measures in FMP as a result of rationalization: (these are changes to the FMP text - and may need to be included in the preferred alternative)**

**Category 1: Federal management measures fixed by the FMP**

1. Legal Gear - change required?
2. Permit requirements
  - LLP still necessary under IFQ, Co-op??
  - New requirements for Federal permits - QS/PQ is a Federal permit
3. Federal observer requirements
  - change observer requirements to add Federal observer coverage or add federal guidelines for state observer program.
  - Observer coverage of processors?
4. Limited access - LLP (as modified by amend. 10), CDQ,
  - Replace LLP with rationalization program - keep LLP for non-rationalized fisheries, such as Norton Sound and developing fisheries
  - How will the LOA requirements be transferred to a rationalization program
  - CDQ - increase to 10% ?
  - AFA - are AFA crab sideboards still needed under rationalization?
5. Superexclusive registration in Norton Sound
  - still necessary?? Function as a sideboard to prevent vessels with QS from entering Norton Sound fishery
6. Essential Fish Habitat
  - different definition; change to fishing practices; changes to HAPC as compared to Alt 1
7. Overfishing Definitions - no change?
8. Procedure for Council/Secretary of Commerce participation in State of Alaska preseason fisheries actions and NMFS review - no change
9. Appeals process
  - GCAK revisions
10. Procedures for FMP implementation
11. Description of the Fishery Management Unit
  - remove developing fisheries from plan - EAI Tanner crab?

**Category 2: Framework management measures**

1. Minimum size limits - change required? Option to change size limit for snow crab
2. Guideline harvest levels
  - GHL vs TAC - change FMP language to allow establishment of TACs
3. In-season Adjustments
  - still necessary/possible under IFQ or Co-op??
  - Does this language need to be changed or deleted??



May be necessary for not surveyed stocks

4. District, sub-district, and section boundaries - change required?
5. Fishing Seasons
  - is this language sufficient?
  - does it provide the State the flexibility to change season to the most optimal?
6. Sex restrictions - no change?
7. Pot limits - no change?
8. Registration areas - no change?
9. Closed waters - no change?

**Category 3: Management measures deferred to State**

1. Reporting requirements
  - what's needed for IFQ, PQ, and Co-ops?? RAM or ADF&G (catch accounting, real time reporting, electronic reporting, VMS)
  - Should this be a category 2 measure?
2. Gear placement and removal - no change?
3. Gear storage - not needed?
4. Vessel tank inspections - not needed?
5. Gear modifications - change required?
6. Bycatch limits
  - Change to reflect concern for high grading and discard of marketable males?
7. State observer requirements
  - increase coverage, change funding?
  - Establish a framework and move to category 2
8. Other - no change?

What about management of PROCESSORS? How will they be under the FMP?  
FMP language necessary to manage processors?

**Potential changes the State management under the FMP (downstream effects): (these are potential changes to state regulations - and will be 'effects of the rationalization program')**

**Category 2: Framework management measures**

1. Minimum size limits - no change?
2. Guideline harvest levels
  - changes to how ADF&G sets harvest level
3. In-season Adjustments
  - see in-season adjustments in section above
4. District, sub-district, and section boundaries - no change?
5. Fishing Seasons
  - concurrent fisheries, longer seasons, closed during biologically sensitive periods
  - developed different season scenarios
6. Sex restrictions - no change
7. Pot limits
  - none, increased or decreased - reasons for establishing - pot loss, ice coverage, effort control
8. Registration areas
  - multi-species registration areas
9. Closed waters
  - increased for protection of discrete populations

**Category 3: Management measures deferred to State**

1. Reporting requirements  
    see reporting requirements in section above
2. Gear placement and removal - regulations still necessary?
3. Gear storage - regulations still necessary?
4. Vessel tank inspections - regulations still necessary?
5. Gear modifications - no change?
6. Bycatch limits  
    concurrent fisheries, full retention of legal males, handling mortality, deadloss
7. State observer requirements  
    increased coverage  
    methods for payment of observers, pay-as-you-go or test fishery
8. Other  
    stand down provisions – are stand downs necessary under rationalization??  
    Landing requirements

November 19, 2001

MEMORANDUM: TO THE FILE

FROM: Gretchen Harrington, FMP Coordinator

SUBJECT: Visit to Dutch Harbor/Unalaska - Trip Notes.

As part of the scoping process for the Environmental Impact Statement (EIS) for the Fishery Management Plan for Bering Sea/Aleutian Islands (BSAI) King and Tanner Crabs (FMP) and the rationalization program being proposed by the North Pacific Fishery Management Council (Council), Mark Fina, Council Senior Economist, and I made an information gathering trip to Dutch Harbor/Unalaska on October 20-23, which coincided with the conclusion of the 2001 Bristol Bay red king crab fishery.

The purpose of the trip was to meet with members of industry, harvesters (vessel owners, skippers, and crew) and processors (shore-based and catcher/processors), and Alaska Department of Fish and Game (ADF&G) staff to listen to their position on various issues surrounding crab rationalization. In addition, we observed the landing and processing of Bristol Bay red king crab. The information gathered during this trip will be used for the Council's rationalization analysis and the crab FMP EIS.

On the first day, Forrest Bowers, Area Management Biologist, ADF&G, took us to visit crab vessels that had just returned to Dutch Harbor from the fishing grounds. We toured four vessels, the WIZARD, ERLA-N, ROGUE, and ARCTIC MARINER and met with eight skippers<sup>6</sup>. To summarize the views of the fishermen we talked to, they were in favor of a rationalization program. Support for a rationalization program was partly due to the miserable conditions of the 2001 season, which was three and a half days with a 12 hour storm. The storm caused the loss of one life and damage to many vessels. Rationalization is viewed as a way to prevent similar seasons in the future by providing longer seasons and safer fishing conditions. However, the fishermen were concerned with the potential for processor shares and the perceived negative effects these could have on price negotiations between the fishermen and the processors. Specifically, the fishermen felt that with

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<sup>6</sup>Keith Coburn, WIZARD, Alan Bing Hinkel, ERLA-N, Shane More, ROGUE, Walter Christensen, ARCTIC MARINER, Al Oakley, EARLY DAWN, Mark Vickstrom, IRENE H, Dan Oliver, MIDNIGHT SUN, Brett Robenson, SEA WARRIOR.

processor shares, fishermen may lose bargaining power during price negotiations and therefore get a lower price per pound for their crab.

Also, the skippers that were not vessel owners were concerned that, with a rationalization program skippers would become 'bus drivers'. Currently, skippers get paid a percentage of the boat's earnings, but skippers fear that under rationalization, skippers and crew will get paid a salary. Some skippers under American Fisheries Act (AFA) and halibut/sablefish IFQ now receive a salary. This is because the skills and experience skippers have which make them valuable to hire and allow them to command a significant percentage of the vessel's net revenues will not be as valuable under rationalization. The skills include the ability to race for crab, catch more than the next guy, and bring the vessel and crew back to port safely in stormy conditions. Skippers fear that, under rationalization, an inexperienced skipper could catch quota so vessel owner won't pay an experienced skipper what they pay them under open access. Under rationalization, with the quota set, it levels the playing field for skippers and so vessel owner no longer need to pay for the most skilled skippers. Another concern is that as rationalization reduces the number of vessels, it will increase the supply of skippers. For these reasons, some skippers support rationalization with some guarantees for skippers, as are in the Council's June motion on rationalization.

We also toured all five processing facilities in Dutch Harbor and the Trident plant in Akutan. John Garner, Director of North Pacific Crab Association, an organization that represents crab processors, accompanied us on these visits. At Alyeska, Sinclair Wilt, plant manager, gave us a tour of the crab processing plant. Gary Loncon, president, and Steve Stubbe, plant manager, gave us a tour of Royal Aleutian. On Sunday, we toured the Unisea plant with Phil Hansen, vice-president, Eric Graham, quality control supervisor, and Rocky Caldero, production manager. We also toured the Westward Seafoods plant and spoke with Ken Dorris, plant manager. At the Icicle Seafoods ARCTIC STAR plant we spoke with Rob Rodgers, general manager, floating production, and Steve Lee, vessel manager, and toured the facilities. On Monday, we flew to Akutan to tour the Trident plant and meet with Dave Hambelton, shore plant operations assistant general manager, and Vic Scheibert, vessel operations manager. At each plant we observed offloading of crab from vessels and the processing lines from butchering to cold storage.

Each plant was different in many ways, but the basics of crab processing are similar. Crab are offloaded from the vessel in sacks, each sack is weighed, and then dumped into the hopper. From the hopper, the crab are funneled inside the plant to the butchering station where the leg sections are separate from the carapace and body parts. A leg section consists of the legs and thoracic body musculature, or shoulder meat, from half of the crab. At the next station, the gills are cleaned off the leg sections with spinning wire brushes. The leg sections then travel along a conveyer belt to an assembly line where they are graded and packed into metal crates according to weight and shell condition. These metal crates are then transported to a series of tanks. The first tank cooks the crab for approximately 25 minutes. This cooked product is randomly sampled and tested for quality control. The crab are then dunked into a pre-chill tank, then into the chill tank, and then into the brine freezer. Once the crab are frozen, they are dipped into a glaze solution of fresh water and

sugar. The glazed crab is emptied from the metal crates and packed into boxes, which go into the cold storage. The entire process from boat to cold storage is approximately 2 hours.

The facilities differ in the following ways. Due to the large percentage of crabs with barnacles on their shells, some facilities had workers knock off the barnacles with mallets prior to packing the leg sections into crates. The alternative was to pack barnacled sections together into a low grade pack. A couple of the plants separated the 'tail meat' from the abdominal flap. This is done by separating the abdominal flap from the carapace at the butchering stage, then cooking the abdominal flap, after which the meat is extracted from the shell and frozen. The plants that did not do this, discarded the abdominal flap. It was unclear what the market is for tail meat.

Besides brine freezing, some plants are capable of blast freezing crab. For the blast freezing process, crab are taken from the chill tank and put into a freezer with fans that blast cold air on the crab. There is a lower recovery rate for blast frozen crab because it does not retain its water weight like brine frozen, but the result is a higher quality product. Also, blast freezing is a longer process than brine freezing, taking between 3 and 4.5 hours.

In Dutch Harbor, most of the crab is packaged for wholesale, most of which is sold to Japan. This wholesale package is either sold for reprocessing in Japan or Washington State or the processor sends the wholesale crab to a subsidiary 'value added' plant for reprocessing into retail packages. Old shell crab is sometimes sent to China to be removed from the shell and sold as crab meat.

Crab waste (carapace, abdomen, and viscera) was handled a variety of ways. Some plants with fish meal facilities send 100% of the crab waste to process into fishmeal. An alternative method of disposal was grinding the waste into 1/4 inch particles and discharging it in an outfall line. This discharge is regulated by the EPA under NPDES permits. One plant collected and transported all of its crab waste out to 12 miles to be discharged into the open ocean. This method of discharge is not regulated.

The relationship between processors and the vessels that deliver to them is complex. The larger plants are able to operate as 'full service gas stations', meaning they provide everything a vessel needs when it comes to port. The range of services these plants provide include fuel, insurance, boat loans, pre-season loans to gear up for the fishery, parts for boats, bait, and pot storage. Many of the services are provided prior to the fishery and paid for after the fishery. The benefits these services provide to the vessels is obvious, however, it does create a dependence on a specific processor that some vessel owners resent. If the vessel is indebted to the processor, the vessel is not free to change processors and therefore is less able to negotiate price. On the other hand, by providing these services, processors create a stable environment from which they can predict and depend on the delivery from the vessels it provides services to. Also, there is competition between processors for vessel delivery so it is to the processors advantage to make the best deal for the vessels to entice vessels to deliver to them.

The processors representatives we spoke to support rationalization with a processor allocation. The processor's experience with AFA and crab community development quota (CDQ) has demonstrated the benefits to processors from an allocation of the harvest and a slowdown of deliveries. Currently, all of the crab vessels arrive in port at the same time and need to offload at the same time. Processors then must offload and process crab as fast as possible. Also, making a vessel wait means the vessel may move to another processor that can offload quickly. Under a two-pie system, theoretically, the processor would be able to work with the vessel owners to coordinate deliveries to spread them out over a longer period of time. However, the extent that processors will be able to slow down processing is limited because crab must be processed alive.

Slowing down crab processing would enable the processor to focus more on product quality, higher value products, and improve recover rates. Processor would be able to get more product recovery, expand product diversity, and reduce capital and labor costs. Also, the processor would have the time to create specialty products, like fresh crab, and to use crab parts currently being discarded, like viscera and tail meat. These improvements in crab product would benefit the consumer. Also, these improvements could increase the revenues for the crab processors and these revenues could be shared with the fishermen. Operationally, the processors could downsize their product line and reduce the number of employees, but retain the remaining employees for a longer amount of time. For example, instead of 155 employees working 2 shifts for four days, they could employ 75 people working one shift for as long as they had crab deliveries. Additionally, slowing down the processing lines could also improve worker safety, as has happened with pollock processing under AFA.

We also met with Richard Osterman, owner of Osterman Fish, a small scale independent processor. He targets nitch markets, custom processing, and primarily does processing of by-products from the other processors in Dutch Harbor. For example, processors sometimes contract with him to transport and sell their live crab. He also does joint ventures with other processors to process and sell tail meat. His company does directly buy some crab from vessels, but it did not this year. It seems his operation benefits from the open-access system where the large processors do not have the time to process the products he does. Under rationalization, many of the roles Mr. Osterman plays may be done in house by the large processors. He voiced his opinion that free competition is best and that he is not in favor of rationalization because it eliminates competition.

Sunday night Mark and I met with owner/operators, skippers, and crew. A list of the attendees is available in the administrative record. Earlier, we had met with Tom Suryan, from Skippers for Equitable Access, who echoed many of the concerns expressed at the meeting. As with the fishermen we spoke with the first day, the consensus was that rationalization was a positive step because it would improve safety and slow the fishery down. However, each group had its concerns and supported safeguards against what they perceived as negative consequences of rationalization. The owner/operators were concerned that they would have no bargaining ability to negotiate price with a 2-pie system. Many viewed binding arbitration as a mitigating measure for a 2-pie system, as a means of guaranteeing a fair price when processors are guaranteed a set amount of landings. Skippers and crew expressed their desire to be able to invest in the fishery and become vessel

owners, and were worried that QS would be a barrier to entry. Also they expressed the concern of not getting paid as much under rationalization as they are now, which is explained on page 1. Skippers supported the three options in the Council's June motion that mitigate these negative consequences, either skipper quota share, the first right of refusal for a specific portion of QS, or a point system to allocate skipper QS. On the subject of issuing skippers QS, one vessel owner explained that many vessel owner have work their way up from crew and have saved the money they earned in the fishery and reinvested it into the fishery, which is why they are now vessel owners. Whereas, others have made the choice to remain as skippers and invest their money elsewhere.

We toured a catcher/processor (CP), the COURAGEOUS, and talked with the skipper/co-owner, Patrick Cummings. The COURAGEOUS blast freezes its crab. Rationalization can be beneficial for CPs. CP's operate best when they have the time to coordinate the running of the gear with the processing line. Short, fast seasons do not work for CPs because they have to stop hauling gear to process and then they lose out on catching as much crab as they can. Mr. Cummings also expressed that safety would also improve under rationalization.

On Tuesday, we met with City of Unalaska officials, Frank Kelty, Natural Resource Analyst, Chris Haldick, City Manager, John Voss, Finance Director, and Amie Kniazowski, Asst. City Manager. The main purpose of this meeting was to explain the Council's actions on rationalization, the EIS, and how the two fit together. The City may submit comments for the EIS scoping. The City will be impacted by rationalization and they have a concern for the viability of the shore-based processors that are a part of the community and contribute to the local economy. At the same time, the City wants to balance this concern with the well-being of the community as a whole and the independent fishermen that live in Unalaska.

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name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [acfs@fcc.gov](mailto:acfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings by paper must be sent to the Commission's Secretary: Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

Parties who choose to file by paper should also submit their comments on diskette. Diskettes should be submitted to: Ernestine Creed, Room 6 C-317, Accounting Safeguards Division, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. The required diskette copies of submissions should be on 3.5-inch diskettes formatted in an IBM compatible format using Word or compatible software. Each diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (CC Docket No. 01-174), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, parties who choose to file by paper must send diskette copies to the Commission's copy contractor, Dualix International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554. Comments and reply comments will be available for public inspection during normal business hours in the FCC Reference Information Center, Courtyard Level, Suite CY-A257, 445 12th Street, SW, Washington, DC.

#### Ordering Clauses

Pursuant to the authority contained in sections 1, 4(i), 11, 201-205, 218-220, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C., 151

154(i), 161, 201-205, 218-220, 254, and 403 this Notice of Proposed Rulemaking is hereby Adopted.

The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission,  
Magalie Roman Salas,  
Secretary.

[FR Doc. 01-23495 Filed 9-19-01; 8:45 am]  
BILLING CODE 6712-01-P

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 679

[I.D. 090701F]

##### Fisheries of the Exclusive Economic Zone Off Alaska; King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of intent to prepare an environmental impact statement (EIS); request for written comments; notice of scoping meetings.

**SUMMARY:** NMFS announces its intent to prepare an EIS in accordance with the National Environmental Policy Act of 1969 (NEPA) for the Fishery Management Plan for Bering Sea/Aleutian Islands (BSAI) King and Tanner Crabs (FMP). The North Pacific Fishery Management Council proposes to rationalize the BSAI crab fisheries through an Individual Fishing Quota (IFQ) Program, or a cooperative program. The scope of the EIS will be a programmatic review of the FMP, examining all activities addressing the conduct of the BSAI crab fisheries authorized under the FMP, including components of proposed rationalization programs, and potential changes to the management of the fisheries under these programs.

NMFS will hold public scoping meetings and accept written comments to determine the issues of concern and the appropriate range of management alternatives to be addressed in the EIS.

**DATES:** Written comments will be accepted through November 18, 2001. A public scoping meeting will be held on

Thursday, September 20, 2001, in Anchorage, AK. For dates and times of scoping meetings, see SUPPLEMENTARY INFORMATION.

**ADDRESSES:** Written comments on issues and alternatives for the EIS should be sent to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21868, Juneau, AK, 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Comments may be sent via facsimile (fax) to 907-586-7557. NMFS will not accept comments by e-mail or the internet. For locations of the public scoping meetings, see SUPPLEMENTARY INFORMATION.

Written comments specifically addressing the Council's analysis of rationalization programs should be sent to the North Pacific Fishery Management Council, 605 West 4th Street, Suite 306, Anchorage, AK 99501-2252.

**FOR FURTHER INFORMATION CONTACT:** Gretchen Harrington, (907) 586-7228 or e-mail [gretchen.harrington@noaa.gov](mailto:gretchen.harrington@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the United States has exclusive fishery management authority over all living marine resources found within the exclusive economic zone (EEZ). The management of those marine resources, with the exception of marine mammals and birds, is vested in the Secretary of Commerce (Secretary). Eight Regional Fishery Management Councils prepare fishery management plans for approval and implementation by the Secretary. The North Pacific Fishery Management Council (Council) has the responsibility to prepare fishery management plans for the fishery resources that require conservation and management in the EEZ off Alaska.

NEPA requires preparation of an EIS for major Federal actions significantly impacting the quality of the human environment. Regulations implementing NEPA at 40 CFR 1502.4(b) state:

Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as adoption of new agency programs or regulations. Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decision making.

The FMP was approved by the Secretary on June 2, 1989 (54 FR 29080). The Secretary approved a revised and updated FMP on March 9, 1999 (64 FR 11390). The FMP establishes a State/Federal cooperative management regime that defers many aspects of crab



management to the State of Alaska (State), with Federal oversight. The FMP identifies specific aspects of crab management that remain under the jurisdiction of the Federal government, such as limited access.

The FMP is a framework plan for the management measures deferred to the State. For these measures, the framework in the FMP establishes policy objectives and criteria instead of selecting specific management measures. This allows for long-term management of the fishery without frequent amendments to the FMP.

FMP amendments are required for changes to the management measures under Federal jurisdiction and for changes to the framework plan for management measures deferred to the State. FMP amendments are also required to keep the FMP in compliance with the requirements of the Magnuson-Stevens Act.

NMFS has identified the need to prepare an EIS to take a programmatic look at the FMP and possible alternatives to the FMP in light of Council consideration of a program to rationalize the BSAI crab fisheries. NMFS recognizes that the rationalization programs under consideration will result in substantial changes to many of the current management measures and possibly the framework of the FMP and that these programmatic changes may significantly affect the environment. NMFS views this as an opportune time to analyze these potential changes as well as analyze alternative ways to manage the BSAI crab fisheries.

The proposed action to be addressed in the EIS is the rationalization of the BSAI crab fisheries. Given this proposed action, the scope of the EIS will be a programmatic review of the FMP, examining all activities addressing the conduct of the BSAI crab fisheries authorized under the FMP, including components of proposed rationalization programs and potential changes to the management of the fisheries under these programs. The scope of the analysis is intended to be broad enough for the Council and NMFS to make an informed decision on a rationalization program and to undertake further analysis of other changes to the FMP as necessary

with the implementation of these programs.

NMFS is seeking information from the public through the scoping process on the range of alternatives to be analyzed and on the environmental, social, and economic issues to be considered in the analysis.

#### Alternatives

NMFS will evaluate a range of alternative FMPs for managing the BSAI crab fisheries. Alternatives analyzed in the EIS may include those identified here, plus additional alternatives developed through the public scoping process and through working with the Council and the State. Each alternative would constitute a complete FMP, that would include an approach for every aspect needed in an FMP.

The potential alternatives already identified for the EIS include: (1) The existing FMP (no action) and (2) an FMP as modified by a rationalization program (IFQ or cooperatives).

The Council will recommend the specific alternative for the rationalization program in early 2002. In June 2001, the Council adopted a suite of alternatives, elements, and options for an analysis of potential rationalization programs for the BSAI crab fisheries. These alternatives, elements, and options were developed through the Council's rationalization committee, Advisory Panel meetings, and Council meetings. Congressional action would be required to provide statute authority to implement the alternatives under Council consideration.

#### Public Involvement

Scoping is an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to the proposed action. A principal objective of the scoping and public involvement process is to identify a reasonable range of management alternatives that, with adequate analysis, will delineate critical issues and provide a clear basis for distinguishing between those alternatives and selecting a preferred alternative.

NMFS is seeking written public comments on the scope of issues that should be addressed in the EIS and

alternatives that should be considered for management of the BSAI crab fisheries.

Public comments on specific aspects of the rationalization programs should be submitted to the Council (see ADDRESSES). The public will also be able to provide oral and written comments through the Council process and at Council meetings. Upon completion, the Council will make a draft analysis of these proposed programs available for public review and comment. Copies of the analysis can be requested from the Council (see ADDRESSES).

#### Dates, Times, and Locations for Public Information Meetings

The public is invited to assist NMFS in developing the scope of alternatives and issues to be analyzed for the EIS. Comments will be accepted in writing at the meetings and at the NMFS address (see ADDRESSES).

One public scoping meeting will be held on Thursday, September 20, 2001, from 2 to 4 p.m., at the Hilton Hotel, 500 West 3rd Street, Anchorage, Alaska, in conjunction with the Council's Crab Plan Team meeting.

Two additional scoping meetings will be held in Seattle, Washington: One, on Monday, October 1, 2001, from 2:30 to 4:30 p.m., at the Leif Erikson Hall, 2245 N.W. 57th Street, in conjunction with the Annual Bering Sea/ Aleutian Islands Crab Industry Meeting; and the second on Thursday, October 4, 2001, from 7 to 9 p.m., at the Sea-Tac airport Doubletree, 18740 International Blvd., in conjunction with the October Council meeting.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gretchen Harrington, NMFS, (see ADDRESSES), (907) 586-7228, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 14, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.  
[FR Doc. 01-23470 Filed 9-17-01; 2:29 pm]  
BILLING CODE 3510-22-S

for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**National Environmental Policy Act**

We have determined that environmental assessments and environmental impact statements, as defined in the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the Federal Register on October 25, 1983 (48 FR 49244).

**Paperwork Reduction Act**

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act and assigned Office of Management and Budget clearance number 1018-0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. For additional information concerning permit and associated

requirements for endangered species, see 50 CFR 17.21 and 17.22.

**Executive Order 13211**

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

**References Cited**

A complete list of references cited in the emergency rule to list the Columbia Basin distinct population segment of the pygmy rabbit as endangered, published concurrently in this issue of the Federal Register, is available upon request from the Upper Columbia Fish and Wildlife Office (see ADDRESSES section).

**Author**

The primary author of this proposed rule is Christopher Warren of the Upper Columbia Fish and Wildlife Office (see ADDRESSES section).

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Proposed Regulation Promulgation**

For the reasons given in the preamble to the emergency rule listing the Columbia Basin distinct population segment of the pygmy rabbit as endangered, published concurrently in this issue of the Federal Register, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

**PART 17—[AMENDED]**

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. In § 17.11(h), add the following to the List of Endangered and Threatened Wildlife in alphabetical order under MAMMALS:

§ 17.11 Endangered and threatened wildlife.

\* \* \* \* \*  
(b) \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Mammals							
Rabbit, Columbia Basin pygmy.	<i>Brachylagus idahoensis</i>	U.S.A. (Western conterminous States).	U.S.A. (WA—Douglas, Grant, Lincoln, Adams, Benton Counties).	E	.....	NA	NA

Dated: November 21, 2001.  
Marshall P. Jones, Jr.,  
Acting Director, Fish and Wildlife Service.  
[FR Doc. 01-29612 Filed 11-29-01; 8:45 am]  
BILLING CODE 4310-55-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[I.D. 090701F]

**Fisheries of the Exclusive Economic Zone Off Alaska; King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Reopening of scoping and comment period.

SUMMARY: NMFS is reopening the scoping and comment period for the Environmental Impact Statement (EIS) on the Fishery Management Plan for Bering Sea/Aleutian Islands (BSAI) King and Tanner Crabs (FMP).

DATES: Written comments must be received by December 10, 2001.

ADDRESSES: Written comments on issues and alternatives for the EIS should be sent to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802. Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK, 99802. Comments may be sent via facsimile (fax) to 907-586-7557. NMFS will not accept comments by e-mail or Internet.

## 59772 Federal Register/Vol. 66, No. 231/Friday, November 30, 2001/Proposed Rules

**FOR FURTHER INFORMATION CONTACT:** Gretchen Harrington, (907) 586-7228 or email [gretchen.harrington@noaa.gov](mailto:gretchen.harrington@noaa.gov).  
**SUPPLEMENTARY INFORMATION:** NMFS published in the Federal Register a notice of intent to prepare an EIS on the BSAI crab FMP that announced scoping meetings and requested written public comments (66 FR 48410, September 20, 2001). The reason for undertaking the analysis, and the issues to be analyzed, are detailed in that notice of intent and not repeated here.

Scoping for the EIS began on September 20, 2001. This notice reopens the scoping period from November 16 to December 10, 2001, to provide the public with additional time to submit written comments. NMFS is reopening the scoping period at the request of members of the public. No further public scoping meetings are presently planned or anticipated.

Scoping is an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to the

proposed action. A principal objective of the scoping and public involvement process is to identify a reasonable range of management alternatives that, with adequate analysis, will delineate critical issues and provide a clear basis for distinguishing among those alternatives and selecting a preferred alternative.

NMFS is seeking written public comments on the scope of issues that should be addressed in the EIS, the range of alternatives that should be considered for management of the BSAI crab fisheries, and on the environmental, social, and economic issues to be considered in the analysis.

The proposed action to be addressed in the EIS is the rationalization of the BSAI crab fisheries. An EIS is necessary to take a programmatic look at the FMP and possible alternatives to the FMP in light of proposed programs to rationalize the BSAI crab fisheries. The rationalization programs under consideration will result in substantial changes to many of the current management measures and possibly the

framework of the FMP. These programmatic changes may significantly affect the environment.

Given this proposed action, the scope of the EIS will be a programmatic review of the FMP, examining all activities addressing the conduct of the BSAI crab fisheries, including components of proposed rationalization programs and potential changes to the management of the fisheries under these programs. The scope of the analysis is intended to be broad enough for the North Pacific Fishery Management Council and NMFS to make an informed decision on a rationalization program and undertake further analysis of other changes to the FMP as necessary with the implementation of these programs.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 26, 2001.

Jonathan Kurland

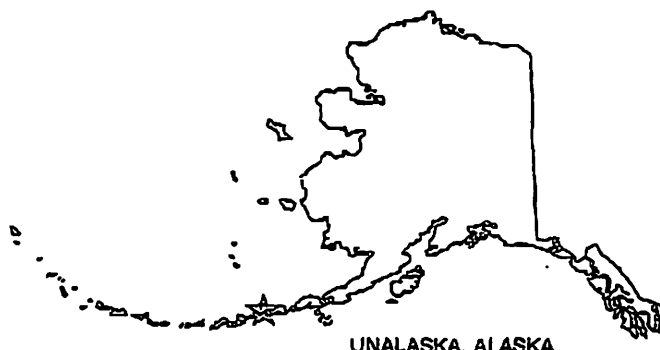
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01-29772 Filed 11-27-01; 3:39 pm]

BILLING CODE 3510-22-S

**CITY OF UNALASKA**

P.O. BOX 610  
UNALASKA, ALASKA 99685-0610  
(907) 581-1251 FAX (907) 581-1417



November 9, 2001

**Sue Salvesson  
Assistant Regional Administrator  
Sustainable Fisheries  
NMFS Alaska Region  
Attn: Lori Gravel  
P.O. Box 21668  
Juneau, AK 99802**

**Subject: EIS comments for FMP of the BSAI King and Tanner Crab Fisheries**

**Dear Ms. Salvesson:**

On behalf of the City of Unalaska, we are submitting EIS comments on the proposed FMP for the Bering Sea / Aleutian Islands crab fisheries. Since the early 1960s, crab harvesting and processing have been a major activity in Unalaska. Throughout the 1970s and into the early 1980s, the crab resources of the Bering Sea were the lifeblood of the local economy of Unalaska. To this day, it is still a very important part of the economy of this community, even with the tremendous growth Unalaska has experienced with the development of groundfish fisheries onshore and offshore. The harvesters and processors in the crab industry have, for many years, provided a major portion of fish taxes, both local and state-shared, and sales taxes for goods and services received. They have also provided employment and have supported local businesses in the community for many years.

We feel compelled to comment because the situation in the crab fisheries of the Bering Sea / Aleutian Islands has reached a crisis level and warrants immediate help in the development of an alternative management system that will lead to industry consolidation. There are four main areas of concern: safety, resource management, economic stability, and excess harvesting capacity. The crab industry has faced all-time low levels of crab stock abundance, as well as reduced percentages of exploitation rates, in almost all major crab fisheries during the past few years. As a consequence, many crab fisheries have remained closed. It may be years before some of these fisheries

rebound to previous harvestable levels. It is of utmost importance that a rationalized management system moves forward, and soon.

A case that illustrates the extent of the damage is the recently completed October 15, 2001 Bristol Bay Red King Crab season. This fishery had a quota of 7.2 million pounds. Two hundred thirty two vessels registered to fish, and the fishery lasted two days and eight hours. These types of derby fisheries make it very difficult for the State of Alaska to manage, and they are basically a crapshoot for the fleet faced with trying to survive financially. Added to the mix was a major storm during the second day of the fishery. The storm took one life, injured many others, and did thousands of dollars in damage to several vessels. It is time to end the race for fish in the Bering Sea crab fisheries.

Action is needed now to protect the limited crab resources and to promote stability for those dependent on the crab fisheries, including harvesters, processors, and coastal communities. In Unalaska, we have seen first hand the benefits of the AFA Pollock cooperative management system: increased safety, improved product quality, and better resource management. The same is true in the IFQ Halibut and Sablefish fisheries.

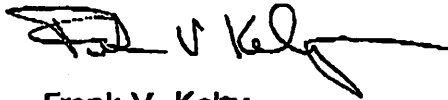
Listed below are elements that we feel should be included in the EIS document:

- The formation of any rationalized system should continue to be done under an open system with public involvement and participation under the auspices of the North Pacific Fishery Management Council.
- All National Environmental Policy Act (NEPA) requirements should be met while developing the EIS document, including a statement of purpose and need indicating that a wide range of alternatives be developed and that screening criteria be developed for feasibility, technical, economic, and environmental factors. Lead agencies should be identified as the preferred alternative, and the alternatives that were eliminated from the study should be presented, and the reason why they were eliminated should be discussed.
- The EIS document for the Fishery Management Plan for the Bering Sea / Aleutian Island King and Tanner Crab fisheries should be consistent with the national standards of the Magnuson-Stevens Fishery Conservation and Management Act, most importantly national standards numbers 1, 2, 4, 8, 9, and 10.
- The language mandated in HR 4577, as passed by Congress, should be included in the EIS analysis. That language states that the North Pacific Council shall examine the fisheries under its jurisdiction, the Bering Sea

crab fisheries, and the Gulf of Alaska groundfish fisheries to determine whether rationalization is needed. The language goes on to state that the North Pacific Council shall analyze IFOs, processor quotas, cooperatives, and quotas held by communities. The analysis should include an economic analysis of the impact of all options on communities and processors, as well as the fishing fleets. HR 4577 further states that the North Pacific Council will report back to Congress with its analysis in a timely manner.

This concludes our comments on the EIS for the FMP for the Bering Sea / Aleutian Islands King and Tanner crab fisheries. Thank you for allowing us this opportunity to comment.

Sincerely,



Frank V. Kelty  
Resource Analyst  
City of Unalaska

CRAB C-003

**United Fishermen's Marketing Association, Inc.**

P.O. Box 1035 Kodiak, Alaska 99615

Telephone 486-3453

Fax: 907-486-8362

November 22, 2001

Ms. Sue Salveson  
Assistant Regional Administrator for Sustainable Fisheries  
Alaska Region, NMFS  
P.O. Box 21668  
Juneau, AK, 99802  
Attn: Ms. Lori Gravel

Re: 66 FR 48410 (September 20, 2001): EIS for FMP for BSAI crab fisheries

Dear Ms. Salveson,

The membership of the United Fishermen's Marketing Association, Inc. (UFMA) includes vessels that harvest crab under the jurisdiction of the Fishery Management Plan for Bering Sea/Aleutian Islands (BSAI) King and Tanner Crabs (FMP). Please accept the following comments that address the preparation of an EIS for the Fishery Management Plan for Bering Sea/Aleutian Islands (BSAI) King and Tanner Crabs (FMP), including the proposal to rationalize the BSAI crab fisheries through an Individual Fishing Quota (IFQ) Program, or a cooperative program.

UFMA respectfully requests that NMFS consider and address the following issues in the EIS for the FMP for BSAI King and Tanner Crabs:

1. The consideration, analysis and implementation of Harvester Individual Fishing Quotas (IFQs) for the BSAI crab fleet should proceed separate from and prior to the consideration and analysis of Processor Individual Processing Quota Shares (IPQs) for BSAI crab processors.
2. There is no statute, regulation or other lawful requirement, or any other reasonable rationale, justification or past practice, that mandates, indicates, suggests, or warrants any concurrent consideration, analysis or rulemaking, or any manner of tie, connection or link between IFQs (or other fleet rationalization instruments) and IPQs.
3. IFQs and IPQs as separate concepts that are significantly different with respect to their costs, benefits, impacts and effects. IFQs and IPQs are distinctively different and unconnected in their respective application and effects.
4. The linking, tying, and concurrent consideration, development and analysis of IFQs and IPQs will unnecessarily and seriously delay progress toward and the achievement of needed rationalization in the BSAI crab fishery.
5. The linking, tying, and concurrent consideration, development and analysis of IFQs and IPQs are largely a political issue, and are not central to the rationalization of the BSAI crab fishery.
6. IPQs are theoretical, and the impacts and effects of such are significantly more complex to scope, understand and analyze than are the impacts and effects of IFQs.

EIS/BSAI Crab FMP  
UFMA Comments  
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7. IFQs and IPQs should each be respectively considered, developed and analyzed separately, based on their own respective merits. IPQs should be considered as part of a "trailing amendment".
8. The consideration of IPQs should not delay the consideration of IFQs only because representatives of the Processor Sector have apparently indicated that they will not permit BSAI crab fleet rationalization to proceed unless the Processing Sector receives the economic protection that they seek through a distribution of ownership rights to the BSAI crab resource (i.e., IPQs).
9. IFQs are very achievable, and permitted at such time as the Congressional Moratorium on IFQs is lifted. National Standards exist for rationalization of harvesters.
10. IPQs are not permitted, and federal legislation is required to allow their use in the BSAI crab fisheries. There are no National Standards for rationalization of the Processing Sector.
11. IPQs are not permitted at such time as the Congressional Moratorium on IFQs is lifted because of the many antitrust and other complexities that are extant with respect to the distribution of ownership rights to a natural and national resource to a small class of large businesses, many of which are dominant, vertically integrated, multinational and with diversified worldwide economic power, reach and control.
12. The need to rationalize the BSAI harvester sector is urgent, clear, and has been identified and supported by past Council, NMFS and Congressional action (e.g., BSAI crab LLP, BSAI crab LLP recency requirements, BSAI Crab Buyback, vessel moratorium, various legislation, etc.), and by an overwhelming component of the BSAI crab industry.
13. IFQ management is a proven concept, and a practical management instrument with advantageous attributes.
14. Fleet rationalization is an accepted, documented and proven instrument to advance significant resource, conservation, management, safety and economic and social benefits.
15. Those many factors that are customarily considered as a rationale for the implementation of harvester rationalization, and specifically with respect to IFQs, are present in the BSAI crab fishery.
16. IFQs are an accepted and reasonable instrument for rationalization of the BSAI crab fleet, and will address significant resource, conservation, management and economic and social objectives and needs.
17. IFQs in the BSAI crab fleet will result in the achievement of many benefits, including the minimization of vessel overcapitalization; benefits to the productivity of crab populations, and to the conservation of the BSAI crab resource generally; improvement in management efficiencies, costs and operation; improved vessel and human safety (for commercial vessels, harvesters, rescue vessels, rescuers); more efficient and competitive market mechanisms; economic stability for approximately 250 to 300 small businesses; improved product quality and marketability; consumer benefits; more efficient and competitive product distribution; etc.



EIS/BSAI Crab FMP  
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18. The Alaskan Halibut/Sablefish IFQ program has been a significantly successful management instrument that has resulted in beneficial impacts to the resource, industry, safety, quality, marketability, competitive markets, consumers, product value, product and market distribution, etc.

19. The Council and NMFS can act upon, analyze and implement IFQs to rationalize the BSAI crab fleet prior to and separate from any analysis or rulemaking process that addresses the hypothetical concept of Individual Processing Quota (IPQs) in the BSAI crab fisheries.

20. Processor Individual Processing Quota Shares (IPQs) is an unproven and hypothetical theoretical concept that is not validated in observation, practical application or experience.

21. The most obvious objective of IPQs is economic protectionism.

22. IPQs do little to achieve resource, conservation, management or safety objectives, effects or benefits.

23. IPQs do not provide a significant incremental benefit to the BSAI crab fishery when compared to the application of fleet rationalization instruments, and specifically, with respect to BSAI crab IFQs.

24. Significant examples of market dominance exist in the BSAI crab Processing Sector.

25. There are no examples of market dominance in the BSAI crab Harvesting Sector.

26. IPQs will prima facie limit the market freedom, opportunity and ability of Kodiak, other non-BSAI based, and non-dominant BSAI-based processors to compete for the purchase of BSAI crab from the entire class of BSAI crab vessels that number in the range of 250 to 300 entities. While the actual quantities of BSAI crab that have been historically purchased by Kodiak, other non-BSAI based, and non-dominant BSAI-based processors may not be proportionally high when compared to the totals, it is an undeniable assertion that the very presence of these processors, and the commensurate freedom, opportunity and ability that they possess to compete for the purchase of BSAI crab, has provided significant benefits and positive effects in support of free and open markets, competition generally, ex-vessel pricing, product diversity, product distribution diversity, and many other benefits that are provided by free and open markets and competition.

27. IFQs in the BSAI crab fishery provide market freedom and competitive opportunities to Kodiak, other non-BSAI based, and non-dominant BSAI-based processors to compete for the purchase of BSAI crab from the entire class of BSAI crab vessels that number in the range of 250 to 300 entities.

28. Kodiak, other non-BSAI based, and non-dominant BSAI-based processors have special economic needs and competitive positions that are different from the dominant BSAI-based BSAI crab processors.

EIS/BSAI Crab FMP  
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29. IPQs undermine the progress and advance of a competitive and viable Processing Sector, and the BSAI crab industry generally.

30. A competitive processing sector is important to the harvesting sector, to the communities and regions in which processing activities are located, to the states of Alaska, Washington and Oregon, to the nation, and to competition and open and free markets.

31. IPQs in the BSAI crab fishery prima facie limit market freedom, competition and harvester choice for 250 to 300 BSAI crab vessels, and limit the ability of these vessels to choose the processor to whom they sell their crab.

32. There are significant anti-competitive impacts and effects that must be understood and analyzed with respect to the combination of the theoretical concept of IPQs with the concept of "Regionalization" ("Regionalization" has been proposed to the Council for their consideration with respect to the rationalization of the BSAI crab industry). There are significant anticompetitive impacts if the BSAI crab fleet is forced to deliver a required percentage of the Guideline Harvest Level (GHL) for whatever BSAI crab species to a particular community or port. If a community has only one processing entity (or a few processing entities), there are obvious prima facie undesirable anticompetitive effects and impacts. These anticompetitive effects are further exacerbated if such entity (or few entities): are dominant in the BSAI crab industry; are dominant in the fishing industry generally; operate crab processing operations in other regions and communities; are beneficiaries to the largesse of the American Fisheries Act (AFA); have other economic or political arrangements or associations with the community or region, or with other economic or political entities in the community or region (such entities that may own the land upon which the processing entity is situated, or that may have some ownership interest with the processing entity, etc.); etc.

33. The combined anticompetitive impacts and barriers that result from the coupling of IPQs with Regionalization may present anticompetitive and other economic barriers to the entry of other processing entities into whatever community or region is governed by the restrictions of Regionalization.

34. The combined anticompetitive impacts and barriers that result from the coupling of IPQs with Regionalization are significantly more intense than the separate and respective impacts of IPQs and Regionalization.

35. The effects of Regionalization and IPQs respectively, and separately, and also of the coupling of Regionalization and IPQs, are difficult to analyze and understand. However, it is imperative that a thorough scoping and understanding of these anticompetitive and other social and economic impacts are thoroughly investigated and explored.

36. The distribution of IPQs to a class of small businesses that number in the range of 250 to 300 entities does not pose significant or difficult issues with respect to foreign ownership restrictions; ownership caps; use caps; company caps; entity-or-vessel-specific caps; individual caps; excessive ownership issues; maintenance of fleet characteristics; antitrust and anticompetitive considerations; vertical integration; combination and concentration

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considerations; merger and acquisition considerations; excessive economic and market control, power and concentration considerations; monopoly, monopsony and oligopoly considerations; divestiture issues; etc.

36.a. Mechanisms to control and mitigate these IFQ-associated issues are readily and reasonably achievable as part of an IFQ program or other fleet rationalization instrument (e.g., see the Alaskan Halibut and Sablefish IFQ program).

37. The distribution of IPQs to the small class of no more than approximately 15 processing entities presents significant issues with respect to foreign ownership restrictions; ownership caps; use caps; company caps; entity-specific caps; individual caps; excessive ownership issues; maintenance of Processing Sector characteristics; antitrust and anticompetitive considerations; vertical integration; combination and concentration considerations; merger and acquisition considerations; excessive economic and market control, power and concentration considerations; monopoly, monopsony and oligopoly considerations; divestiture issues; etc.

37.a. Mechanisms to control and mitigate these IPQ-associated issues are very difficult, if not impossible, to reasonably achieve with respect to IPQs.

38. IPQs raise issues that are unique, and significantly more complex and demanding than those issues that are associated with BSAI crab harvester rationalization, and specifically, with BSAI crab IFQs.

39. IPQs raise significant and unique issues with respect to NEPA and other statutory and regulatory requirements (i.e., antitrust legislation). These issues require consideration and analysis that is significantly more complex and demanding than an analysis of BSAI crab harvester IFQs. A proper and thorough analysis of IPQs requires consideration and investigation of economic and anticompetitive issues that may go beyond the reasonable and customary expertise, ability and scope of fisheries management analysis, and may require a specific and significant involvement from entities such as the U.S. Federal Trade Commission and the Antitrust Division of the U.S. Department of Justice to properly understand the effects of IPQs.

We hope that rationalization of the BSAI crab fisheries, and specifically of the BSAI crab fleet, is recognized by, and aggressively supported by, the Council and NMFS.

Sincerely ,



Jeffrey R. Stephan

**Bering Sea / Aleutian Island  
King and Tanner Crab  
Environmental Impact Statement  
scoping comments**

prepared by the

**Alaska Marine Conservation Council**



November 2001



## Alaska Marine Conservation Council

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November 15, 2001

CRAB C-002

Sue Salveson  
Assistant Regional Administrator  
Sustainable Fisheries  
NMFS Alaska Region  
P.O. Box 21668  
Juneau, AK, 99802

FX: 907-586-7557

Attn: Lori Gravel

RE: Bering Sea/ Aleutian Island King and Tanner Crab Environmental Impact Statement  
Scoping Comments

Dear Ms. Salveson:

The Alaska Marine Conservation Council (AMCC) appreciates this opportunity to provide scoping comments for the upcoming Environmental Impact Statement on the Bering Sea Aleutian Island King and Tanner Crabs Fisheries Management Plan (BSAI King and Tanner Crabs FMP). AMCC is dedicated to protecting the health and diversity of our marine ecosystem. We work to minimize bycatch, protect habitat, prevent overfishing and promote clean, community based fishing opportunities. AMCC strives to advance fishery management to incorporate a comprehensive seafloor habitat conservation regime, to protect habitat complexity and diversity necessary for productive fisheries and a healthy marine ecosystem. Our membership exceeds 800 individuals and groups and is predominantly fishermen and other residents of Alaska's coastal communities, whose perspective and expertise should play a major role in designing conservation plans for North Pacific fisheries.

The diminished status of the BSAI king and Tanner crab stocks raises serious concerns about the health of crab habitat for feeding, growth, and spawning. AMCC is concerned about the direct and indirect impacts of crab and groundfish fisheries on these stocks and their habitat. The BSAI king and Tanner crab stocks are at levels of low historical abundance. Results from the 2001 NMFS Bering Sea crab survey estimate that Bristol Bay Red king crab (*Paralithodes camtschaticus*) are exhibiting sharp declines in mature and legal males. Red king crabs in the Pribilof Island district are showing an increase in abundance but the survey estimates are considered extremely poor. The Pribilof Island blue king crab (*P. platypus*) is in a seven-year decline. The male population of Pribilof blue king crab is below minimum stock size threshold (MSST). St. Mathew blue king

crab and the eastern Tanner crabs (*Chionoecetes bairdi*) are declared overfished. Finally, snow crab (*C. opilio*) surveys show that the population is experiencing some recruitment in the smaller size groups and that the mature biomass is above MSST. However, the stock is still significantly below the rebuilt threshold.

The National Marine Fisheries Service has proposed to conduct a programmatic EIS on the BSAI King and Tanner crab fisheries in concert with proposed rationalization of the crab fisheries. In light of the health of BSAI crab stocks, AMCC feels it is imperative that any rationalization program must make conservation and sustainability of biological resources its highest priority.

#### **Snow Crab (*Chionoecetes opilio*):**

AMCC has raised conservation concerns since 1999 about basing snow crab rebuilding solely on a more conservative harvest strategy and not including habitat protection and bycatch reduction measures. We continue to have serious concerns about the effects of mobile gear on crab habitat, the potential for sub lethal impacts on crab, and unobserved mortality that is not accounted for in bycatch data. The snow crab population is in recovery status, and is in extremely poor condition exemplified by multiple years of little or no recruitment and significant reduction in reproductive females. If the snow crab population were healthy, perhaps the need for conservation measures would not be so critical.

The Crab Plan Team concluded the *C. opilio* Bycatch Limitation Zone (COBLZ) is adequately protecting snow crab from excessive trawl bycatch mortality, yet a substantial amount of bycatch occurs outside of the COBLZ, as shown in the table below.<sup>1</sup>

Year	% Bycatch Outside COBLZ
1998	36.4%
1999	51.6%
2000	26.7%

Bycatch outside the COBLZ is important for three reasons:

1. The large males in the southern part of essential snow crab habitat could play an important role in reproduction because large females need large males to successfully reproduce.
2. Blocks of high bycatch rates (observed) are occurring in core essential habitat, and trawling may have significant adverse impacts on the quality of that habitat. (The COBLZ does not completely contain the core area of essential habitat.)
3. The southern end of snow crab distribution (south of the COBLZ) is showing severe decline in abundance. Given lack of understanding about the biological significance, it is prudent to include it for the purpose of rebuilding.

<sup>1</sup> Ibid. Based on the table, *Catch of C. opilio crab (numbers) taken incidentally in BSAI trawl fisheries inside and outside the COBLZ within area 517, by fishery and year, 1998-2000.*

## 1. Importance of Large Males to Snow Crab Reproductive Success

The Rebuilding Plan evaluated habitat protection measures on the reproductive importance of juveniles and mature females, excluding males. Yet it is well documented that large snow crab males are important to the reproductive success of the population.

*Males compete for the receptive females and subsequently guard them until they molt. Successful males are mostly adults and on average they are larger, have fewer missing limbs, and have harder shells than the overall population of adult males... Overall, the behaviors and strategies associated with snow crab mating form an intricate system.<sup>2</sup>*

According to agency scientists, the snow crab in the southern part of the range are larger and grow faster than those in the northern part of the range, raising questions about the importance of the southern crab to the overall population. The Snow Crab Rebuilding Plan states that an analysis of average size of crab caught as bycatch in the trawl fisheries indicates that trawl bycatch "consists of relatively large snow crabs (average size about 70 mm carapace width)."<sup>3</sup>

In addition to the role of the size of individual males in reproductive success, the ratio of male to female snow crab is important to genetic diversity and mating success for females.

*Many populations of snow crab exhibit cyclic or erratic recruitment pulses that lead to marked fluctuations in sex ratio. Additionally, fisheries may take a heavy toll of large adult males... Males began to guard females up to 33 days prior to their maturity molt, and overall the largest males were more successful in acquiring females and spent more time guarding than the smaller males... Females will have smaller and genetically less diversified sperm stores when sex ratios are female-biased than when they are male-biased (male: female ratios tested ranged from 1:30 to 1:2)... Any natural or anthropogenic event that biases sex ratios in favor of females will result in reduced mating success for individual females.<sup>4</sup>*

Unaccounted impacts on localized populations due to high, observed bycatch rates may affect that population segment's reproductive success. In a recovery scenario, avoiding habitat degradation and bycatch is even more important to the health of the population, because adverse impacts have more pronounced consequences on a species in crisis.

<sup>2</sup> Sainte-Marie, Bernard. Presented at Crab 2001 Lowell Wakefield Symposium on Crabs in Cold Water Regions, held January 17-20, 2001. Review of the Snow Crab mating system at first breeding of females. Abstract.

<sup>3</sup> North Pacific Fishery Management Council, Alaska Department of Fish & Game, and National Marine Fisheries Service. May 2000. A rebuilding plan for the Bering Sea *C. opilio* stock. P. 37.

<sup>4</sup> Rondeau, A. and B. Sainte-Marie. Presented at Crab 2001 Lowell Wakefield Symposium on Crabs in Cold Water Regions, held January 17-20, 2001. Male Snow Crabs adjust their reproductive effort to sociosexual context. Abstract.

## **2. Link Between Bycatch and Habitat**

The Snow Crab Rebuilding Plan (May 2000) cites the importance of protecting habitat, especially when the population is in a depressed condition.

*Given the current status of snow crab, it seems reasonable that the importance of snow crab EFH (essential fish habitat) in maintaining stock productivity should be a priority message contained in consultations on any proposed activities. To the extent feasible and practicable, this area should be protected from adverse impacts. EFH for BSAI snow crab should be considered as all habitats used by this stock, at least until such a time as the stock is above minimum stock size threshold (MSST).<sup>5</sup>*

As mentioned earlier, areas with high, localized bycatch rates occur south of the COBLZ, but still within both the core area of essential habitat and the general crab distribution. In addition, areas of particularly high bycatch occur outside the documented essential habitat, but as per the rebuilding plan, should be considered essential habitat while the snow crab population is depressed. The fact that bycatch is occurring outside the documented general distribution range may be caused by the limitations of the annual trawl survey data, which is collected in the summer and therefore reflects only the summer distribution of snow crab.<sup>6</sup>

The Rebuilding Plan states:

*Fishing is the only human activity that occurs in these areas and bottom trawling is the only fishing activity that could disrupt crab habitat. Bottom trawling can effect changes in bottom habitat through plowing of the sea floor, resuspension of sediments, and reducing habitat complexity (Vining et al 1997).<sup>7</sup>*

Because crab presence indicates habitat (at least until further scientific understanding is gained about the specific habitat needs of snow crab), areas where crab are caught as bycatch indicate habitat location. It would be helpful to have more information regarding the level and scale of seafloor impacts in the areas of high-observed bycatch to determine if adverse habitat impacts in these areas are impeding snow crab recovery. Given that snow crabs are in a recovering condition, however, it would be prudent to minimize habitat impacts throughout the range.

## **3. Potential Importance of Southern Area of Habitat to Rebuilding**

It is unclear how important the southern area of snow crab habitat (outside of the COBLZ) is to the population. Snow crab may have used that area in the past. The Rebuilding Plan analyzed distribution of juvenile and mature female snow crab between the years of 1990 and

<sup>5</sup> North Pacific Fishery Management Council, Alaska Department of Fish & Game, and National Marine Fisheries Service. May 2000. A rebuilding plan for the Bering Sea *C. opilio* stock. P. 41.

<sup>6</sup> Ibid. P. 39.

<sup>7</sup> Ibid. P. 40.



1999, and concluded their core habitat is within the COBLZ.<sup>8</sup> AMCC questions whether the most recent ten years are representative of historic snow crab distribution, and whether it is appropriate to assume that reproductive success is adequately managed for by focusing only on juvenile and mature female habitat needs. In fact, in 1978 the population of mature females extended south of the COBLZ boundaries. Currently, the boundaries of the COBLZ establish an incentive to fish harder outside of the COBLZ, disproportionately impacting the southern range of essential habitat. While this makes some logical sense since fishing effort has likely shifted to avoid triggering the bycatch cap inside the COBLZ, we do not agree that the habitat outside the COBLZ should be exempt from bycatch controls.

#### **Why should the opilio bycatch floor be revisited when the population is depressed?**

The Crab Plan Team states in their January 25, 2001 meeting minutes:

*The same problems with lowering the 4.5 million crab bycatch "ceiling" [sic; should be floor] at low stock levels, that the Plan Team recognized during their reviews in 2000, still remain. The increase in bycatch during 2000 relative to 1999 appears to be due to an increase in opilio abundance and the actions of a few vessels.<sup>9</sup>*

AMCC continues to assert that the status quo bycatch cap it is not sufficient when the population is depressed. As stated in the Rebuilding Plan,

*For bycatch caps to be effective in protecting eastern Bering Sea snow crabs and their habitat, the current PSC limits for snow crabs in the groundfish trawl fisheries needs to be changed. The minimum 4.5 million animal bycatch cap may not provide protection when the snow crab stock is at low levels at which the stock and essential habitat may be most vulnerable. (emphasis added)<sup>10</sup>*

#### **Recommendations:**

- ❖ Conduct analysis to further illuminate the impacts of bycatch on local abundance both within and outside of the COBLZ. Including estimates of unobserved mortality where abundance is especially low.
- ❖ Consider the link between bycatch and habitat.

<sup>8</sup> Ibid. P. 39.

<sup>9</sup> BSAI Crab Plan Team. January 25, 2001. Draft Meeting Minutes.

<sup>10</sup> North Pacific Fishery Management Council, Alaska Department of Fish & Game, and National Marine Fisheries Service. May 2000. A rebuilding plan for the Bering Sea *C. opilio* stock. P. 40.

- ❖ Reconsider whether the bycatch floor should be lowered during times of low abundance.
- ❖ Reconsider extending the boundaries of the COBLZ.

### Red King Crab and *C. bairdi* Tanner Crab Habitat:

AMCC is particularly concerned about the adverse effects of mobile gear on sea floor habitats. The effects of bottom trawling include direct damage to sensitive habitat areas by crushing corals and sponges, overturning boulders, or suspending sediments, toxins, and nutrients into the water column by plowing and scraping the sea floor.<sup>11-12</sup> Pelagic trawls also contact the sea floor. Chain footropes fished by "semi-pelagic" or mid water gear in the Bering Sea contact the seafloor approximately 85% of fishing time.<sup>13</sup> The alteration of the sea floor community by bottom trawls can cause a shift in the type of species that inhabit those areas, altering both species abundance and diversity.<sup>14</sup> The BSAI King and Tanner Crabs EIS must evaluate the direct and indirect impacts of groundfish trawl fisheries (pelagic and benthic trawls) on crab habitat.

Juvenile red king crab are found in high relief habitat or complex substrates such as boulders and cobble, or living substrates such as bryozoans and stalked ascidians. Between the ages of two and four the crabs become less dependent on complex habitats when they begin to form pods, sometimes containing thousands of crabs. NMFS Essential Fish Habitat maps show a great deal of overlap between king crab habitat and *C. bairdi* Tanner crab in the Bering Sea and Aleutian Island region (see attached maps). They range from nearshore areas with complex habitats to the silt, sand and mud substrates of the Bering Sea.

In 1995 the Red King Crab Savings Area was established and trawling was prohibited in the nearshore waters of Bristol Bay, to protect juvenile red king crab and critical rearing habitat that could be impacted by trawling. Since crab stocks are negatively influenced by unobserved mortality and habitat alterations in the trawl fisheries, closed areas are much more effective than PSC bycatch limits. Despite the Nearshore Bristol Bay closure, large areas of both king and Tanner crab habitat are still impacted each year by bottom trawling, for example north of Unimak Island, in statistical areas 509, 516, and 517 (NPFMC 2001 – see attached map). Historically, much of this area was known as the Bristol Bay Pot Sanctuary, which protected a significant area of king and Tanner crab habitat from trawl impacts.

<sup>11</sup> Dayton, P.K., Thrush, S.F., Agardi, M.T., and Hofman, R.J. 1995. Environmental effects of Marine Fishing. *Aquatic Conservation: Marine and Freshwater Ecosystems*, 5: 205-232.

<sup>12</sup> Freese, L., Auster, P.J., Heifetz, J., Wing, B. 1999. Effects of trawling on seafloor habitat and associated taxa in the Gulf of Alaska. *Marine Ecology Progress Series*, 182: 119-126

<sup>13</sup> Loverich, G. 2001. Report to the National Academy of Science committee on bottom trawling. Anchorage, AK.

<sup>14</sup> McConnaughey, R.A., Mier K.L., Dew, C.B. 2000. An examination of chronic trawling on soft-bottom benthos of the eastern Bering Sea. *ICES Journal of Marine Sciences*, 57: 1377-1388.

**Recommendations:**

- ❖ Evaluate the extent of bottom trawl impacts on king and Tanner crab habitat in the southern section of statistical areas 517 and 516, plus area 509, north of Unimak Island.
- ❖ Research the seasonal migrations of king and Tanner crab to determine if crab bycatch could be avoided. Managers may be able to design time/ area closures to avoid late juvenile and adult spring migrations, from deep to shallow waters for spawning.

**Bycatch in the directed crab fisheries:**

Bycatch of king and Tanner crab in the directed crab pot fisheries is of concern due to the potential of exacerbating unintended mortality of sublegal crabs. In 2000, observed bycatch in the directed crab fisheries was 4.1 million *C. opilio* Tanner crab, 1.5 million red king crab, and 343 thousand *C. bairdi* Tanner crab were caught as bycatch in the directed pot fisheries. The *C. opilio* and *C. bairdi* bycatch levels have significantly decreased compared to past years, while king crab bycatch has been variable over the years.<sup>15</sup>

Scientific studies of *C. bairdi* Tanner crab have shown that escapement of undersized crab is dependent upon ring placement, and that the best dimension for an escape mechanism is a function of the greatest length of the crab, relative to retention width of the carapace.<sup>16</sup> ADF&G regulation 5AAC 35.525(2) takes the study of ring placement and mesh size into consideration by requiring vessels to use new escape ring placement and mesh sizes to permit escapement of undersize *C. opilio* Tanner crab.

**Recommendations:**

- ❖ AMCC recommends that the EIS evaluate the success of new escape ring and mesh size regulations in reducing bycatch. Such an evaluation of crab bycatch in the directed fisheries would be beneficial to see if recent declines in Tanner bycatch is due to avoidance of sublegal crab, or is a factor of decreased fishing effort or reduced juvenile abundance.
- ❖ We would like the EIS to detail with GIS mapping, with the best available information, the spatial extent of the crab fisheries, degree of fishing effort, and the spatial extent of the crab stocks.

<sup>15</sup> NPFMC, 2001. Stock Assessment and Fishery Evaluation Report for the King and Tanner Crab Fisheries of the BSAL North Pacific Fishery Management Council. Anchorage AK.

<sup>16</sup> ADF&G, 2000. Relationship Between Variable Mesh/ Escape Rings in Crab Pots and the Escape and Retention of Tanner Crabs *Chionoecetes Bairdi*. Alaska Department of Fish and Game. Kodiak, AK.

## Will rationalized crab fisheries result in extended fishing seasons?

Rationalized crab fisheries have the potential to allow vessels to operate during extended seasons. There are many benefits to a slower paced fishery. However, agency scientists must reevaluate current biological seasons of king and Tanner crab. This is necessary to minimize the operation of IFQ fisheries during biological periods of crab molting and mating. In addition, a rationalized fishery may potentially increase handling mortality for sub legal crab that are hauled and sorted multiple times in a season.

### Objectives for Rationalization

Experience with existing IFQ programs and research conducted by the National Academy of Sciences supports the following objectives for rationalization programs to ensure that they achieve conservation and community objectives. We recommend that the EIS evaluate rationalization alternatives against the following objectives:

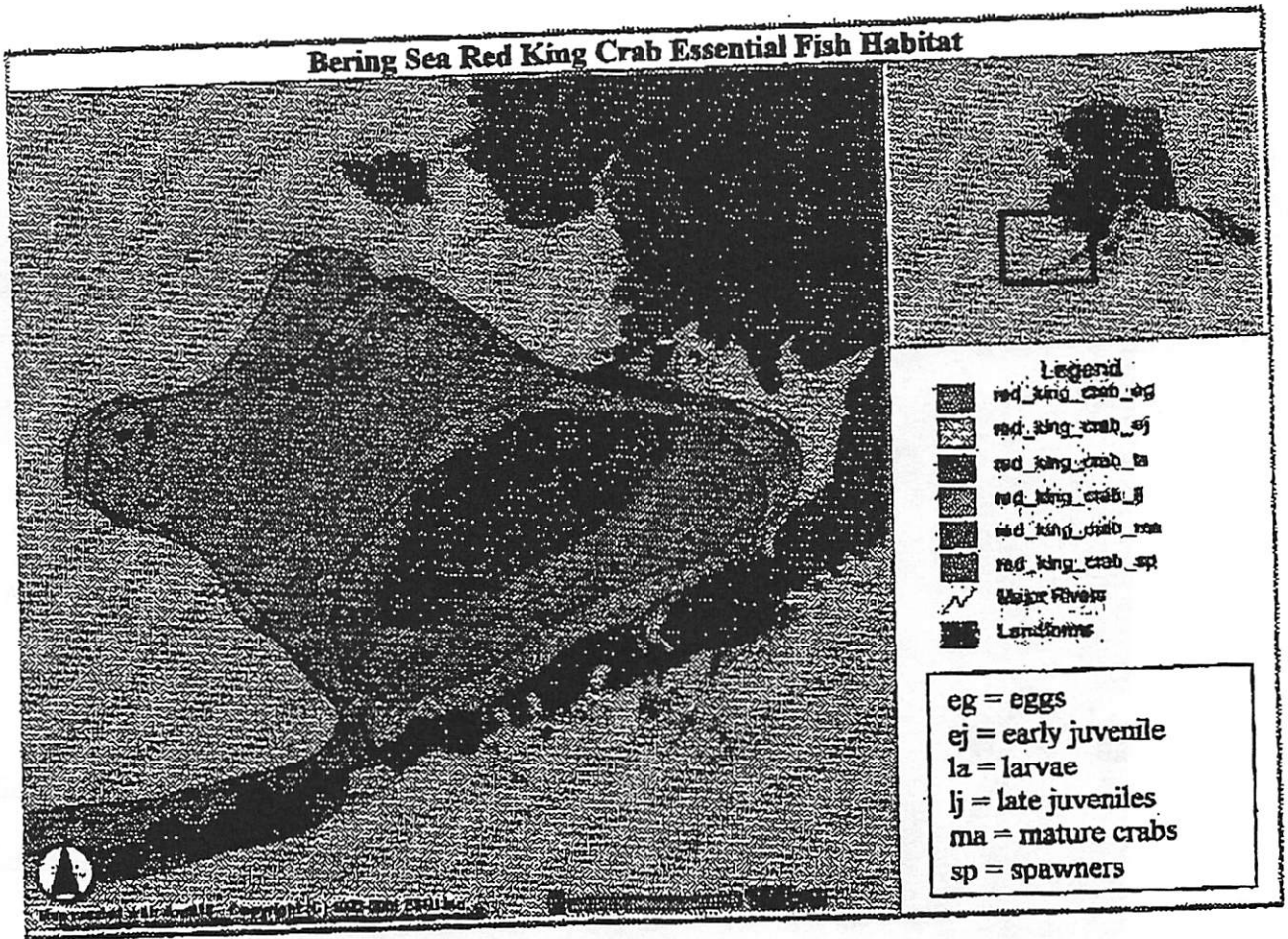
- ❖ Reward clean fishing (promote low bycatch and minimize impact on ocean habitat)
- ❖ Create opportunity for future generations of independent fishermen
- ❖ Prevent excessive consolidation and vertical integration of the seafood industry
- ❖ Preserve healthy competition among seafood processors and prohibit processor monopolies
- ❖ Promote healthy community fishing economies and maintain diverse independent fishing fleets
- ❖ Recognize historic regional fishing and processing patterns
- ❖ Require good stewardship of the public's marine resources as a condition for continuing participation in IFQ fisheries.

The Alaska Marine Conservation Council appreciates this opportunity to provide scoping comments on the programmatic BSAI King and Tanner Crab EIS. We are pleased to see that NMFS and the NPFMC are working on this EIS. It should be a valuable document to evaluate our fisheries, potential rationalization programs, plus the health of king and Tanner crab populations and their associated habitats. If there are any questions regarding these scoping comments, please contact AMCC.

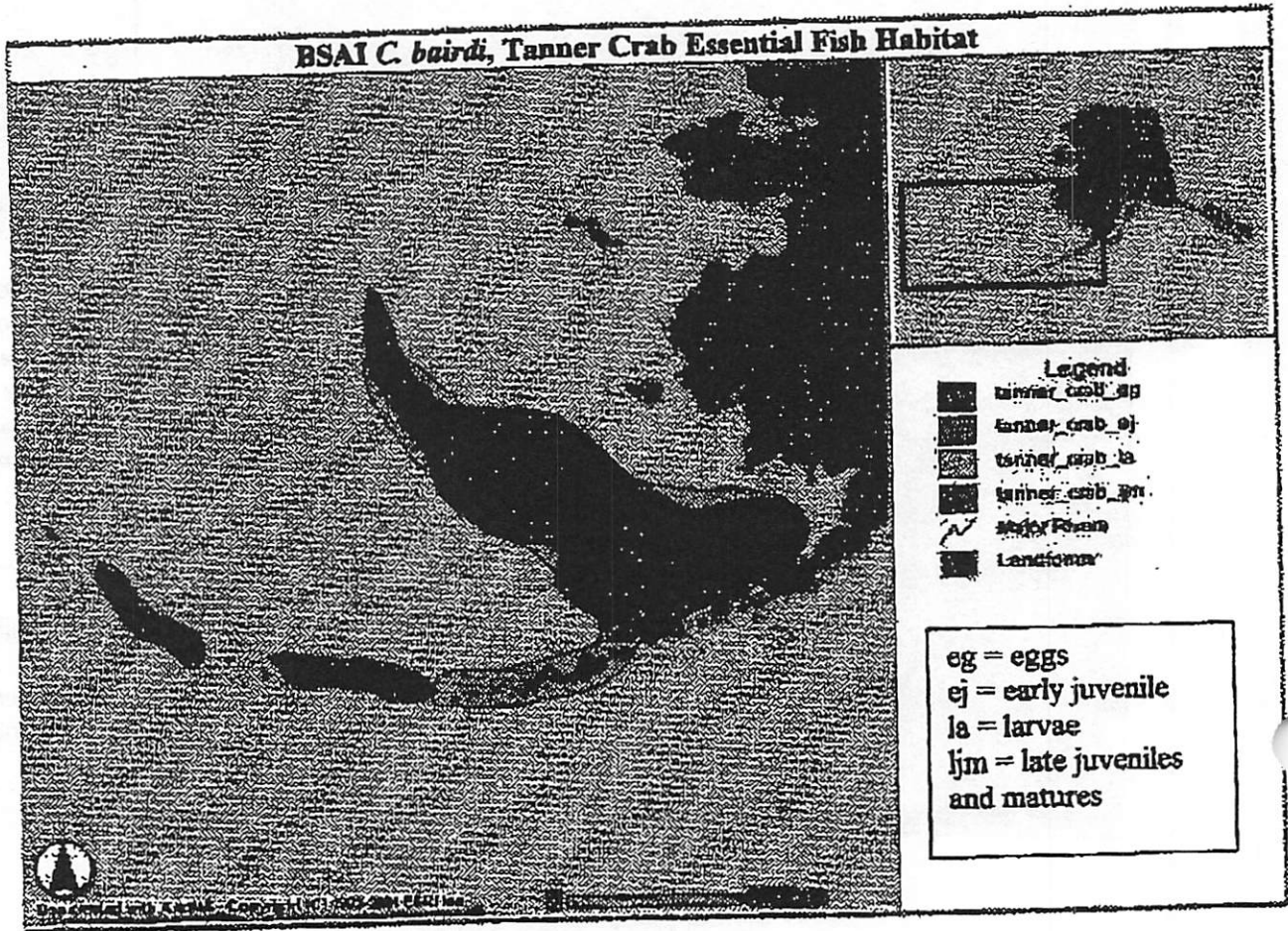
Sincerely,

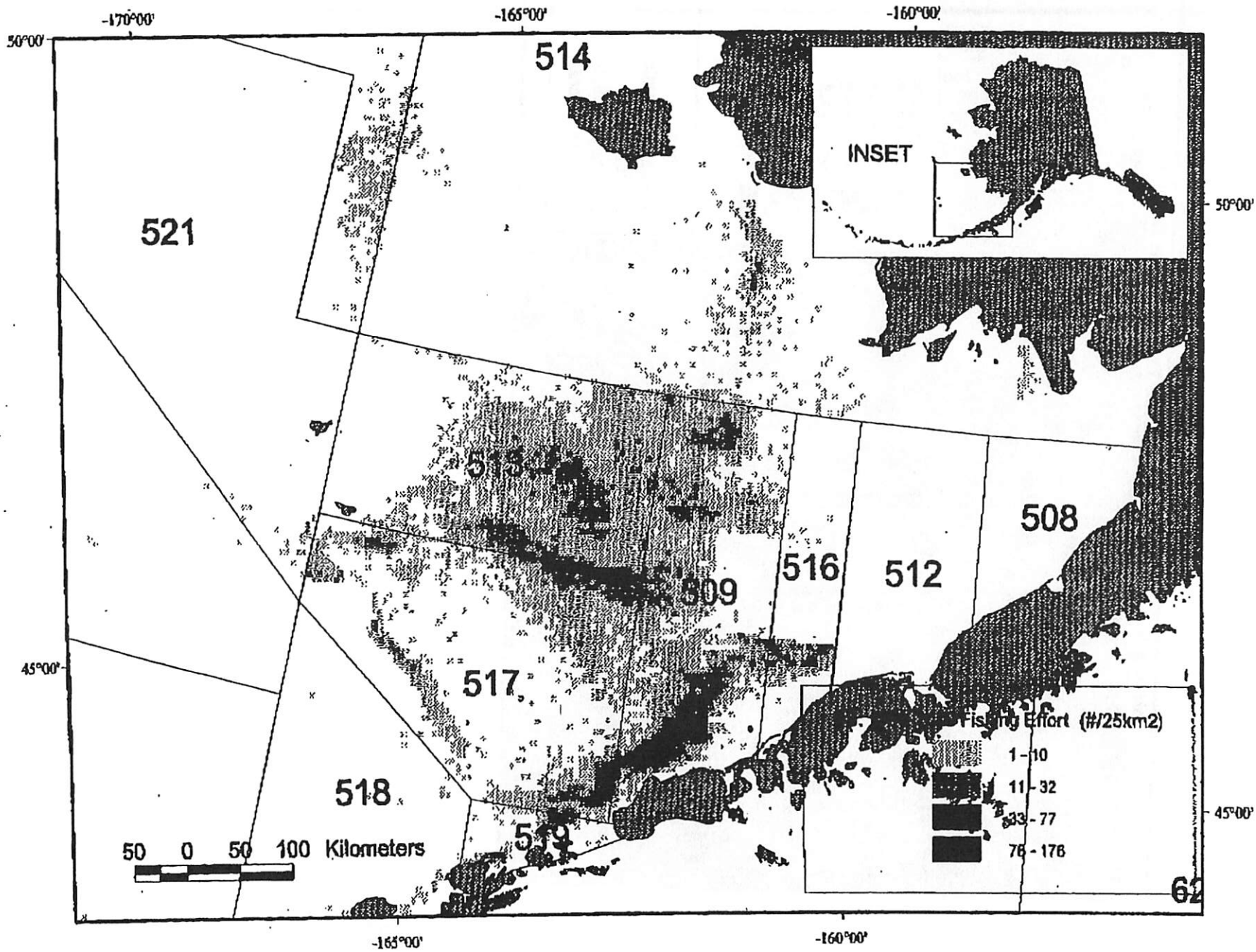


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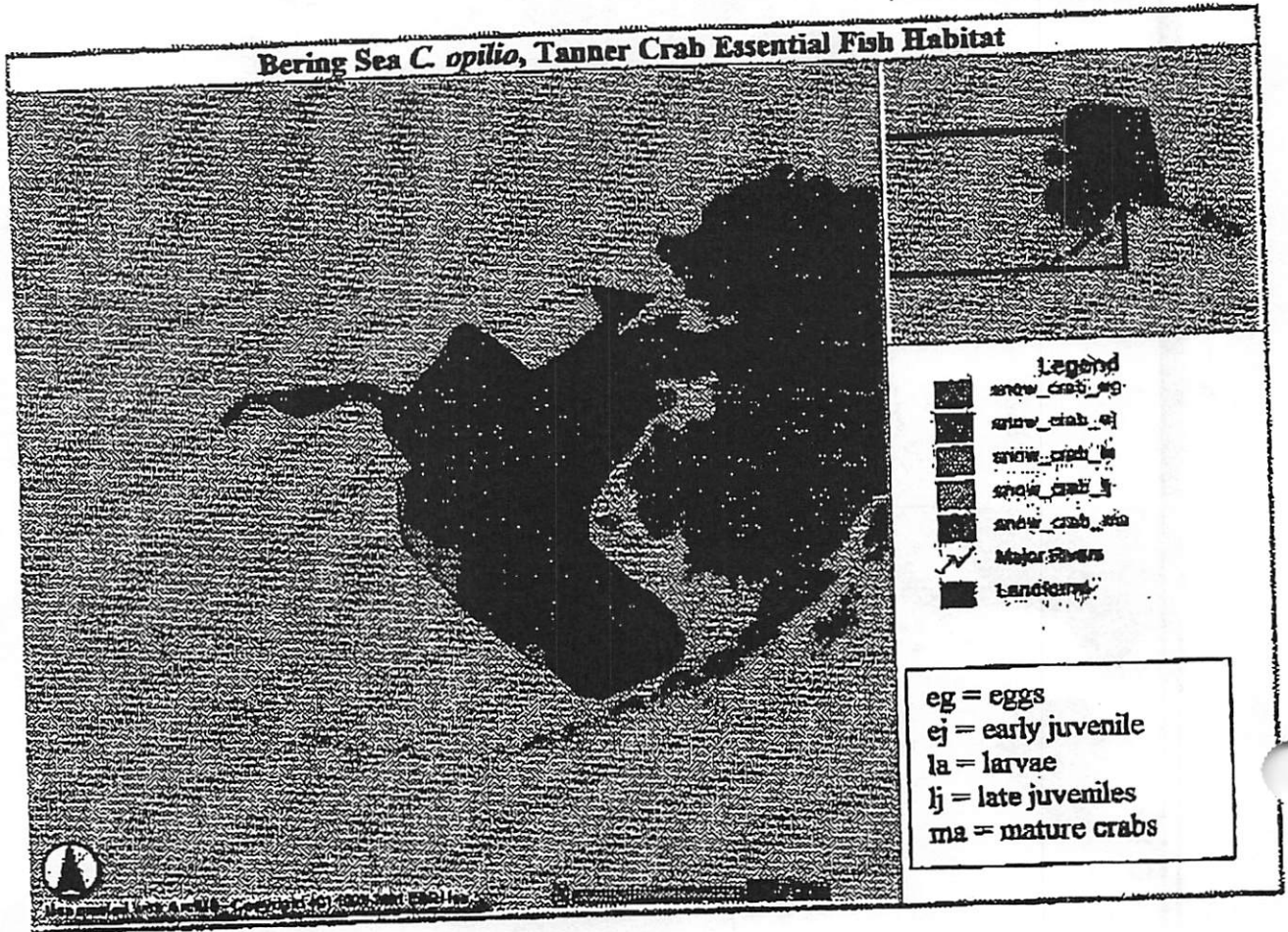


EFH maps from Alaska Region NMFS: <http://fak-nts05a.fakr.noaa.gov/website/efh/viewer.htm>





NPFMC 2001





COMMENTS RECEIVED ON  
BERING SEA CRAB RATIONALIZATION



December 17, 2001

Dr. Mark Fina  
NPFMC  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, Alaska 99501

**COPY**

Mark;

Now that the dust has settled on the December Council meeting, and I have had an opportunity to wrap my mind around what happened and where we are, I would like to take a moment and pass on these thoughts and observations in the interest of advancing your analysis:

Use of "B" class IFO's

I know this issue arose during staff comments at the Council session, and I wanted to take this opportunity to respond. It has been our understanding throughout the entire two-year process that "B" class CV IFO's would retain the regional designations and landings requirements, even if they were purchased by a CP. In other words, the "B" class shares cannot be paired with IPQ and carried off-shore; it must continue to be landed and/or processed according to it's original designation.

The Council's new Option 1.7.1 (e) of course eliminates all confusion on this matter by disallowing the use of "B" class shares by CP's. Even if the analysis does not support this option, I believe that (e) clearly affirms the Council's intent on this issue. See also 3.2.4, which reinforces this point.

Regionalization and Constitutional Issues

I believe that we have provided you with some legal opinions concerning this issue already. I ask that you continue to keep this at the top of NOAA GC's list of priorities.

The "Alternative Regionalization" Proposal from the State

This is an interesting option to regionalization but very problematic in its current form. As presented it is basically an enhanced tax redistribution scheme, which gives most communities (with small histories) very little power to negotiate.

Giving the processors this sort of negotiating tool will subject even a community with significant history (St. George or St. Paul) o considerable pressure for annual "concessions" to stay. There is no counter-balance within the process as adopted.

Further, such tax redistribution schemes fail to create jobs or support real economic activity in a community or region; nor do they recognize the large investments in public infrastructure which were made to support the crab industry.

However, if a community can also purchase the processing QS as a further safeguard (which we discussed with the State as an enhancement, which would make this a viable option), then this alternative might work. Therefore, I ask that you include in your analysis a discussion concerning legal purchase of processing QS by a city, a borough, a CDQ group, or other community-based economic development group. I believe Congress has already laid the foundation for this concept in its legislative rider which states that "... the NPFMC may analyze ... quotas held by communities..." In the absence of this right, we believe that the alternative will not work.

### Why crab landings are strategic community development "assets"

The Council process often overlooks important multi-species relationships – and I don't mean ecosystem biology in this case.

Why is crab so important to the Pribilofs and other developing communities?

Bering Sea crab, with ex-vessel values ranging from \$1.50 to as high as \$4.50, can support a lot of processor O&M; therefore allowing that same processor to process cod (25 cents to 40 cents a pound), salmon (pennies a pound now) and halibut (\$1 to \$1.25 in rural Alaska). Without that crab activity, a processor is more likely to shutter a particular plant and as a consequence potentially shut down most or all other processing activities in a given location.

Take St. Paul again as an example. Trident is currently processing low volumes of pacific cod and halibut because their crab operations support the plant. There is no way they would open their plant to process halibut in the absence of crab; yet the halibut fishery on St. Paul is the single largest contributor to local employment and household incomes.

Please make sure the analysis includes a discussion of the unintended consequences of shifting crab-landing patterns. It is absolutely vital – and I can give you plenty of data to support the (economic) inter-relationship of species.

Tangentially, ask yourself this: what is the relationship between the crab processing sector and the salmon processing sector? I think there is a lot of ownership overlap. And given the current crisis in salmon, how important is it (to communities and the State) for those processors to have their crab history recognized and rewarded so they are still around tomorrow?

### Vessel Buy-back Issues

I understand that the \$100 million loan package for a crab vessel buy-back will probably pass this session. The question then is this: how might a future buy-back skew regionalization and landing requirements, if there is a disproportional buy-out of vessels from one region or sector?

In other words, what if all of the buy-back was applied to vessels with predominately northern region history? Or to CV's over CP's? We believe that it has been the intent of this process to capture recent activity for the period 1997-1999 (or perhaps 1995-1999) and any program that skews that picture should be reconciled.

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**COPY**

Pribilof Reds and Blues

The current surveys show that Pribilof Reds are rebounding (and in fact are at harvestable levels if rationalization was in place) while Pribilof Blues remain at very low levels. Recognizing that these two stocks are separate and distinct, and that a Pribilof Red fishery is possible in a post-rationalization environment, we ask that you begin thinking (and analyzing) them as two distinct species for future management.

AFA Caps

It should be noted that the AFA sideboards, for all of their benefits, are disproportional penalizing the Pribilof Islands. Our two largest processors (Icicle and Trident) are both subject to AFA caps and therefore our landings are currently limited to those caps. This is skewing current landing patterns and will need to be addressed in any rationalization plan.

Top o' the morning to you!

  
Steve Minor  
For the City of Saint Paul, Alaska

360.481.1787  
34887 hood canal drive  
kingston wa 98346  
steve @ wafro.com

Nov. 27, 2001

RECEIVED

DEC 26 2001

Dear Mr. Barrett

N.P.F.M.C

My name is Jeffrey B. Davis and I'm writing you on behalf of the Skippers for Equal Access (SEA). Hoping you will consider the options that SEA has brought before the counsel.

First I'd like to give a little history of myself and the involvement of the fisheries that I'm involved in.

I have been running a catcher/processor since 1982 in the Aleutian Brown Crab Fisheries. I am a non-owner Captain as of right now and would like the counsel to consider some kind of benefit for the industry that I have chosen to make my main fisheries and plan to stay in. This is the main fishery that I have participated in for 20 years.

I would like to see the captains that have participated in fisheries for an extended period of time to be able to continue to put their effort into fisheries that they have been involved in for so long and want to continue to do so in a responsible, safe, and efficient way.

If a captain has been fishing in a fisheries he has stayed for a period of time comparable or more to what a vessel might get for the qualifying years then maybe a captain could get the percentage that he was paid for catching the crab during that period put in his name. As long as he has the fish tickets for proof of catch.

One of my main concerns is that once IFQ's go through then crew shares could be lowered without consideration to the hard work and danger the crewmembers go through while fishing in the Aleutian waters.

Thank you for your consideration.

Sincerely



Jeff Davis  
90592 Hwy 202  
Astoria OR 97103  
(503) 325-2174 phone  
(503) 325-2174 fax  
(503) 791-7806 cell  
[jagdavis@pacifier.com](mailto:jagdavis@pacifier.com)

NORTH PACIFIC FISHERY COUCL

DAVID BENTON---CHAIRMAN  
605 W. 4<sup>TH</sup> AVE. SUITE 306  
ANCHORAGE AK. 99501--2252RECEIVED  
JAN - 7 2002  
N.P.F.M.C

MY NAME IS CHARLES FOGLE. I OWN AND OPERATE THE CRAB BOAT INCENTIVE. I AM WRITING IN REGARDS TO THE QUALIFYING YEARS FOR OPILIO AND BRISTOL BAY RED KING CRAB. I FEEL VERY STRONGLY THAT THE ONLY FAIR WAY TO DO THIS IS TO INCLUDE THE MOST RESENT PARTICIPATING YEARS. THIS WOULD BE 1995-2000. THESE ARE THE BOATS AND PEOPLE THAT ARE RELYING ON THE FISHERY IN THE MOST RECENT CONDITION OF THE FISHERY .BY USING 95-2000 THE BOATS THAT HAVE BEEN STAYING IN THE FISHERY THROUGH THE LOW QUOTAS AND THE LEAN YEARS, THESE ARE THE BOATS THAT ARE RELYING ON THE FISHERY THE MOST. IF YOU DON'T CONSIDER THE MOST VERY RECENT PARTICIPATING YEARS THE SAME THING COULD HAPPEN IN THE CRAB RATIONALIZATION THAT HAPPENED IN THE HALIBUT I.F.Q. PROGRAM. I WAS CATCHING 40,000 LBS OF HALIBUT AN OPENING THE LAST THREE YEARS OF HALIBUT FISHING, BUT WHEN THE I.F.Q. PROGRAM WAS IMPLEMENTED THEY WENT BACK SO FAR ON THE QUALIFYING YEARS THAT MOST OF THE FISHERMAN DIDN'T GET ENOUGH QUOTA TO SURVIVE IN THE FISHERY WITHOUT BUYING A LOT MORE I.F.Q.S.

THE MOST RECENT YEARS OF THE CRAB FISHERY, WITH THE SMALLER QUOTAS IS THE WAY IT'S GOING TO BE FOR THE FIRST FEW YEARS OF RATIONALIZATION. SO IT IS ON FAIR TO MAKE THE QUALIFYING YEARS FOR ALL THE FISHERIES THE MOST RECENT OR 95-2000.

THE OTHER ISSUE THAT I AM VERY COCERNED ABOUT IS THE PROCESSING SHARES. WITH ANY RATIONALIZATION PLAN, THERE SHOULD NOT BE ANY PROCESSING %, OR SHARES GRANTED TO THE PROCESSING SECTOR. THIS TAKES ALL THE MARKET COMPETITION AWAY FORM THE HARVESTORS. HAVING PROCESSORS COMPETE FOR THE CRAB IS THE BEST MARKETING TOOL THAT WE HAVE. BY NOT ALLOWING ANY PROCESSING SHARES, THIS ALSO ALLOWS FISHERMAN TO TAKE THERE CRAB TO A PROCESSOR THAT IS PAYING A HIGHER PRICE OR MAYBE TAKE THEM TO KODIAK TO ONE OF THE LOCAL PROCESSORS THERE. BY ALLOWING PROCESSOR SHARES, A PARTICULAR BOAT MIGHT BE FORCED TO USE LOTS OF EXTRA FUEL AND COSTS TO RUN PROCUCT TO A PARTICULAR PROCESSOR. THIS COULD BE EXTRA COSTLY IF THE CRAB IS WAY UP TO THE NORTHWEST AND YOU WERE FORCED TO DELIVER TO SOMEONE IN DUTCH HARBOR SITUATIONS LIKE THIS ADD COST AND RISK TO THE HAVESTER.

PLEASE CONSIDER THESE ISSUES, AS THEY COULD BE DETRAMENTAL TO THE SMALL INDIVIDUAL HARVESTER. THANK YOU FOR YOUR TIME ON THIS MATTER.

*Charles P. Fogle*

HEUKER BROS., INC.  
62975 NE Tumalt Road  
Cascade Locks, OR 97014  
(541) 374-8255 \* Fax: (541) 374-8553

---

January 6, 2002

VIA FACSIMILE 907-271-2817

David Benton, Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Ave. Ste 306  
Anchorage, AK 99501-2252

SUBJECT: **Crab Rationalization  
Replacement Vessel/Catch History**

Upon reviewing the crab rationalization reports, I have not seen any mention of how replacement vessels are dealt with, which will have a limited crab history. As stated in my previous letters (see attached March 30, 2001 and April 27, 2001 letters), losses of this magnitude would put an extreme hardship on our participation in future crab fisheries. It is my understanding that less than six vessels would be in these same circumstances. Constructing a replacement vessel is more than a one-year project.

Please consider this information at the next Crab Rationalization Committee meeting. I would be happy to testify at the February meeting. Please contact me at (541) 374-8255 (office) or (503) 789-7888 (cell) or email [heukerbros@gorge.net](mailto:heukerbros@gorge.net).

Sincerely,

HEUKER BROS., INC.



Chris Heuker, President

CH:dwh

Attachments

cc: Crab Rationalization Committee

March 30, 2001

VIA FACSIMILE 907-271-2817

David Benton, Chairman  
and NPFMC Council Members  
605 West 4<sup>th</sup> Ave, Ste 306  
Anchorage, AK 99501-2252

COPY

**SUBJECT: Crab Rationalization - Replacement Vessel/Catch History**

We are the owner of the F/V Sandra Five, ADF & G #70770, a replacement vessel for the F/V Chevak, which sank in February 1994. Before being lost, the Chevak was a crab catcher vessel with catch history dating back to the 1980s. The Chevak was strictly a pot fishing catcher vessel, and if not lost, it would still be active in the pot fisheries.

Plans for replacement of the Chevak and purchase of the fishing rights and catch history began in 1996. Final contracts were acquired in October 1997, and construction of F/V Sandra Five began November 4, 1997 with completion on June 20, 1998. The Chevak had catch history from 1990-1994 and F/V Sandra Five has catch history from 1998 (blue and red king crab) and 1999 (opilio, blue and red king crab).

I understand the committee is considering catch history from 1990-1999, 1992-1999 or 1995-1999. Due to the time and financial commitment required, replacement vessels cannot be completed in between seasons. Therefore, under the first option (1990-1999), we would lose 40% of our catch history. For the years 1992-1999, we would lose 60% of our catch history, and for the years 1995-1999, we would lose 80% of our catch history. This is based on the opilio fishery only. A reduction of this magnitude would put undue hardship on our participation in the future crab fisheries, and ultimately affect the financial stability of the families relying on the income from this vessel.

To my understanding, there are 10-12 vessels in the same situation. The vessels could average their catch history over the years they participated and apply the result to the years they lost during replacement of the vessel. It would be unreasonable to apply zero catch histories in coming up with an average for the vessel as the vessel has proven history when the vessel was participating. This would not apply to vessels that left to participate in another fishery, rather only those vessels that did not participate in any fishery at all.

With this said, it would be our recommendation that the Crab Rationalization Committee address the issue of replacement vessels and find ways to resolve it in the planning stages rather than later where there is potential for delaying adoption of the program.

Sincerely,

Chris Heuker



HEUKER BROS., INC.  
62975 NE Tumalt Road  
Cascade Locks, OR 97014  
(541) 374-8255 • Fax: (541) 374-8553

---

April 27, 2001

VIA FACSIMILE 907-271-2817

COPY

Dave Hanson, Chairman  
Crab Rationalization Committee  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Ave, Ste 306  
Anchorage, AK 99501-2252

SUBJECT: **Crab Rationalization - Replacement Vessel/Catch History**

Dear Mr. Hanson:

On March 30, 2001, I filed a letter with the council regarding catch history of replacement vessels (copy attached). Please consider this my request to circulate this letter to the Crab Rationalization Committee members for their consideration.

We feel the the Crab Rationalization Committee should address the issue of replacement vessels and find ways to resolve it in the planning stages rather than later where there is potential for delaying adoption of the program.

I would appreciate hearing from you on whether my request can be granted. You may contact me at the phone number provided above or at [heukerbros@gorge.net](mailto:heukerbros@gorge.net).

Sincerely,

Chris Heuker

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01/09/02 09:08P P.004

541-374-8553

Heuker Bros

January 23, 2002

RECEIVED

JAN 24 2002

N.P.F.M.C

Mr. David Benton  
Chairman  
North Pacific Fishery Management Council  
Suite 306, 605 West Fourth Avenue  
Anchorage, AK 99501-2252

Re: Crab Rationalization

Dear Chairman Benton:

This letter is in regard to the North Pacific Fishery Management Council's current discussion on Crab Rationalization. Specifically, we are concerned with the use of certain catch history years for the Brown Crab fisheries, which we feel violate National Standard 1 and 4 of the Magnuson-Stevens Act. 16 USC § 1851(a)(1) and (4).

As I am sure you are aware from my client Kevin Suydam's previous testimony on this matter, our interest in the Brown Crab fishery stems from his investment in excess of \$400,000, exclusively for the Brown Crab fishery. Mr. Suydam is a lifelong Native Alaskan fisherman, and owner of the "Lady Alaska". The "Lady Alaska" is a U.S. citizen owned, Coast Guard documented vessel, having the appropriate LLP licenses for the Brown Crab fishery. Mr. Suydam re-entered into a fishery that had unharvested quota and a lack of participants. Ironically, his re-entry in the year 2000 was the first year in the history of the Brown Crab fishery, that the quota was reached and the fishery was closed due to full utilization. Furthermore, the Brown Crab fishery has historically, voluntarily reduced its fleet, resulting in only 18 vessels participating in the 1996-1999 seasons. It was the unharvested quota and low participation in the Brown Crab fishery which prompted Mr. Suydam to make such a huge investment in this fishery.

The Council's current proposal that the years 1996-2000 be considered in determining quota allocations for Brown Crab causes a great burden on Mr. Suydam as he was not involved in the fishery until the 2000 season. Calculating the years 1996-1999 into Mr. Suydam's catch history would put him at an extreme disadvantage. Moreover, the Council's current proposal violates several of the National Standards set out in the Magnuson-Stevens Act.

Specifically, the Council's proposal as to the Brown Crab fishery would violate National Standard 1 which states that "[c]onservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States

fishing industry.” 16 USC § 1851(a)(1). In addition, the Council’s proposal will violate National Standard 4 which states the following:

Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

16 USC § 1851(a)(4). With only 18 vessels currently in the Brown Crab Fishery, and the possibility of some of those vessels coming under the ownership of one company, the Council’s proposal is at great risk of violating National Standard 4, and providing a huge windfall to a few individuals.

Moreover, the Magnuson-Stevens Act requires that:

(a) Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall – (1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are – (C) consistent with the national standards[.]

16 USC § 1853(a)(1)(C). Also, though it is within the discretion of the Council when developing a fishery management plan to establish a limited access system for a fishery, the Council and the Secretary must take into account the following factors when implementing a limited access system:

- (A) present participation in the fishery,
- (B) historical fishing practices in, and dependence on, the fishery,
- (C) the economics of the fishery,
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries,
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities, and
- (F) any other relevant considerations[.]

In developing a fishery management plan, the low participation in the Brown Crab fishery should be considered. Moreover, the Council should take into account relevant considerations, such as the large investment that Mr. Suydam made in a fishery which had never harvested the quota and where there was room for many more vessels to participate.

In order to comply with the intent and purpose of the Magnuson-Stevens Act, and alleviate the incredible burden this proposal would cause to Mr. Suydam, we propose the following language for inclusion in any proposal which the Council sends to the Secretary in regard to the Brown Crab fishery:

1. Any vessel that has made an investment in excess of \$400,000 prior to full utilization of the Brown Crab fishery in 2000, shall be allowed to exclude from the calculation of its catch history, the years prior to 2000 in which the Brown Crab quota was not fully utilized; or alternatively,
2. The years for qualifying in the Brown Crab fishery, shall only be those years in which the quota was fully utilized and optimum yield was met; which is the year 2000 until the year of final approval by the Secretary of Commerce.

To not allow my client full future participation in the Brown Crab fishery, in which he invested under the same conditions of unharvested quota and low vessel participation as the other participants, would be discriminatory to Mr. Suydam. We hope to find a solution that satisfies the requirements of the Magnuson-Stevens Act, and is fair and equitable to all involved in the Brown Crab fishery.

Very truly yours, -

PRESTON GATES & ELLIS LLP

By   
Kristen K. Richmond

KKR:kktr

# OCEAN BEAUTY

SEAFOODS, INC.

RECEIVED  
JAN 28 2002  
N.P.F.M.C

January 28, 2002

VIA FAX 907-271-2817

North Pacific Management Council  
605 W. 4<sup>th</sup> Ave. Suite 306  
Anchorage, Alaska 99501-2252

Dear Council Members:

Thank you for allowing me to share our viewpoint on the proposed rationalization of the Bering Sea crab fisheries.

Ocean Beauty Seafoods has a long history of participation in these fisheries dating back to the mid 1970's. Over the past 25 years, our participation has varied in location and volume depending on the logistics of the numerous vessels we have had relationships with and the economics of the various fisheries. Ocean Beauty purchased Bering Sea crab in every year of the 1990's as well as in 2000 and 2001.

We believe that it is very important to the Kodiak region to have access to these fisheries and that said access is justifiable from a historical perspective. Considering the current condition of the shore based Alaskan fish industry, work for the resident laborers in Kodiak alone would seem to be of high priority when compared to the largely transient nature of the workforce in other locations.

As one of the few major salmon processors that either do not currently have locations in the Bering Sea or were not beneficiaries of the American Fisheries Act, we believe it is important that we continue to have the option of purchasing all, or a substantial portion of, the crab production from vessels with which we have traditionally done business. Our economics, as well as those of the vessels who in the past have often chosen to bring product back to Kodiak, would be negatively impacted if strong regionalization measures and overly restrictive processing histories are included in the rationalization scheme. We do not argue that consideration be given to the Bering Sea processors in the process. However, we believe that it is justified and proper that provisions be included that allow Ocean Beauty to continue participating in the Bering Sea crab fisheries on a flexible basis which reflects our lengthy history and long term involvement, regardless of location.

Thank you again for allowing us to express our concerns.

Sincerely,  
Ocean Beauty Seafoods

  
Jon Black  
Vice President-Alaska Operations



CITY OF UNALASKA

P.O. BOX 610

UNALASKA, ALASKA 99685-0610

(907) 581-1251 FAX (907) 581-1417

RECEIVED

JAN 28 2002

N.P.F.M.C



January 22, 2002

David Benton, Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Ave, Suite 306  
Anchorage, Alaska 99501

Subject: Rationalization of the Bering Sea / Aleutian Island Crab Fisheries.

Dear Chairman Benton,

The City of Unalaska would like to comment in support of Rationalization of the Bering Sea /Aleutian Island crab fisheries. We feel the situation in the Bering Sea crab industry warrants immediate legislative relief to enable an alternative management solution that would address the race for fish, high levels of overcapacity, economic instability, allow industry consolidation, address safety concerns, and ensure the continued participation of fishery dependant communities. As a community that has seen first hand the benefits of the rationalized Bering Sea Pollock fishery, we believe in rationalization as a management tool that is needed. We would urge the council to complete their analysis in a timely manner as we feel this issue is of the utmost importance to the crab industry of the Bering Sea the City of Unalaska and other fishery dependant communities of Southwest Alaska

Resolution 2002-04 adopted by the Unalaska City Council on January 15, 2002, in support of Crab Rationalization is enclosed with this letter for the North Pacific Council members meeting packets for the February meeting of North Pacific Fishery Management Council in Anchorage, Alaska.

Sincerely

Pam Fitch  
Mayor

CC: Unalaska City Council  
Chris Hladick, City Manger

CITY OF UNALASKA  
UNALASKA, ALASKA

RESOLUTION NO. 2002-04

A RESOLUTION OF THE UNALASKA CITY COUNCIL IN SUPPORT OF CRAB RATIONALIZATION FOR THE BERING SEA ALEUTIAN ISLAND CRAB FISHERIES.

WHEREAS, the purpose of rationalization is to assist the industry that is facing a severe downturn on crab stocks, high levels of overcapacity, industry wide economic instability; and

WHEREAS, the situation warrants immediate legislative relief to enable an alternative management solution to stop the race for fish, encourage restoration of the stocks, address safety concerns and to enable industry consolidation; and

WHEREAS, the United States Congress authorized through December 2000 omnibus appropriations bill provisions which directs the North Pacific Fisheries Management Council to do an analysis of crab rationalization options; and

WHEREAS, the North Pacific Fishery Management Council has stated that it is still committed to the overall rationalization process for the crab fisheries, including support for the crab vessel buyback program; and

WHEREAS, the Unalaska City Council supports and recognizes the need for crab rationalization and would ask that historical crab deliveries and the economic importance of this industry to fishery dependant communities such as Unalaska be addressed under any rationalization plan that is chosen.


NOW THEREFORE BE IT RESOLVED THAT, the Unalaska City Council supports the rationalization of the crab fisheries of the Bering Sea Aleutian Islands as a way to address high levels of overcapacity, economic instability, the race for fish, restoration of crab stocks, enable industry consolidation, to ensure the continued participation of fishery dependant communities and to address safety concerns; and

BE IT FURTHER RESOLVED that the Unalaska City Council urges the North Pacific Fishery Management Council to complete their analysis in a timely manner as we feel this issue is of utmost importance to the crab industry of the Bering Sea and fishery dependant communities of the region.

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE UNALASKA CITY COUNCIL THIS 15 DAY OF February, 2002.

  
MAYOR

ATTEST

  
CITY CLERK

RECEIVED

JAN 29 2002

N.P.F.M.C

David Hillstrand  
Box 1500  
Homer, AK 99603

North Pacific Fisheries Management Council.  
Item: C-5

Of all the issues concerning rationalization of the Crab fisheries, the Qualifying period is our highest concern; the second would be job losses from transferability.

The NPFMC has been progressing along with a process, this process is to create a stable fisheries.

- a. The first was the Moratorium on vessels entering the fishery. 1988-1992
- b. The second was the LLP endorsements from 1992-1995
- c. The third was the recency requirement on one landing from 1995-1997

We encourage the Council to use the most current years. With all years considered protecting those dependent upon the fishery.

Opilio

Option 4. 1996 - 2000 (5 seasons)

- (a) Best 4 seasons
- (b) All seasons **include in options**

Bristol Bay Red King crab

Option 3. 1996 - 2000 (5 seasons)

- (a.) Best of 4 seasons
- (b) All seasons **include in options**

Baridi

Option 1. 1992-1996 (5 seasons)

- (a) All seasons
- (b) Best of 4 seasons

We discourage option 3 for the Bristol Bay season for certain reasons.

We would also like to ask the NPFMC why all seasons are not an option for the other fisheries? Please include them. Apply a consistent standard to all of the fisheries!

St. Matthews

Option 2. 1994-1998

- (a) All seasons
- (b) Drop one season



## Pribilofs Red & Blue

Option 2. 1994-1998

- (a) All seasons
- (b) Drop one season

We encourage the biological split in the Quota between the Red and Blue crab.

- a. We recommend that the Red and Blue catch be determined off of ones overall catch of the quota. Than that percentage applied to the population estimate of each species.
- b. Historically the catch was mostly blue crab; between 2-6 million pounds. With 11 million being the highest.
- c. Current catches which will determine a catch history are mostly split between the species, with some years being better for reds and others blue.
- d. If ones catch history for the last six years of the fishery; 1993-1998 was mostly Red king crab, their catch of the overall harvest when the fisheries changes back to a Blue king crab harvest would be nonexistent. The same could be true if the red king crab biomass continues to grow as well.
- e. By allowing ones overall catch to determine their history the ADFG can determine the percentage of the population estimate of each species each year and apply the percentage for each species. This will reduce bycatch as well.
- f. This will not cause hardship or a loss to a fishery that one has participated in each year.

**We would also like to request the State of Alaska to include the Korean Hair crab fisheries with the NPFMC rationalization of the crab fisheries.**

**We highly recommend that the NPFMC apply a consistent time period with a high participation requirement for all fisheries! These options do. We recommend all others be dropped.**

### **Transfer/Leasing**

We highly recommend that the NPFMC limit transfers, sales and leasing to preserve jobs.

- 1. Allow sale of catch history.
  - a. No owner can purchase or lease another vessel if they own interest in more than one vessel.
  - b. Owners that own only one vessel can purchase or lease another vessel or its shares if it does not exceed the cap set by the NPFMC.
- 2. Are largest concern is to not to allow too much consolidation.
  - a. Owners that have 2 or more vessels should not be allowed to lease additional shares.
  - b. We recommend only 2 vessels for consolidation for leasing. From a fleet of 250 to 125 vessels is a dramatic reduction in crew and jobs.

### **Excessive Share Caps**

1. 1% For King crab red, blue and Baridi.
2. 3% to 5% for Brown king crab.
3. 1% for Opilio.
4. Grandfather provisions if one exceeds the excessive share cap in the original endorsement.
5. This will determine if an owner can purchase more shares; remember caps apply for a single vessel owner or an owner with more than one vessel to see if they are allowed to consolidate two vessels. Again please watch for owners accruing a large monopoly.

### **Skipper Shares**

We are owner operators and pay the crew 30% not including a wage for the captain. We also engineer and cook for the crew to keep them going. We see those who have a relationship and have worked hard for the owners of the vessels as those who will keep their jobs.

### **Crew Shares**

We have seen crew come and go the good ones keep their jobs. We have told ours if it does rationalize that they would retain those jobs; with excellent pay. We are also crewmembers on our vessel. There will be job loss depending upon the NPFMC cap provisions. We encourage the NPFMC to set up a loan program with NMFS such as the Halibut IFQ program for those who wish to purchase shares.

No provisions for skippers or crew were made in AFA. We feel we were adequately compensated for our positions while being employed by our vessel owners also. We run other vessels as skippers as well.

We do support a 10% right of purchase by skippers for quota shares that was before the NPFMC earlier. In doing so make sure the shares **stay with the vessel or the other vessel that the transfer of shares are going to.** Also remember only one-person drives the boat the others have to work on deck. Only so many skippers can remain in this fishery as well as crew. I highly recommend that we work hard for our jobs, that's how I intend to secure my position in the crab fishery.

**1. We also would like for the NPFMC to consider IFQ for vessels that are owner operated without any ties to processors or communities. We will gladly supply ownership data for the NPFMC if they include this option.**

  
David Hillstrand

# Svino Enterprises, Inc.

F/V Neptune  
F/V Rollo

F/V ROLLO  
16905 13TH AVE. NW  
SEATTLE, WASHINGTON 98177

A/S Djupvik  
Regatta A/S

Foul Weather Gear

Address: 16905 13th N.W.  
Seattle, Wa. 98177  
U.S.A.  
Tel.: 206-542-5573  
Fax: 206-546-0493

**RECEIVED**  
JAN 29 2002

Jan. 29, 2002.

David Benton, Chairman  
NPFMC

**N.P.F.M.C**

Dear Mr. Benton:

We strongly oppose any skipper or crew allocation of the crab resource.

To involve the hired hands in the rationalization program would be counterproductive in the process.

Giving skippers a share in a crab fishing vessel quota program in which they have had no vessel ownership is not fair for the following reasons:

1. The skippers have already been well and fairly paid for their work. Why should they be given something for which they have made no investment?
2. They have made the conscious decision, for whatever reason, not to invest their money in a crab vessel and have had the freedom to move to different vessels or even to different jobs in other industries.
3. By not investing in a vessel, they have had no financial risk, and particularly have not had to pay to maintain the vessel during the times that it lost money.
4. Giving the skippers a share would give them control over the vessel - i.e. they could decide to deliver their share to a processor that the owner does not want to deliver to.

Since 1973 we have had two vessels. We now have one left/ The crew and skippers have always been paid. However, the investors have had a difficult time on many occasions.

*Cincerely,  
FV ROLLO  
President*

Jan 29, 2002

Mr. Dave Benton, Chair  
North Pacific Fishery Management Council  
P.O. Box 103136  
Anchorage, Alaska 99510  
Fax: 907-271-2817

**RECEIVED**

JAN 29 2002

**N.P.F.M.C**

Dear sir,

I am part owner and full time operator of a large fishing vessel in the Bering Sea. I am also a long time resident of Alaska. I have lived and fished here for 25 years. I make my home in Kodiak with my wife of 21 years and our 6 children. I have 5 sons and 1 daughter.

I also employ 5 people from my community. Three of the men have wives and families also. I would like to see the crab industry alive and prospering another 25 years from now. I would like my sons to have a good opportunity in the fishing industry if that is what they choose.

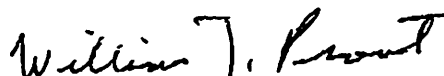
I am in favor of some type of rationalization. Example- i.f.q.s, but I am adamantly opposed to any processor quota shares!! To have a processor dictating to us when, where and how much crabs to sell and at what price would be a economical disaster for a fishermen like me. I also believe it is totally un-American.

Crab fishing is very labor intensive and you need to be able to pay your crew a good wage. I am a professional at what I do and want to be able to hire professional crew men!

If the processors were to get p.q.s.s we would never again be assured of a fair price. We are the catcher-sellers and they are the buyers. Let us catch and let them buy!!

Thank-you for reading this letter. I hope it will have some bearing on the difficult decision of crab rationalization.

Respectfully yours,



Bill Prout  
B.O. Box 8809  
Kodiak, AK. 99615  
907-486-5476

**RECEIVED**

JAN 29 2002

**ALASKA SEA, INC.**A.O. NORDHEIM  
PRESIDENT

Please Fax to: 907-271-28187

**N.P.F.M.C**David Benton, Chairman  
NPFMC

January 29, 2002

Dear Mr. Benton:

We strongly oppose any skipper or crew allocation of the crab resource.

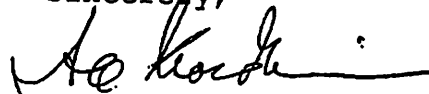
To involve the hired hands in the rationalization program would be counterproductive in the process.

Giving skippers a share in a crab fishing vessel quota program in which they have had no vessel ownership is not fair for the following reasons:

1. The skippers have already been well and fairly paid for their work. Why should they be given something for which they have made no investment?
2. They have made the conscious decision, for whatever reason, not to invest their money in a crab vessel and have had the freedom to move to different vessels or even to different jobs in other industries.
3. By not investing in a vessel, they have had no financial risk, and particularly have not had to pay to maintain the vessel during the times that it lost money.
4. Giving the skippers a share would give them control over the vessel - i.e. they could decide to deliver their share to a processor that the owner does not want to deliver to.

Since 1977 we have had as many as seven vessels. We now have three left. The crew and skippers have always been paid. However, the investors have had a difficult time on many occasions.

Sincerely,



Vidar Warness  
17010 12<sup>th</sup> Ave NW  
Shoreline, WA. 98177  
Phone 206 542-6984  
Fax 206 542-5485

January 29, 2002

David Benton, Chairman  
NPFMC

Dear Mr. Benton

I strongly oppose any skipper allocations – because:

1. I feel skippers have been paid a fair share. Many of them have had opportunities to buy into boats, but instead in many cases chosen to invest in other fisheries and/or other businesses.
2. The skippers have not taken part in any of the cost to keep the vessel in operation. This will be another way to make more, without sharing any of the cost (expenses) and risks of doing business.
3. I can not think of any business that gives any share of ownership without any capital investments.
4. This is coming at a very critical time in the fishery when many boat owners are in financial trouble. Accepting a proposal like this will make it worse. This may break them or possible force them to tie up the vessel.
5. Skippers and crew members should be allowed to buy IFQ's after they are issued to boat owners. There is already an example to follow in halibut and black cod IFQ's. As in the rest of the American business they can begin to participate in ownership after making a capital investment.

Sincerely,



Vidar Warness  
Partner/Skipper  
F/V Polar Sea since 1978.

RECEIVED  
JAN 30 2002  
N.P.F.M.C



Jan. 29, 2002

Mr. David Benton  
Chairman NPFMC  
605 West 4<sup>th</sup> Ave. Suite 306  
Anchorage, AK. 99501-2252

RECEIVED  
JAN 30 2002  
N.P.F.M.C

Dear Mr. Benton,

I am writing you regarding the upcoming February Council meeting at which Crab Rationalization will be a central topic. Several SEA members and myself had planned on attending this important meeting after the opilio crab fishery which began on January 15<sup>th</sup> and was expected to be completed by now. Unfortunately due to extremely low catch rates the quota is just over half caught at this time and the season is expected to continue into early February. If this is indeed the case it will be impossible for myself or any SEA members to attend the meeting. We want you to know that our absence is only due to our physical inability to be in Anchorage and does not in any way suggest a lack of commitment to SEA's pursuit of skipper participation in Crab Rationalization.

Therefore we urge the Council to retain all skipper options currently in the staffs analysis for initial review. Thank you for your consideration in these matters.

Sincerely,

Tom Suryan  
President, SEA  
4756 34<sup>th</sup> Ave. NE  
Seattle, WA. 98105  
(206)522-1249 phone  
(206)525-7311 fax  
tomsuryan@aol.com

David Benton, Chairman  
NPFMC  
605 West 4<sup>th</sup> Ave., Suite 306  
Anchorage, Alaska 99501-2252

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JAN 30 2002

N.P.F.M.C

Mr. Benton,

I am against the proposal submitted by SEA for many reasons. I am an owner of a crab boat and am active in the fishing industry. After many years of being a skipper of boats, I saved my money and invested in ownership of a boat. I had to borrow money from a bank and use my house as collateral to get started. I was willing to take this risk. Many of the skippers are not willing to take this risk as an investment in their futures. They would rather take their money and invest in real estate, Bristol Bay salmon boats, and the stock market. A direct allocation to skippers provides them with a no cost capital investment in quota shares, without any of the business risks that vessel owners bear. The SEA skippers have never had operating costs, such as hull and machinery insurance, P&I insurance, fishing gear, repair and maintenance, new equipment, fuel and bait, and fish taxes. Some Sea Skippers have had previous ownership in boats, but have sold their shares to avoid financial risks. By allowing this to happen would be unfair to those who have taken the risks.

Sincerely,

*Jan Kristiansen*  
Jan Kristiansen, F/V Confidence



January 30, 2002

**RECEIVED**

JAN 30 2002

**N.P.F.M.C**

David Benton, Chairman  
NPFMC

Dear Mr. Benton :

I strongly oppose the suggested SEA proposal. As a boat owner, I take all the risks and responsibilities of the operation of the vessel. Skippers earn a very good pay and are free of operating responsibilities and financial ruin.

I have been fishing crab since 1968. I became skipper in 1973 and eventually was part owner of two fishing vessels. Currently, I'm part owner of "F/V Polar Sea".

Yours truly,



Walter Lee  
Partner  
F/V Polar Sea  
18206 - 88th Ave. West  
Edmonds, WA 98026  
(425) 774-3397  
Fax (425) 697-5607

**RECEIVED**

JAN 30 2002

**N.P.F.M.C**

**David Benton, Chairman  
NPFMC**

**Dear Mr. Benton:**

**We oppose any intial allocation to crew or skippers of any future IFQ for crab. The reasons we oppose this proposal by SEA are:**

**1. We feel the skippers have not taken a financial risk in the operation of the boat. Many skippers have made large sums of money and taken it out of the crab fishery and put it into other investments.**

**2. We feel the skippers have been paid a fair share.**

**3. We know of skippers that have had opportunity to buy in to vessels and chose not to.**

**4. We feel that there was a consensus among boat owners and skippers that we would support a loan program and first right of refusal for a certain % of any future IFQs and that later SEA changed their direction on this.**

**5. The SEA skippers that don't own boats are not exposed to the financial burden of hull damage, insurance expenses, repair and maintenance, accounting expenses, lawsuits, and so many more that we could fill a page with..**

**Sincerely,  
David Wilson  
Louis Berntsen  
F/V Destination  
F/V Keta  
F/V Silent Lady  
F/V Lady Joanne**

**FAXED ON**

**1-30-02**

**9:40 AM**

Alf Forde Enterprises, Inc.  
FV Kari Marie, FV Kirsten Marie, FV Royal Pacific  
9784 Marine View Drive  
Mukilteo, Washington 98275  
425-349-5949—fax 425-315-0606

January 29, 2002

David Benton, Chairman  
NPFMC  
605 West 4<sup>th</sup> Avenue Suite 306  
Anchorage, Alaska 99501-2252

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JAN 30 2002

N.P.F.M.C

ATTENTION: Agenda Item C-5, Crab Rationalization

Dear Mr. Benton,

I am writing to you concerning the *Skippers for Equitable Access's* proposal that: all skippers receive an initial allocation of 20% of all quota shares in the rationalization program.

*I am against this proposal—it does not seem fair  
for those boat owners who have been striving to pay for their boats for years.*

All the skippers in the crab fleet are paid a very substantial and fair percentage for their expertise—a compensation they deserve because of the responsibility they have. I don't know of any other business where a manager/skipper petitions for a percentage of ownership of a business without providing the capital—and many of us have spent a good portion of our lives paying off bank loans on fishing boats! In my 47 years of fishing, I have been helped by many people and partners along the way—but no one has ever *given me* a percentage of a boat or fishery without my contribution as a skipper *and* a financial investor.

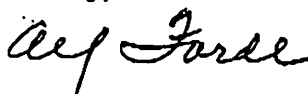
All of my partners have been fishermen who also wanted to take the risk of ownership. I am by far the oldest active partner in our three crab boats—and since crab fishing has come into hard times, I worry for all of us—but especially for my three young partners.

*We are against this proposal—because it would dilute the quota shares  
for those of us who have a financial interest/obligation  
in our vessels and in the crab fisheries.*

I believe the precedent-setting means by which the Halibut IFQ Program operates, is a fair opportunity for crab skippers to insure their futures in the industry. Low interest loans to buy at least the first 10% of quotas as they come available for sale gives them a great opportunity to invest in the crab fishery as so many of us have.

Please consider this letter a consensual opinion from my partners and me---**AGAINST** the proposal presented by the Skippers for Equitable Access.

Sincerely,



Alf L. Forde  
Managing Owner  
FV KIRSTEN MARIE  
FV ROYAL PACIFIC  
FV KARI MARIE



# CITY OF HOMER

## CITY HALL

491 East Pioneer Avenue

Homer, AK 99603-7645

Telephone (907) 235-8121  
Telecopier (907) 235-3140

January 30, 2002

David Benton, Chair  
North Pacific Fisheries Management Council

Facsimile: 271-2817

Mr. Chair and Council:

Please consider all the elements within the City of Homer, Alaska's Resolution 02-06(S) when deliberating the rationalization of our fishing resources.

Homer City Council

**RECEIVED**

JAN 30 2002

**N.P.F.M.C**

+  
CITY OF HOMER  
HOMER, ALASKA

T-821 P.02/03 F-667  
Mayor Cusning  
Yourkowski  
Kranich  
Ladd

RESOLUTION 02-06(S)

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA SUPPORTING LOCAL INDEPENDENT FISHING FAMILIES AND COMMUNITIES BY OPPOSING THE ALLOCATION OF ALASKA FISHERY RESOURCES TO PROCESSORS "THE TWO PIE SYSTEM" OR OTHER FISHERY RESOURCE ALLOCATION PROGRAMS THAT CREATE A CLOSED CLASS OF PROCESSORS.

WHEREAS, Decisions made by State and Federal Elected Officials and Resource Management regarding this issue will have some of the largest effects on this regions' economy for many years to come; and

WHEREAS, Commercial Fishing has been a major basis of the Homer area economy for the last 80 years; and

WHEREAS, This area's commercial fishing economy has survived major setbacks including fish stock changes and the fire loss and closing of the area's major processor, but the area has still managed to be the Nation's highest port in halibut landings, the last three years, as well as a significant port for other species; and

WHEREAS, This vitality is attributed to the resourcefulness and energy of area's independent commercial fisherman and the City of Homer's port structure that enhances these independent commercial fishing entities; and

WHEREAS, Any decisions made in these fisheries resources that allocates to processors is contrary to 80 successful years of an area and would have monumental effects on the area's economy; and

WHEREAS, This area's commercial fishing economy is similar to many other cities and areas of Alaska; and

WHEREAS, It is imperative to make decisions that don't contribute to the current threat of recession; and

WHEREAS, The City of Homer believes that the allocation of fishery resources to processors "the two pie system" will threaten the social and economic balance between independent fishermen and processors; and

WHEREAS, The City of Homer believes that any fishery resources allocation program that requires exemptions to the anti trust laws is bad for independent fishing families, coastal communities, and seafood consumers; and

WHEREAS, The City of Homer recognizes the National Research Council's recommendations concerning processor allocations contained in the 1999 report to congress entitled, "Sharing the Fish: Toward a National Policy On IFQs", p 205 "Recommendation:..." Nor did the committee find a compelling reason to establish a separate, complementary processor quote system (the "two-pie" system); and

Page Two  
Resolution 02-06(S)  
City of Homer

WHEREAS, The City of Homer believes that the allocation of Alaska fishery resources should include eligibility for coastal communities, independent fishermen, hired skippers, operators and crewmembers that live adjacent to the resource; and

WHEREAS, The City of Homer believes that strong conservation goals and measurable reductions in by-catch and fisheries waste be an integral part of any rationalization program; and

WHEREAS, The City of Homer supports the inclusion of an independent review process of new rationalization programs and a viable mechanism to adjust the system if the intent and/or goals of an implementation program are not being achieved; and

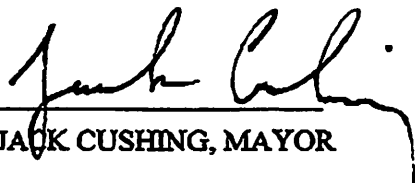
WHEREAS, The City of Homer believes that all Alaskan coastal communities have the right to participate in the public process concerning all Alaskan fishery resources issues.

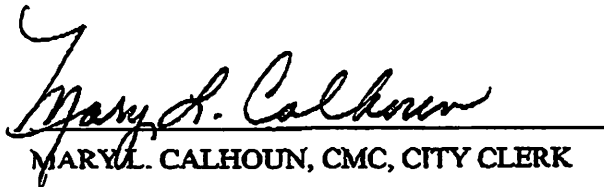
NOW, THEREFORE, BE IT RESOLVED, that the City Council of Homer strongly urges the North Pacific Fishery Management Council, State of Alaska and the United States Congress to support the conservation principles contained within this Resolution and support local independent fishing families and coastal communities by opposing the allocation of Alaskan fishery resources to processors "the two-pie system" or any other fishery resources allocation program that creates a closed class of processor.

PASSED AND ADOPTED by the Homer City Council this 28th day of January, 2002.

CITY OF HOMER

ATTEST:

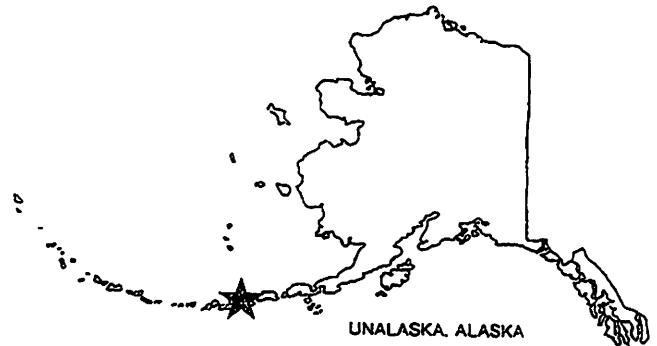
  
JACK CUSHING, MAYOR

  
MARY L. CALHOUN, CMC, CITY CLERK

Fiscal Note: NA

## CITY OF UNALASKA

P.O. BOX 610  
 UNALASKA, ALASKA 99685-0610  
 (907) 581-1251 FAX (907) 581-1417



January 25, 2002

**RECEIVED**  
 JAN 30 2002  
 N.P.F.M.C

Mr. David Benton, Chairman  
 North Pacific Fishery Management Council  
 605 West 4<sup>th</sup> Ave, Suite 306  
 Anchorage, Alaska 99501

Subject: Comments on NPFMC Motion of December 10, 2001 on Crab Rationalization

Chairman Benton,

The City of Unalaska submits the following comments with regards to the December 10, 2001 NPFMC motion on Crab Rationalization.

**Page # Section # Option Comments**

1. 1.3.1 Crab Fishery Categories QS/IFQs: The City would support 1.3.1, the exclusion of the Dutch Harbor Red King, and the Eastern & Western Aleutian Baridi Tanner Crab Fisheries from the program. If the above mentioned fisheries, which have had very small quotas and haven't been opened for many years, were included in the program, the local small boat fleet based in Unalaska and in other nearby communities would be totally closed out of these fisheries due to lack of catch history in these fisheries.

2. 1.3.4 Regional Categories for QS/IFQs: The City supports regionalization of crab deliveries if they are included in any rationalization plan that is adopted. Regionalization of deliveries provides communities some protection of their historical participation and continued economic benefit from the crab fisheries of the Bering Sea/ Aleutian Islands.

Mr. David Benton  
Page Two  
January 25, 2002

4. 1.4.2.7 Brown King Crab, Qualifying Periods Sub-Option Award each initial recipient based on: The City supports Option B keeping a vessels quota share based on the historical catch history in each area. This option would allow landings of Brown King Crab that have traditionally been landed in Unalaska to continue in the future.

Option B would ensure continued fish and sale tax revenues for Unalaska. Setting the vessels quota share at a 50/ 50 split between Eastern and Western Aleutian Brown crab areas as proposed in Option A could cause us to lose crab landings to our local plants and negatively impact support sector businesses fish and sales tax revenues to Unalaska.

6. 1.7.2.4 Transfer of C/P undesignated quota shares to shore-base processors: The City supports Option A and B, which allows C/P to sell their processor shares to shore-based plants and allows those shares to become designated by region. This would allow more production for the local plants, and continued fish and sale tax revenue for the city.

8. 1.83 AFA Vessel Options: If rationalization goes through, the City would support doing away with AFA vessel sideboard caps on crab species upon implementation.

9. 2.2.2 Processor Quota Shares Regional Categories: The City supports regionalization of deliveries as a way to insure deliveries of crab into our area. Regionalization would ensure historical participation and continued economic benefit from the crab fisheries of the Bering Sea.

9. 2.3 Initial allocation of processing quota: Under Option 1 item H, the City supports excluding the listed fisheries for PQs due to the fact that under 1.3.1 harvester quota shares, the City did not support those fisheries being included for harvester shares.

12. 3.1 Regionalization Elements: The City supports the two regions proposed for regionalization of deliveries under items (a) and (b) for the reasons stated earlier under harvester and processor sector regionalization elements.

Sub Option in section 3.1 comments: The City does not support this sub option. The Area O Red King area does not need to be split into an East and West area at this time due to the fact that the Area O Adak Red King Crab district has been closed for many years, and during the last few years it was opened the quotas in that district were extremely low.



Mr. David Benton  
Page Three  
January 25, 2002

The option asking that 50% of the western area Brown King Crab quota be processed in the western region most certainly will impact Unalaska negatively. We would incur loss of crab landings from the western area, which impacts our local processing plants, support sector businesses, and reduces revenues from fish and sale taxes.

12. 3.2.1 Regional categorization of processor /harvester quota shares: The City supports option 2, 1997 to 1999 in this category; Unalaska crab landings percentage is higher with this option.

12. 3.2.2 Option for Harvesting sector: The City supports Option 1, all CV quota shares categorized by region will insure crab deliveries to fishery dependant communities of the region.

12. 3.2.3 Options for processing sector: The City supports Option 1: all processing shares and IPQs shares be categorized by region; this will insure continued processing activity in fishery dependant communities of the region.

12. 3.2.4 Once assigned to a region, processing and/or harvesting quota shares cannot be reassigned to a different region. The City does not support this option as it is too restrictive.

12. 3.4 Alternative Regionalization / Community Protection Option: This option surely gives a community some compensation. This would be a tough option to deal with or have to negotiate, but it is something we would consider supporting.

13. 3.4.4 Community Development Allocation, based on CDQ program: The City would support Option 1: no change from existing program at this time, based on the fact that crab quotas are at an all time low amount, and that an increase at this time would take crab landings from other communities that aren't CDQ qualified, or local processing plants that aren't involved with a CDQ group. An increase to this program at this time would impact communities local revenues and support sector businesses. The other options listed in this section we do not support.

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CITY OF UNALASKA ADMIN  
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Mr. David Benton  
Page Four  
January 25, 2002

14. 6.1 Item 6 State Voluntary Cooperative, Provide an opportunity for Communities: This option surely gives a community some compensation. This would be a tough option to deal with or have to negotiate but it is something we could support.

14. 6.1 Item 7 Regional Categories: The City supports Option 2 in this section for deliveries of Bering Sea crab as stated in paragraph 1.3.4. Regionalization of deliveries provides communities some protection of their historical participation, and continued economic benefit from the crab fisheries of the Bering Sea. We do not support Options 1 or 3 that are included under Item 7.

14. 6.1 Item 9 Community Development Allocation: The City supports Option 1 for the same reasons listed in section 3.4.4 under Regionalization. Elements.

14. 6.1 Item 11 Length of Program: The City would support Option 2 and Sub-option 1 program review after two years.

Chairman Benton, this concludes our comments on the December 10, 2001 Crab Rationalization motion. Additional comments may be submitted at a later date on crab rationalization as the process on the preferred alternative develops. This is an issue that is very important to the City of Unalaska and the Bering Sea crab industry. We thank you and the NPFMC council members for your efforts on this issue.

Sincerely,



PAM FITCH  
Mayor

cc: Unalaska City Council Members  
Chris Hladick, City Manger  
Frank Keltly, Resource Analyst

**KRIS POULSEN & ASSOCIATES**

COMMERCIAL FISHING VESSELS • M/V BERING SEA • M/V ARTIC SEA • M/V NORTH SEA

1143 N.W. 45TH STREET • SEATTLE, WASHINGTON 98107 • OFFICE: 206 783-6708 • FAX: 206-784-2502

January 30, 2002

David Benton, Chairman  
NPFMC  
605 West 4<sup>th</sup> Ave., Suite 306  
Anchorage, Alaska 99501-2252

RE: Agenda Item C-5, Crab Rationalization

Dear Mr. Benton,

I have been involved in the Bering Sea crab industry for over 30 years, skippering crab vessels for 15 of those years. I am currently a co-owner in three Bering Sea crab vessels. I would like to address two issues regarding the analysis of crab rationalization. First, I believe the proposal submitted by the Skippers for Equitable Access (SEA) is unnecessary and will cause massive disruptions in the industry. Second, the effects pot limits have had on the industry seem to have been left out of the analysis.

The proposal submitted by SEA is unnecessary in that those skippers who have been with a company for a significant amount of time and consistently perform well are in almost all cases offered an ownership interest in the vessel. This is true with our company, and true for all of the other crab fishing companies that I am aware of. The reason for this is obviously to retain talent. In most cases, these skippers have been offered an equity stake in the vessel lower than current market value and with very favorable terms.

It is these very same talented individuals, who made \$100,000-\$300,000 per year in the 1990's that deserve an equity stake. These talented skippers will have a very difficult time finding jobs outside of skippering a Bering Sea crab vessel where they could make this amount of money. However, skippers who are not as talented and do not on average perform as well will make significantly less than \$100,000 per year. These individuals would not have as difficult a time finding other occupations where they could earn that amount of money. These less talented skippers are simply not as dependent upon skippering a Bering Sea crab vessel, and thus much less deserving of an equity stake in a vessel.

The fact that most highly talented skippers who have spent a significant time with a company have been offered equity ownership means that markets are working as they should. Talent is being rewarded, while those less talented are not. There is no reason to grant additional equity ownership in vessel quotas to all skippers, since those who are seriously dependent upon being a crab skipper have already been offered this opportunity.

**RECEIVED**

JAN 30 2002

**N.P.F.M.C**

**KRIS POULSEN & ASSOCIATES**

COMMERCIAL FISHING VESSELS • M/V BERING SEA • M/V ARTIC SEA • M/V NORTH SEA

1143 N.W. 45TH STREET • SEATTLE, WASHINGTON 98107 • OFFICE: 206 783-6708 • FAX: 206-784-2502

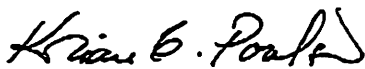
Of course there are always exceptions, and no doubt the Council will hear from many skippers who feel they are deserving of quota. In fact, I know that certain members of SEA itself have been offered significant ownership interest in vessels in the past, but have simply turned down the offer. I don't see how an individual who was offered equity ownership in a vessel, but turned it down, can say that he is deserving of part of the vessel's quota. He would be receiving a portion of the benefit with none of the obligation or risk.

I also believe that serious disruption will occur if skipper quota shares are granted. Depending on the years used to determine skipper quota shares, it is very possible that a substantial portion of a vessel's quota could be removed from this vessel. For example, if the skipper leaves the vessel, the vessel would no longer have that quota to fish on. This will result in an inefficient use of capital and a very difficult business environment. Vessels will be structured physically and financially to fish on a certain percentage of the quota. If this percentage is suddenly not there, it will seriously disrupt the business due to an unexpected overcapitalization. This is exactly the sort of situation we are trying to solve.

I wholeheartedly support proposals to protect historic crew share percentages, create a first right of refusal on sales of 10% of quota shares after initial allocation, and low interest NMFS loans granted to qualified skippers and crew. Skippers and crew are a vital part of any commercial fishing operation. However, those that have been deserving of equity ownership in vessels have been extended this opportunity. It is unnecessary to grant skippers quota share in any percentage amount, and any granting of skipper quota share will significantly disrupt the Bering Sea crab industry.

The second issue I would like to discuss is the fact that the implementation of pot limits in the early 1990's is only briefly mentioned in the analysis, and the resultant problems of pot limits are not mentioned at all. The introduction of pot limits is a very significant historical point in the Bering Sea crab industry. Pot limits were created to deal with the increasing amount of effort in the crab fisheries. Unfortunately, the pot limits managed to exacerbate the race for fish and increase bycatch of non-legal crab in the process. As a result, pot limits had a direct impact on the shortening of crab seasons and reduction of quotas. The negative effect of pot limits should be mentioned in the analysis as they are one of the main causes for the current need of rationalization in the crab industry.

Sincerely,



Kristian E. Poulsen

**RECEIVED**

JAN 30 2002

**N.P.F.M.C**

Mr. Dave Benton, Chair  
North Pacific Fishery Management Council  
P.O. Box 103136  
Anchorage, AK 99510

Dear Sir,

I am owner and operator of a large fishing vessel in the Bering Sea. I am a life long resident of Alaska. I have lived and fished here all of my life. I started fishing at the age of 8 with my father who was a pioneer of king crab fishing in Alaska. I started running and became part-owner of the family boat at age 21 and have continued to support my family by only fishing ever since. I now own the boat and am supporting my family of 5 children and a lovely wife.

I employ a crew of between 5 and 6 throughout the year. It is becoming increasingly difficult to find good men who are willing to be gone from home and risk their lives in the inclement weather that we have in the Bering Sea.

It seems that every time the Board of Fish meets they are taking something else away from us!! It is becoming increasingly difficult to make ends meet. I am in favor of some type of rationalization. Example - i.f.q.'s, but I am adamantly opposed to any processor quota shares!! To have a processor dictating to us when, where, and how much crabs to sell and at what price would be a economical disaster for a fishermen like me. I also believe it is totally un-American.

Crab fishing is very labor intensive and you need to be able to pay your crew a good wage. I am a professional at what I do and want to be able to hire professional crew men. If the processors were to get p.q.s's. we would never again be assured of a fair price. We are the catcher-sellers and they are the buyers. Let us catch and let them buy!!

Thank you for your attention in this matter. I hope it will have some bearing on the difficult decision of crab rationalization.

Respectfully yours,

*Todd L. Hiner*

Todd Hiner  
P.O. Box 671  
Kodiak, AK 99615  
(907)486-2062

Mr. Benton,

I am writing to you in regards of the proposal submitted by the SEA Group. I am strongly opposed to any skipper or crew allocation of the BSAI crab resource.

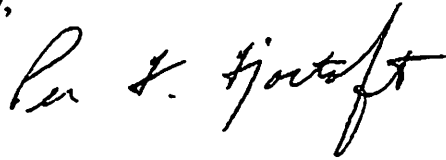
I would like to tell you why I feel this way. My father immigrated from Norway and came to the United States in 1957. He left his family and loved ones behind in search of his dream in America. He started fishing in Alaska in the early 60's and had success. He saved his money and eventually had enough to invest in a boat. As the years went by he worked his way up to owning bigger boats and eventually ended up with the F/V Norseman II. It wasn't an easy road to get there, a lot of blood sweat and tears along the way. He used to own the F/V Norseman, but that vessel was lost at sea on the way up to Alaska. The boat was to be paid for that year, instead my father faced financial ruin. I'll never forget seeing him cry when he heard the news. All those years of hard work gone just like that. My father decided to give it one more try, he told me he put his last dollar down on the Norseman II and borrowed the rest. He was starting over. The year was 1980 and the King Crab fishery was declining rapidly. Payments couldn't be made, fortunately the bank worked with my dad and eventually he made it. I'm disappointed he couldn't spend his later years at home with my mom like he planned, but starting over again kept him away from home. He passed away almost 4 years ago and not a day goes by that I don't think about him. If it wasn't for the risk he took through out his life he never would have been as successful as he was.

I hope you can understand what I am trying to say. Skippers that never had a financial stake in a vessel never faced that financial risk, the same financial risk that almost ruined my father.

I have nothing but the utmost respect for all skippers and crew members in Alaska, but I firmly believe with all my heart that they are not entitled to quota shares.

Thank you very much for your time.

Sincerely,



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# **BALLAD ENTERPRISES, L.L.C.**

**DON W. JESTER    DAVID D. LETHIN**

1655 S.W. 14TH.  
WARRENTON, OREGON 97146

DATE:            January 30, 2002  
TO:              North Pacific Fishery Management Council  
FROM:            David Lethin  
SUBJ:            Crab Rationalization Analysis

I would like to provide some written comments for the record on a few of the items under the Council review for crab rationalization. While I often attend Council meetings in the hopes of addressing the rights of fishermen in maintaining a fair bargaining price, I find that I am nearly always find myself in a position defending my rights to stay in the fishery. So, I will limit my comments primarily to those proposals which are detrimental to my business.

I will reference the options from the Council draft motion of December 10, 2001.

**SECTION 1.2 - Persons eligible to receive an initial allocation of QS must be:**  
I support Option 1 and request that Option 2 and the suboption be eliminated.

I have been operating under the rules the Council established with the moratorium, the LLP, and now Amendment 10. I have been planning and investing in the fisheries based on these rules.

I have been commercially fishing for 25 years, the majority of that in Alaskan waters. I have been participating in the Alaskan crab fisheries since 1984.

While many crab fishermen have continued to participate in the marginal fisheries we have been experiencing, I have selected another path. After the opilio season in 2001, my partner and I sold our crab vessels, but did not sell the license rights. We elected to sit out the fishery for a year or two and hope that the stocks rebound. This is benefiting other fishermen, some of whom are not even fishing with permanent licenses. Does it make sense to encourage someone to participate to the detriment of his business and others, in a fishery that needs time to recover?

I have fully qualified LLP rights under Amendment 10. Under Option 2 for both the eligibility for initial allocation and the basis for QS distribution, I would be eliminated.

David Lethin - Written Comments on Crab Rationalization  
Page Two

I understand that the analysis speaks to this issue in regard to consistency. Option 1 is consistent with the full history of the Council decision points to limit the entry to these fisheries, while the other option is inconsistent. According to the analysis, trying to implement option 2 could be a real problem for the RAM Division. The analysis states, "RAM currently adjudicates all applications for LLP licenses. Option 1 would rely on and build on this work. Alternative standards for determining eligibility to receive QS (or cooperative shares) would require RAM to review and reconsider many of its prior administrative decisions under the alternative standards."

The analysis also states under the section titled: **MarAd certification and U.S.C.G. documentation**, "NOAA GC. however, has advised the Council staff that this provision is contrary to the MSA and that Congressional action changing the MSA policies would be necessary for this provision to be implemented."

**SECTION 1.4 - Basis for QS distribution:**

Again, I support Option 1 and request that Option 2 and the suboption be eliminated.

The same reasons which I listed above for the initial eligibility apply to this section as well. It is wrong to change the eligibility rules in the middle of the game and push some people out, while letting others in that did not qualify under the previous rules.

**SECTION 1.4.2 - Qualifying Periods for Determination of QS Distribution:**

Following are the options which I prefer and recommend that these be the preferred options.

Opilo	Option 2	1992 - 1999	Best 7 seasons
Red King Crab	Option 2	1992 - 1999	Best 5 seasons
Bairdi	Option 1	1992 - 1996	Best 4 seasons
Pribilofs Red King Crab	Option 1	1993 - 1998	Best 4 seasons
Pribilofs Blue King Crab	Option 1	1993 - 1998	Best 4 seasons
St. Matthew Blue King Crab	Option 1	19993 - 1998	Best 4 seasons

The justification for selecting these years is that a fair amount of history should be allowed, which will benefit those long-time crab fishermen who are most dependent on the resource. I believe that shorter options allow for those who have limited history in these fisheries to qualify for a greater percentage of the quota share. The shorter qualifying years suggested by some may be an advantage to those who participate in other fisheries and received endorsements or limited entry permits other than crab. They will receive a higher percentage of the quota share by only selecting a few years, but don't have the historical dependence of others.



David Lethin - Written Comments on Crab Rationalization  
Page Three

**SECTION 1.6.3 - QS Ownership caps:**

I recommend that Option 2 (5%) be the preferred option for the red king crab and opilio tanner crab fisheries. This cap should also be the same for the processors who own harvester shares.

**SECTION 1.7.4 - Use caps on IFQs harvested on any given vessel:**

I recommend Option 1 (b) - highest single vessel percentage of the catch. I also recommend adding an option to this section which would allow for an increased amount of IFQ to be harvested on a single vessel if that IFQ is held by a skipper or crew member who is physically on board the vessel.

In the sablefish and halibut fishery, we helped to finance the purchase of QS for our skippers and crew so they could harvest the IFQ on the vessel. However, because the halibut stocks went up, our use caps limits were reached and our crew members could not harvest their IFQ on our boats. They were forced to find another vessel to go to in order to harvest their shares. This doesn't make sense to a vessel owner who wants to do everything to encourage his long-time skippers and crew members to buy into the fishery, but continue working on the vessel. Those skippers and crew members who buy QS should be allowed to fish on any vessel regardless of the use cap. This will create an incentive for owners to help crew members buy quota when otherwise they may not have an opportunity to do so.

**SECTION 1.8.1 - Options for skippers and crew members:**

I do not support issuing an initial allocation to the skippers and crew. I do agree, however, with allowing skippers and crew to buy quota shares. I've had great skippers and crew over the years and don't have any reason to want to cut them out of the ability to buy into the fishery. I believe that having a percentage of the QS available for them with a first right of refusal is appropriate.

Thank you for reviewing my comments.



**F/V NORTH AMERICAN  
2320 NW 96<sup>TH</sup> STREET  
SEATTLE, WA 98107  
206-634-3399  
206-633-3185 fax**

January 30, 2002

David Benton, Chairman  
NPFMC  
907-271-2817 fax

Dear Mr. Benton,

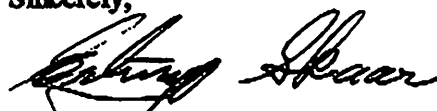
I am totally opposed to skipper allocations in the crabbing industry.

We have two sons that have been skippers, one since 1992 and they are also opposed to this allocation. They may benefit from skippers quota but are strongly opposed to this idea.

Personally I have been in the business for over 30 years, and a skipper myself for over 20 years.

I feel it is ridiculous for the skipper to ask for such allocations, they do not realize what responsibilities and expenses that go along with owning a vessel.

Sincerely,



Erling Skaar  
Sten Skaar  
John Skaar

MGF Fisheries  
PO Box 17701  
Seattle, WA 98107-1301  
January 30, 2002

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NPFMC  
Attn: David Benton, Chairman

Dear Mr. Benton:

As a crab vessel owner since 1981, I strongly oppose any skipper allocations for crab harvesting. There are many reasons to oppose this measure and I list them as follows:


The skipper of a crab vessel is paid a very fair share for their output. This share is often sufficient to give the skipper the opportunity to buy into a crab vessel. Given the current state of the industry, it would be more prudent to invest in another fishery, business or financial market. In addition, the skipper is not liable for any of the operating costs required to outfit a vessel for the upcoming season. For the skipper, this is the better of two worlds: a) Receiving a high percentage of the catch for the season, while b) not having the financial risks associated with operating the vessel. Normally, an ownership stake involves financial interest in a business. This would not be the case under said proposal.

The timing of this issue is critical in the crab fishery. Many owners are desperately trying to stay in business due to increased operations expenses with dwindling seasons, markets and prices. Such economic pressures will force many vessel owners to tie up the vessel and miss a season or sell the vessel at a "fire sale" price due to decreased demand for said vessel.

If I may make a suggestion, perhaps NPFMC should take a look at the model set by the halibut fishery. I also own a halibut vessel. My skipper has been buying IFQ's. I suggest the National Marine Fisheries loan program be used for skippers to buy IFQ's. The skipper would take out a loan for the purchase and pay it back from the receipts generated by the IFQ's.

I appreciate the opportunity to speak out on these issues.

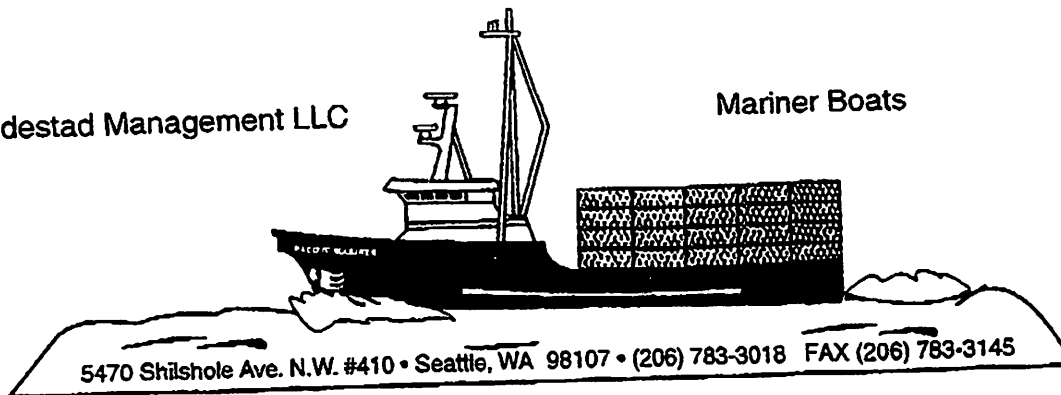
Sincerely,



Mason J. Williams  
President  
MGF Fisheries

Kaldestad Management LLC

Mariner Boats



5470 Shilshole Ave. N.W. #410 • Seattle, WA 98107 • (206) 783-3018 FAX (206) 783-3145

Date: January 29, 2002

To: North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

Re: C-4, Crab Rationalization, Options for Skippers and Crew

Dear Council Members,

One of the elements and options of Crab Rationalization is the treatment of skippers and crew under a new program. I believe there is general consensus in the crab industry that there should be consideration of skippers and crew in the new quota-based system. The Council must decide which method would best achieve this goal.

Under an Olympic style fishery, skippers and crew are valued for their ability to catch crab efficiently, effectively and safely. In a quota based fishery, the same qualities will be sought in skippers and crew by vessel owners for their operation. There is a concern among some that skippers and crew will underbid each other in the competition for jobs. It is assumed that today the crab fleet is overcapitalized, that there are too many vessels in the crab fishery and consolidation is needed. One of the early steps being considered is a fleet sponsored buyback. After consolidation under a buyback and rationalization, there will, by necessity, be fewer jobs in the crab fishery assuming each vessel had a distinct crew. However, the remaining jobs will be more stable financially and may in fact be filled by more than one person in a crab season, assuming crab stocks can rebound. As in any fishery, the best skippers and crew will be sought by vessel owners for these jobs and will be compensated as such.

The best and fairest way to include skippers and crew, and to allow an avenue for new entrants in a rationalization program, is to set up a first Right of Refusal Program based on quota sales, funded by a Low Interest Loan Program and a pre-tax savings account which can be used for quota purchases (similar to CCF program used to purchase vessels). These would provide the opportunity to purchase quota and the ability to access capital for purchases. This approach, I believe, would have wide support from vessel owners.

Another option is for skippers and crew is for them to receive initial allocation of quota share. This option is unfair to vessel owners who have taken the financial and emotional risk associated with ownership of a vessel. The quota associated with a vessel under a new quota program is a transfer of value from that vessel to the quota. This has been shown in the halibut and sablefish program where vessels are worth a fraction of what they were under Olympic fisheries. The quota will be the cream of that value. The vessel owner will

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be left with all the negative things associated with vessel including operational costs, legal requirements, crew injuries, etc. while non-owner recipients would receive a portion of the most valuable portion of the overall operation, the quota. Vessel owners who have made the financial and emotional investments in vessels should be the recipients of quota, not skippers and crew who have not. Crewmembers have benefited financially from the owners investment in the fishery (skippers as much as 3 times as crew) and some have chosen to participate as owners while other have chosen not to invest in the crab fishery with their earnings. Some have invested in other fisheries such as salmon and halibut. The ones who have become investors will be awarded quota as a result of their investment.

I would urge the Council to move forward with First Right of Refusal and Low Interest Loans as the preferred option for skippers and crewmembers.

Sincerely,



Kevin L. Kaldestad



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January 26, 2002

North Pacific Fishery Management Council and Advisory Panel  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage AK 99501-2252

Attn: David Benton, Chairman

Re: Letter of Positions and Proposed Items for Review Regarding BSAI Crab  
Rationalization of the Kodiak Island Borough

Dear Council and Panel Members:

As you know, the BSAI Crab Rationalization proposals represent a Herculean effort on the part of all involved and, as with any sea change in fishery policy, is a compromise. On behalf of the Kodiak Island Borough, I would apologize for not having been more active earlier in the process, but recently our leadership has directed staff to be more active and vigilant on behalf of our community. We are further directed to focus on ensuring we protect the long-term economic health of all sectors of our community, balanced with protection for the marine habitat, and supporting targeted research of our marine resources. One final policy point is that the KIB Assembly does not want to take positions regarding internal allocation issues, such as Fishing Quotas vs. Processor Quotas, etc., but does support regional issues affecting our area.

Kodiak has a long history of not only being a major port for commercial fishing but also a major hub for processing. Over the years our community has matured and the majority of the workers in our processing facilities are long time residents and fishery-related employment represents 2/3rds of our total workforce. This, coupled with being the homeport to the majority of the Alaskan Crab fleet, generates a high level of concern that our community interests are protected to the greatest extent possible.

With this as a foundation, we would offer the following points for consideration along with specific amendments that would achieve our goals without causing undue disruption to other stakeholders. We would also stipulate that we are in conceptual support of consideration of other proposals that focus on addressing socio-economic issues and other concepts that ensure inclusion and fair treatment for all involved.

1.) Section 2.2.2 We believe that if regionalization becomes a reality, the proposed use of 56 degrees 22 minutes latitude for processor quota share is supportable, but only if it is not modified to force Kodiak and other northern GOA ports into areas south of that line. We would request consideration of amending the line by extending it east through the GOA, which would place us in the same region as the Pribilofs and would provide greater balance and simplicity, coupled with providing the harvesters with more flexibility.

2.) Section 2.3 We request that the allocation years for processor shares should be the two best of the most recent five years of 1996 - 2001. As you know, the use of recency minimizes conflicts and the affect of time, ensuring relative economic positions and status are better reflected. Furthermore, NOAA general counsel has concluded that recency must be considered, and we believe that this policy should apply to regional landings as well, in the event they are created.

To the best of our knowledge, the Kodiak region did not participate in discussions that created the 1999 and prior time frames and believe use of those years would cause significant harm to our region as they were our worst years and do not reflect recency, which we understand to be the longstanding policy of the Council. We recognize that this is outside the existing draft parameters but would appreciate reconsideration of that position in light of our resolution and testimony at the last meeting. We respectfully request amendment of Section 2.3 Option 2 to using the two best seasons during the 1996-2001 time frame.

3.) Section 2.41 We support Options in this section allowing for some portion of the GHL or TAC to be open access, as this would enhance price competition and allow for flexibility in harvester fish plans, along with increased opportunities for homeport landings and future entrants to the market.

4.) Section 3.4 We support the addition of the State's proposed community protection plan as a component to regionalization, requiring an exit strategy for processor shares leaving an area along the lines of that proposed in 3.4. The huge investment in infrastructure to support fisheries, along with the revenue base of communities, should be protected to the greatest extent possible and should promote the active involvement of stakeholders in order to minimize negative impacts.

Respectfully submitted



Gabrielle Lcdoux, Mayor

Kodiak Island Borough



Thomas Walters, Deputy Mayor for  
Carolyn Floyd, Mayor


City of Kodiak

ALASKA CRAB COALITION  
3901 Leary Way N.W. Ste. 6  
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DATE: January 30, 2002 Total Pages: 8

TO: David Benton, Chair  
North Pacific Fishery Management Council  
Anchorage, Alaska

FROM: Arni Thomson, Executive Director  
Alaska Crab Coalition 

RE: PRELIMINARY COMMENTS, INITIAL COUNCIL REVIEW  
DRAFT, BSAI CRAB RATIONALIZATION ALTERNATIVES  
JANUARY 22, 2002  
STATUS OF BSAI CRAB CLASS B SHARES, FOR PURCHASE  
OF LIVE CRAB OFF VESSELS AND PURCHASE OF CRAB  
QUOTA SHARES (QS); AND  
OPTIONS FOR SKIPPERS AND CREW

**CLARIFICATION AND ACC RECOMMENDATIONS ON STATUS OF CLASS B SHARES:**

This memo is provided to encourage understanding amongst NPFMC members in regards to the status of B quota shares. Council discussions during the December Council meeting revolving around the introduction of the new State Voluntary Cooperative Proposal and the introduction under 1.7. Use of IFQs, of option (e) "no allowance of the use of purchased class B share IFQ crab on catcher processor vessels" (while allowing use/purchase of B shares by shoreside processors), led to ACC's concerns relative to this memo.

ACC understanding of the status of class B shares (within the context of B shares falling within the range of 10 - 20% open access shares), throughout discussions with processors over the past year, during the Crab Rationalization Committee deliberations and the mutually agreed upon Majority Report developed in the spring of 2001 are as follows.

1. Class B CV harvested crab may be sold to either shoreside processors or CPs, but CPs must be anchored inside 3 miles in order to accept deliveries of crab from CVs. Class B crab is not subject to regionalization requirements. (Majority Report, page 3, Regionalization of live crab deliveries, "15% to any crab processor anywhere in Alaska = 15% of his total IFQ.")
2. Class B CV QS are not subject to regionalization landing requirements, and can be transferred, leased, or sold to U.S. citizens, (no prohibition on transfers or sales to CPs). (Majority Report page 4, Transfers; and page 3, Transferrability of CV IFQs).



3. Class B CV QS can be sold or leased to CPs, and CPs can harvest B QS. CPs can also process Class CV B QS without corresponding IPQs, however, to do so, they must be anchored inside 3 miles. (Majority Report, page 3, Transferrability of CV IPQs.)
4. IPQs may be sold, leased or transferred to any crab buyer licensed by the State of Alaska for use within the 3 mile limit, including catcher-processors, with all of the regionalization requirements maintained. (Majority Report, page 3, Transferrability of 3-mile limit IPQs.)
5. In the Council elements and options (December 11, 2001), there is a stand-alone clarifying option on the status of B shares in 2.5, Implementation of the open access processing portion of the fishery: .... "Crab caught with Class B shares may be purchased by any processor on an open-access basis."

It is important that the NPFMC clearly understand the status of B quota shares during its review of the elements and options at the February Council meeting. It is also important the Council understand how B shares should be treated in regards to catcher processors.

Sections 1.7.1, 1.7.2 and 1.7.2.3, which apply to catcher processors, are becoming rather complex and confusing and need clarification and modifications:

- For example, under 1.7.1, option (d) reference to "B class shares" should be dropped from this option, as B shares should not even be considered subject to regionalization. Reference to A shares should remain as stated in option (d).
- Option (e) should also be dropped, unless we include shoreside processors along with catcher processors in this prohibition on use and purchases. ACC's preference would be to delete option (e) from the analysis.
- With the above modifications, ACC sees that 1.7.1 options (a), (b), (c) and (d) meet with our understandings of the treatment of B QS. (Note: 1.7.2.3 option 2 deals with our understanding of CPs with purchased IPQs, being required to process inside 3 miles.)

#### **RECOMMENDATIONS ON SKIPPER AND CREW OPTIONS:**

##### **BACKGROUND INFORMATION:**

ACC vessel owners, like most BSAI crab vessel owners are very concerned about the possibility of direct allocation of quota shares to skippers, and the costs

The ACC Board has discussed the issue of direct allocations to skippers, at length, and the Board as well all the members of the ACC are well aware of the sensitivity of the issue. Skippers and crews are a vital part of commercial fishing operations. Six of the nine ACC Board members are owner operators (skippers). They are at work in the Bering Sea right now, but none of them support allocations for skippers, although based on the options available at this time, they would benefit immensely from direct allocations. They are also mindful that this is not a personal matter, this is strictly a business matter that could add

significant costs to vessel operations, while devaluing the capital investments vessels have made in their fishing businesses over the years.

The ACC and other groups, while discussing rationalization concepts and allocations for almost eighteen months on the NPFMC crab rationalization committees, agreed to a proposal submitted by SEA (Skippers for Equitable Access). The key components of the proposal are: 1) Right of first refusal on the sale 10% of quota shares (QS), after initial allocation of QS; and 2) Guarantee of traditional crew share; (Although there was substantial agreement on this option, in Council discussions last spring, it was determined the Council lacked the authority to implement this option.) A copy of the SEA proposal is attached.

Industry discussions on the Crab Rationalization Committee last spring about a low cost NMFS guaranteed loan program especially designed for entry level skippers and crew men garnered widespread support. This would be based on the MSFCMA statutorily authorized loan programs for IFQ fisheries. The Alaskan sablefish/halibut IFQ program, has an especially designed loan guarantee program. Five million dollars per year is being loaned out to skippers and crewmen with no ownership in vessels and to small boat owners with relatively small holdings.

Since October, at the insistence of a large number of its members, SEA has changed its position and they are now supporting an initial allocation of up to 20% of all fishing quota shares in the rationalization program.

#### ADDITIONAL CONSIDERATIONS IN REGARDS TO SKIPPER OPTIONS:

- Most of the skippers involved in the skipper allocation issue are good professional fishermen who been in the business for fifteen years, or more. All during the 1990s, they have been earning \$100 - \$300,000 per year. They have had numerous opportunities to invest and in many cases, turned down invitations to invest. Skippers have made conscious decisions not to invest capital in crab vessels, but they have instead invested in other fisheries and industries i.e. Bristol Bay salmon boats, real estate and the stock market.
- A number of the skippers already have 10 - 25% ownership in a crab vessel they are operating. An allocation for skippers provides these minority owners with an opportunity to increase the value of their investment for no cost.
- Skippers who wish to become invested the BSAI crab fisheries in the future will be able to purchase quota shares with the assistance of the first right of refusal option on 10% of future quota sales and a low interest NMFS loan program.

1.

## **Crab Rationalization Committee – Majority Report**

The Crab Rationalization Committee and its predecessor, the (ad hoc) Crab Co-op Committee, have worked for more than 18 months to develop a framework for rationalization. We believe that Senator Stevens (in the 2001 Consolidated Budget Act) has given us a specific opportunity to rationalize the Bering Sea crab industry in early 2002, and we encourage the North Pacific Fisheries Management Council to expedite its Options and Analysis consistent with the industry and community endorsed Preferred Framework incorporated in this Majority Report.

### **Preferred Framework** *A Regionalized Two-Pie System*

The majority of committee members agree that any rationalization program must accomplish these goals:

- Recognize and protect the investments of current participants, including harvesters, processors and communities.
- Provide for a rational decapitalization of the industry
- Maintain a competitive balance between harvesters and processors
- Create opportunities for crew members to become equity participants
- Provide for a better resource management regime
- Allow for new entrants – but not new vessels – into the industry
- Create a safer fishery

We believe that the Preferred Framework outlined in this Majority Report, combined with the Crab Vessel Buy-back program, meets all of these goals in a manner that is economically and politically viable. There are several issues within this framework which remain unresolved and that will require Council analysis. We believe that the industry is largely committed to accepting the Council's final decisions regarding those issues identified for analysis within this framework.

On the following pages, we outline our Preferred Framework, and the critical Options and Analysis that we recommend the Council undertake. All of these elements are also embedded in the Crab Rationalization Committee meeting minutes dated March 22 and 23, which we fully accept and endorse.

2.

## Preferred Framework Overview

**Purpose:** To assist the NPFMC and the U.S. Congress to implement individual fishing quotas in 2001 for Bering Sea crab fishermen, crab processors and coastal communities

### Individual Fishing Quotas (IFQ's)

A crab LLP license holder will receive IFQ's for the exact percentage of the total catch that his vessel landed during the qualifying years for each crab species and area.

Over 150 Bering Sea crab vessel owners have signed a Two-Pie IFQ legislative petition supporting the principle that 80% to 90% of their IFQ's will be delivered to IPQ-processors operating inside the 3-mile limit.

*For the purposes of this example only, assume that 85% of the IFQ's will be delivered only to IPQ-processors under the regionalization plan described below. These IFQ's shall be classified as "A-share IFQ's".*

*For the purposes of this example only, assume that 15% of the IFQ's can be delivered to any crab buyer licensed by the State of Alaska. These IFQ's shall be classified as "B-share IFQ's".*

The final determination of exactly how many "A-share IFQ's" (80%-90% of the vessel owner's total IFQ's) will be delivered to IPQ-processors inside 3-miles will be made by the NPFMC or by the Congress after receipt of the IFQ-IPQ analysis from the NPFMC mandated by the 2001 Consolidated Budget Act.

*Brown king crab and Adak red king crab IFQ's will require additional analysis as outlined in the Committee minutes dated March 22-23.*

### Individual Processing Quotas (IPO's)

Each crab processor which processed crab in 1998 or 1999 [which qualifies under a new recency requirement] will receive IPO's for 80-90% (final determination to be made by NPFMC/Congress during 2001) of the total pounds he processed (on a regional basis) during processing history years, which will be specified for each fishery as the last three years that the fishery was open or, for Bairdi, processing history shall be based on a 50/50 combination of processing history of Bristol Bay red king crab and opilio crab. The crab processing caps enacted by Section 211(c)(2)(A) of the American Fisheries Act are terminated upon implementation of the processor provisions recommended above.

*For the purposes of this example only, assume that a qualified crab processor receives IPO's for 85% of the total pounds processed during the qualifying years.*

3.

**Catcher-Processor IFQ's-IPQ's**

Each catcher-processor will receive an equal amount of IFQ's and IPQ's based on their catch history during the qualifying period, with no regionalization requirements. These shares shall be classified as "C-share IFQ's".

**Regionalization of live crab deliveries**

Regions are protected to assure that future landings are consistent with recent, pre-rationalization landings. A regional endorsement would be added as an umbrella to IFQ's and IPQ's. Regions may be discounted, say 15%, in this example, consistent with IPQ's.

If a Bering Sea crab IFQ-owner delivered 40% of his Opilio catch (during the qualifying years) in the region that includes the Pribilof Islands and to floaters inside that region's 3-mile limit, for example, and 60% to processors in the region that includes Unalaska, under the terms of this example, he would deliver his Opilio IFQ's as follows

15% to any crab processor anywhere in Alaska = 15% of his total IFQ

40% of 85% to IPQ-processors in any endorsed port  
in the region that includes the Pribilof Islands = 34% of his total IFQ

60% of 85% to IPQ-processors in any endorsed  
port in the region that includes Unalaska = 51% of his total IFQ

**Transferability of catcher vessel IFQ's**

1. Catcher-vessel IFQ's may be sold, leased or transferred (with all regionalization requirements maintained) to other catcher-vessels and to catcher-processors when they are operating within 3 miles of an endorsed port.
2. A "first right of refusal" QS-purchase program for qualified crew members (along with a parallel financing program) is being developed and will be submitted to the Council for analysis. This program is supported as an important part of this framework.

**Transferability of 3-mile limit IPQ's**

1. IPQ's may be sold, leased or transferred to any crab buyer licensed by the State of Alaska for use within the 3-mile limit, including catcher-processors, with all of the regionalization requirements maintained.

**Transferability of Catcher-Processor IFQ's-IPQ's**

1. Catcher-processor "C-shares" may be sold, leased, or transferred to any eligible person.

- 4.

If "C-shares" are sold, leased, or transferred to a catcher-processor, the shares will remain as "C-shares".

3. Catcher-processor "C-shares" may be transferred to catcher vessels, with no regionalization requirements, but will automatically convert to and remain as catcher vessel IFQ "B-shares" afterwards.

### Transfer Eligibility

1. All harvesting shares (IFQ "A-shares" and "B-shares" and catcher-processor "C-shares) established under this proposal may be transferred only to a "person", who is an individual citizen of the U.S., or to any entity that is a citizen of the U.S. eligible to document a vessel for the fisheries under the laws of the U.S.

### Excessive share Caps

*For harvesters, we agree that (a) initial issues that exceed the ownership cap should be grand-fathered in and (b) caps must apply both individually and collectively, as outlined in The Committee minutes. Further, we also concur that the Council analysis include all of the percentage cap options outlined in the Committee minutes dated March 22-23, 2001.*

*For processors, we agree that the Council analysis should include both Ownership caps (Maximum share plus %, 10% or 15%) and Annual Use Caps ranging from 30% to 50% of the GHIL (or TAC) by fishery as outlined the Committee minutes.*

AGENDA C-5  
APRIL 2001  
Supplemental



RECEIVED  
MAR - 9 2001

N.P.F.M.C

March, 9, 2001

Mr. Chris Oliver  
Acting Director  
NPFMC

Dear Chris,

As you know I was unable to participate in the February 15-16<sup>th</sup> Crab Rationalization Committee Meeting in Seattle due to the fact that I was skippering the Bristol Mariner in the 2001 Opilio crab fishery.

I have reviewed the minutes from the meeting and I see that industry participants have submitted proposals for rationalization of the crab fisheries.

At this time, I would like to resubmit the Skippers for Equitable Access proposal of September 7, 2000 to the Crab Rationalization Committee. This proposal was submitted to the NPFMC and was under consideration by the Ad-Hoc Crab Cooperative Committee last fall. Thank you for your consideration.

Sincerely,

Tom Suryan  
President, SEA  
4756 34<sup>th</sup> Ave. NE  
Seattle, WA. 98105  
(206) 522-1249 (ph)  
(206) 525-7311 (fax)  
tomsuryan@aol.com



**SEA**  
**SKIPPERS FOR EQUITABLE ACCESS**

September 7, 2000

**CO-OP SHARES/TFO'S FOR CAPTAINS**

Since the last industry co-op meeting on May 18, 2000, and much discussion with various industry representatives, SEA has decided to drop its original request for a 10 percent initial allocation of quota for captains. SEA believes that some form of a rationalization program that dictates safety and better harvesting practices is essential for the survival of the fleet and the resource. For this reason, SEA did not want to become a stumbling block in order to secure a future for the crab industry. Hopefully other segments of the industry will recognize this concession and feel the same. SEA believes strongly that captains are direct contributors to catch history, and that in order to have some form of security in the future, captains and crew need protection. Traditionally, historical crew shares are 40% of adjusted gross stock after expenses (i.e. fuel, bait, groceries).

SEA believes that in any rationalization program, there are two points of security that are needed to protect their futures:

1. Captains and crew need traditional and historical crew share percentages protected with no sunset.
2. A set aside of 10% of any quota share that sells - Captain and crew will have first right of refusal to purchase those shares.

Although these two points are open for discussion, SEA will make no further concessions.



**NORTHLAND FISHERIES, INC.**

**130 Nickerson St. Suite 212  
Seattle, WA 98109  
(206)285-5100  
Fax (206)285-9054**

1-25-02

**Mr. David Benton  
Chairman  
North Pacific Council  
P.O. Box 20735  
Juneau, Alaska 99802**

**RECEIVED**

JAN 30 2002

**N.P.F.M.C**

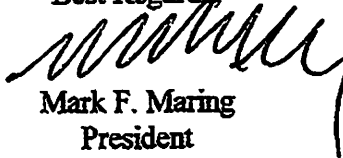
Dear Mr. Benton:

I sent a letter to you on November 25th, 2001 outlining our position regarding the BSAI crab fishery rationalization process. I intended to give public testimony during the last North Pacific Council meeting in reference to the letter I sent, but was unable to attend due to a family member matter.

I will be at the upcoming February council meeting and would like to bring this matter back to your attention. Along with this letter I have included for your review the letter I had sent on 11-15-01. If you have any comments or questions regarding my issues which I can address prior to the council meeting; I would appreciate either a phone call or an e-mail. I will be in my office all next week and would appreciate the opportunity to speak to you. I have included my contact information so that we can establish a time which will be convenient to have a conversation.

E-mail: [mmaring@polmarfisheries.com](mailto:mmaring@polmarfisheries.com)  
Office number (206)285-5100  
Fax number (206)285-9054

Best Regards,



Mark F. Maring  
President

**NORTHLAND FISHERIES, INC.**

**130 Nickerson St. Suite 212  
Seattle, WA 98109  
(206)285-5100  
Fax (206)285-9054**

11-25-01

**Mr. David Benton  
Chairman  
North Pacific Council  
P.O. Box 20735  
Juneau, Alaska 99802**

Dear Mr. Benton:

I am addressing this letter to you regarding the current proposals that address and outline which processors will be awarded the opportunity to continue to participate in future BSAI crab fisheries once rationalization has been implemented. The structure envisioned by the options under consideration, at least those of which I am aware and have had the opportunity to read and review to date, appears to seriously discount any consideration of the contributions of past participants and focuses the potential benefit almost entirely on current participation. As a continuous participant in the BSAI crab fishery since 1988, I find this highly inequitable. Additionally, due to the specific circumstances of our situation, the extremely narrow "eligibility" criteria of only 1998 or 1999 would eliminate our company from having further participation in the crab fishery.

I would appreciate the ability to outline the history of our company and try to explain why we feel the Eligible Processors dates criteria used for the current proposals should be modified to either 1) expand slightly or, 2) allow hardship cases to be considered.

- We are in favor of and support most aspects of a program which will rationalize the BSAI crab fishery. In fact, we have supported the concept since it was first discussed in 1992. However, when it takes a form that appears to specifically trivialize the

contributions made by long term participants and will exclude the long term historical participants, in favor of newer entrants: it becomes difficult to support. I am hopeful that this is not the design or intentions and would like to work with other participants to reach a common ground which is more equitable for the greatest number of parties.

- The processing vessel Northland has been operating in the Alaskan crab fishery since 1978. The vessel not only processed crab but it also participated in the Salmon and Herring fisheries. We purchased the P/V Northland in 1988 and participated in the crab fishery every year through 1997. After the 1997 Opilio crab fishery we experienced a major mechanical problem with the main engine. It was determined that the engine could not be repaired and would have to be replaced. Cost estimates at that time were over \$850,000.
- Simultaneous to this mechanical failure, one of the principal shareholders of the company filed a law suit. The suit prevented the company from operating until certain issues were resolved.
- These business matters were not resolved until the spring of 2000. This resolution now allows the company to be in a position to again utilize the P/V Northland.

As we all know the crab fishery has experienced a traumatic down turn since 1999. This major decline in the fishing stocks prompted the majority of the processors to tie up their floating processors. until there is improvement in the fishery. It made no financial sense for them to deploy a floating processor for such a marginal fishery. It made even less sense for us to engage in a significant and major repair expense to participate in the late 2000 or 2001 fishery.

The years that are being considered to determine future participation are 1998 or 1999. If you qualify under these terms there are a variety of options on what species and areas will be used to determine what percentage of the harvestable quota you might qualify to process. The current proposal implements a cut off date to determine qualifications. If you qualify, then you are able to go back three years as well as forward from the qualification years, to determine at what level you can participate in the future. If you go back to 1995 to determine the activity for the future years, our company participated in 1995, 1996 and 1997 which is 1/2 of the entire period being considered.

- If we had not experienced the difficulty with the main engine after the 1997 crab fishery and had the problem compounded by the partner issue; we would have had continuous participation and at minimum would have participated in the 1998 crab fishery which would qualify us under the current proposal.
- We missed this cut off date by One Season, after having been actively processing crab in Alaska for the prior ten (10 years) from 1988 through 1997, not missing even one year during this time period. I feel that a company which has been active in the fishery for so many years, to be precluded from participating because of a

circumstance which was out of our control is not a reasonable result or the intention of this public process.

As this process has slowly developed over the past decade and in particular as it appeared to have finally gained real momentum in the past couple of years we stayed in touch with industry members regarding these matters. I was always under the assumption that we should reasonably expect to be included in the processing sector. Especially in light of the fact that we only missed the proposed deadline by a single season and have been active longer than most floating processors currently working in Alaska today. Knowing that the final determination is going to be made soon, I want to bring this matter to the fore front to make sure we are included in this fishery for the future.

I would like to propose that you include the year 1997 in the qualification period or add in the qualification period a hardship consideration. I have a hard time believing that the intent of this process is to exclude long term participants.

In closing, I want to make sure that all parties know that we are not only involved with this processor but also have several crab catching vessels working in Alaska, all of whom have been there for many, many years. We rely on this fishery for our livelihood, as do multiples of families which we employ.

We are enthusiastic about what appears a real possibility of the rationalization process moving forward. After having been involved through the 1988, 1992 and 1995 attempts, it is sometimes easy to believe it will escape us again. We support its implementation this time and look forward to the sanity it may install for the prosecution of these fisheries.

I would like to extend my appreciation in advance for your consideration and understanding of our position regarding the matters I addressed above.

Best Regards,



Mark F. Maring

cc Mr. David Fluharty  
cc Mr. Dennis Astin, Vice Chair  
cc Mr. John Bundy  
cc Stephanie Madsen  
cc Mr. Robert Penney  
cc Robin Samuelson  
cc Mr. Jim Balsiger

**POLMAR FISHERIES, INC.****130 Nickerson St. Suite 212****Seattle, WA 98109****phone (206)285-5100****fax (206)285-9054**

1-30-02

**Mr. David Benton**  
**Chairman**  
**North Pacific Council**  
**PO Box 20735**  
**Juneau, Alaska 99802**

Dear Mr. Benton:

I just received the copy of the last draft of the rationalization plan for crab yesterday. I would like to tell you it is impossible to fully digest and understand how to make proper comments on a document that is so large, in such a short timeframe. The main document is over 300 pages and the attachments are about the same. I am able to identify a couple of issues that keep coming up in the documents which I have read for the past year and I will outline here for your review. I plan on giving oral testimony on these issues, and others that are not detailed here, at the council meeting next week. I hope you have time to read this letter prior to my testimony.

- When you consider the qualifying year sets you need to keep firmly in your mind the people that have been in the industry for longest period of time. We have taken a direction now that will maximize the benefit to those people who added new vessels to the BSAI crab fishery after the fishery was recognized to be fully capitalized. I have always considered this position to be completely wrong. To shift the most benefit to the participants who exacerbated the already over capitalized fishery would clearly go against the original intent of this process. Participants which brought in additional capacity after 1995 must be considered in this process, but not to the extent that it is a reward for their actions.
- Along these same lines the process has now taken the position that people who left the fishery should be penalized because they took the correct steps to protect the resource, by removing vessels from the fishery. Baring in mind that we were strongly encouraged to do so. When we transferred vessels from this fishery, we allowed the remaining fleet the opportunity to harvest a greater portion of the quota. They benefited financially from those actions.

- We were put on notice as far back as 1992 that steps were being taken to rationalize this fleet, due to the fact that the fishery was fully utilized. The process was supposed to take a couple of years. We made certain business decisions based on this information and started the rationalization process ourselves. By removing certain vessels and relocated them to other fisheries as well as other industries. We were told that we could preserve our catch history by stacking these fishing histories on other vessels that we own, which remained in the fishery. NMFS and subsequently the RAM supported these actions and assisted in this process. We did not invent this ourselves as some means to circumvent the process. But now it seems that we are to be penalized for following their advise. I find it hard to understand the rational that has lead to the current opinion. One where people who took positive steps, by removing capacity from a fishery that was already over capitalized and experiencing a resource problem, will lose or have trivialized their benefit to participate in the future fishery.
- I thought the goal of the rationalization process was to do just what we have already done. That is specifically to reduce the number of vessels fishing which will allow for a better managed resource in the future.
- Now we have asked the Federal Government to step in and fund a Buyback program of vessels and fishing capacity to reduce the fleet with Federal money. This is exactly the same thing we did, only we did it with our own resources. We did not request any assistance from the Federal Government or request any special benefits for taking these steps. All we request is that our fishing history, the one which we created during the time we fished be considered for the purposes of rationalization.
- People who exacerbated the problems of over capitalization, by bringing new vessels into the fishery as we were leaving, should not be rewarded for taking those steps. Like us, they were put on notice through the Federal Register that any person who brought new vessels into this fishery ran the risk of not being able to participate in the future. Apparently, we are supposed to forget where this process started and how we got here. And allow these people to receive not only some benefit but even a great benefit than people who have participated in this fishery for a long time.
- I think the true intentions of this process are clear, protect the resource. Adding more vessels into this fishery, after it was well known to be over capitalized is wrong and contrary to the goals of good conservation of the resource. The people who did so should not be rewarded for those actions to the extent that they receive greater benefit than the long term participants.

I think this entire process has lost sight of the true goal.

1. First and foremost is to protect the natural resource to insure a strong and healthy fishery for future generations.
2. Second is to insure a stable fleet size that has the capability to harvest the resource in a much safer environment and can be effectively and more economically managed.

3. Third, stabilizing the fleet financially. By doing so we will see better equipment on the fishing grounds which will in turn insure the safety of the fisherman. Secure the income that fisherman and their families rely on. Offer greater benefit to all ancillary services communities associated with the fishery.

My recommendation would be to follow the original qualifying years that were published in the Federal Register which started the rationalization process. The original moratorium qualification years 1988 to 1992, then we moved into to the LLP process which included the years 1992 to 1995 to determine the areas in which a vessel could continue to participate. Understanding we need to take into consideration the recent participation issue I would recommend that we would use the year sets 1990 to 1999 to construct the period for the participants. This would allow all individuals to receive benefit from this process, but would not shift a larger benefit to the people who exacerbated the problem by bringing new vessels into a fishery which was already determined to be over capitalized.

In thinking this through I would also suggest that in the year set from 1990 to 1999 we would take the best seven years of the participation during this time frame which would take into consideration any hardship issues that might arise. This time frame has been recognized by within the Buyback authorizing Legislation of 2001. I think it would be best if both processes follow the same time frame.

I hope we can move this process forward so we can get back to the main task at hand which is to protect the resource for future generations. If we would have spent the amount of time and money on the resource as we have on this process I feel we would understand the fishery better today than we ever have in the past. I can just hope that when this process has been completed we take the same energy into understanding the fishery to insure this fishery can produce stable jobs and industry for all participants, which can benefit from such a great natural resource.

Best Regards,



Mark F. Maring

**United Fishermen's Marketing Association, Inc.**

P.O. Box 1035 Kodiak, Alaska 99615

Telephone 486-3453

Fax: 907-486-8362

January 30, 2002

Ms. Dave Benton  
Chairman  
North Pacific Fishery Management Council  
Anchorage, AK

Re: February, 2002, Agenda Item C-5 BSAI Crab Rationalization

Dear Mr. Benton,

The membership of the United Fishermen's Marketing Association, Inc. (UFMA) includes vessels that harvest crab under the jurisdiction of the Fishery Management Plan (FMP) for Bering Sea/Aleutian Islands (BSAI) King and Tanner Crabs. The following comments address the "Initial Council Review Draft; BSAI Crab Rationalization Program Alternatives" (January 22, 2002) ("Analysis"), and the potential alternatives that are relevant to the preparation of an Environmental Impact Statement for the FMP for BSAI King and Tanner Crabs ("EIS"), including the proposal to rationalize the BSAI crab fisheries through an Individual Fishing Quota Program, or a cooperative program.

UFMA respectfully requests that The Council and NMFS consider and address the following issues with respect to Council and NMFS action that are relevant to the Analysis and to the EIS.

I. The consideration of BSAI Crab Rationalization for the Harvesting Sector should be considered separately from the consideration of Processing Sector Individual Processing Quotas

UFMA recommends that the consideration, analysis and implementation of Harvester Individual Fishing Quotas (IFQs) for the BSAI crab Harvesting Sector should proceed separate from and prior to the consideration and analysis of Processor Individual Processing Quotas (IPQs) for BSAI crab Processing Sector.

IPQs are not BSAI Crab Rationalization.

IFQs and IPQs should each be respectively considered, developed and analyzed separately, based on their own respective merits.

IPQs should be considered as part of a "trailing amendment".

The linking, tying, and concurrent consideration, development and analysis of IFQs and IPQs will unnecessarily and seriously delay progress toward and the achievement of needed rationalization in the BSAI crab fishery.



Analysis & EIS/BSAI Crab FMP  
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The linking, tying, and concurrent consideration, development and analysis of IFQs and IPQs are largely a political issue, and are not central to the resource, conservation and management issues that are relevant to rationalization of the BSAI crab fishery.

IFQs and IPQs are separate concepts that are significantly different with respect to their costs, benefits, impacts and effects. IFQs and IPQs are distinctively different and unconnected in their respective application and effects.

The consideration of IPQs should not delay the consideration of IFQs only because representatives of the Processor Sector have apparently indicated that they will exert political influence to not permit BSAI crab fleet rationalization to proceed through the Council or Secretarial Review processes unless the Processing Sector receives the economic protection that they seek through a distribution of ownership rights to the BSAI crab resource (i.e., IPQs).

There is no statute, regulation or other lawful requirement, or any other reasonable rationale, justification or past practice, that mandates, indicates, suggests, or warrants any concurrent consideration, analysis or rulemaking, or any manner of tie, connection or link between IFQs (or other fleet rationalization instruments) and IPQs.

IPQs are theoretical, and the impacts and effects of such are significantly more complex to scope, understand and analyze than are the impacts and effects of IFQs.

The Council and NMFS can act upon, analyze and implement IFQs as the most effective means to rationalize the BSAI crab harvesting sector prior to and separate from any analysis or rulemaking process that addresses the hypothetical concept of IPQs in the BSAI crab fisheries.

IPQs provide no meaningful incremental benefit to the BSAI crab fishery when compared to the application of fleet rationalization instruments, and specifically, with respect to BSAI crab IFQs.

IPQs raise significant and unique issues with respect to Antitrust statutory and regulatory requirements, anticompetitive issues of an economic nature, and NEPA issues. These issues require consideration and analysis that is significantly more complex and demanding than an analysis of BSAI crab harvester IFQs.

A proper and thorough analysis of IPQs requires consideration and investigation of economic and anticompetitive issues that may go beyond the reasonable and customary expertise, ability and scope of fisheries management analysis, and may require a specific and significant involvement from entities such as the U.S. Federal Trade Commission and the Antitrust Division of the U.S. Department of Justice to properly understand the deleterious impacts of IPQs on a competitive fishing industry.

IPQs raise issues that are unique, and significantly more complex and demanding than those issues that are associated with BSAI crab harvester rationalization, and specifically, with BSAI crab IFQs.

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## II. Harvesting Sector IFQs are Needed, Warranted and Justified in the BSAI Crab Fishery

The need to rationalize the BSAI harvester sector is urgent, clear, and has been identified and supported by past Council, NMFS and Congressional action (e.g., BSAI crab LLP, BSAI crab LLP recency requirements, BSAI Crab Buyback, vessel moratorium, various legislation, etc.), and by an overwhelming component of the BSAI crab industry.

IFQ management is a proven concept, and a practical management instrument with advantageous attributes.

Fleet rationalization is an accepted, documented and proven instrument to advance significant resource, conservation, management, safety and economic and social benefits.

Those many factors that are customarily considered as a rationale for the implementation of harvester rationalization, and specifically with respect to IFQs, are present in the BSAI crab fishery.

IFQs are an accepted and reasonable instrument for rationalization of the BSAI crab fleet, and will address significant resource, conservation, management and economic and social objectives and needs.

IFQs in the BSAI crab fleet will result in the achievement of many benefits, including the minimization of vessel overcapitalization; benefits to the productivity of crab populations, and to the conservation of the BSAI crab resource generally; improvement in management efficiencies, costs and operation; improved vessel and human safety (for commercial vessels, harvesters, rescue vessels, rescuers); more efficient and competitive market mechanisms; economic stability for approximately 250 to 300 small businesses; improved product quality and marketability; consumer benefits; more efficient and competitive product distribution; etc.

The Alaskan Halibut/Sablefish IFQ program has been a significantly successful management instrument that has resulted in beneficial impacts to the resource, industry, safety, quality, marketability, competitive markets, consumers, product value, product and market distribution, etc.

## III. Processing Sector IPQs

Processor Individual Processing Quota Shares (IPQs) is an unproven and hypothetical theoretical concept that is not validated in observation, practical application or experience.

The most obvious objective of IPQs is economic protectionism.

IPQs have no meaningful impact with respect to resource, conservation, management or safety objectives, effects or benefits.

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#### IV. Processing Sector IPQs Foreshadow Significant Antitrust and Anticompetitive Impacts.

Significant examples of market dominance exist in the BSAI crab Processing Sector.

IPQs will prima facie limit the market freedom, opportunity and ability of Kodiak, other non-BSAI based, and non-dominant BSAI-based processors to compete for the purchase of BSAI crab from the entire class of BSAI crab vessels that number in the range of 250 to 300 entities. While the actual quantities of BSAI crab that have been historically purchased by Kodiak, other non-BSAI based, and non-dominant BSAI-based processors may not be proportionally high when compared to the totals, it is an undeniable assertion that the very presence of these processors, and the commensurate freedom, opportunity and ability that they possess to compete for the purchase of BSAI crab, has provided significant benefits and positive effects in support of free and open markets, competition generally, ex-vessel pricing, product diversity, product distribution diversity, and many other benefits that are provided by free and open markets and competition.

Kodiak, other non-BSAI based, and non-dominant BSAI-based processors have special economic needs and competitive positions that are different from the dominant BSAI-based BSAI crab processors.

IPQs undermine the progress and advance of a competitive and viable Processing Sector, and the BSAI crab industry generally.

IPQs in the BSAI crab fishery significantly limit market freedom, competition and harvester choice for 250 to 300 BSAI crab vessels, and limit the ability of these vessels to choose the processor to whom they sell their crab.

The distribution of IPQs to the small class of no more than approximately 15 processing entities presents significant issues with respect to foreign ownership restrictions; ownership caps; use caps; company caps; entity-specific caps; individual caps; excessive ownership issues; maintenance of Processing Sector characteristics; antitrust and anticompetitive considerations; vertical integration; combination and concentration considerations; merger and acquisition considerations; excessive economic and market control, power and concentration considerations; monopoly, monopsony and oligopoly considerations; divestiture issues; etc.

Mechanisms to control, regulate and mitigate the many negative impacts that will result from IPQs are very difficult, if not impossible, to achieve.

Consideration and analysis should be given to the principle that free and open markets and vigorous competition should be encouraged and maintained in the BSAI crab Processing Sector. The BSAI crab Processing Sector, partially because of the number of participants, relative distribution of economic power and influence, and culture and history per se possesses significant potential to effect and restrain free and open markets and vigorous competition in the BSAI crab fishery. Processor IPQs in the BSAI crab Processing Sector significantly increase the potential and likelihood that anticompetitive impacts will effect the BSAI crab fishery. The enduring principles that underlie the Sherman Antitrust Act of 1890, the Clayton Antitrust Act of 1914, the

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Robinson-Patman Act of 1936, and other antitrust laws of the United States should be every bit as relevant today as when this important antitrust legislation was passed.

The unintended consequences and effects of IPQs in the BSAI crab Processing Sector will be significantly greater and more complex than those consequences that are initially intended, identified and considered; they include impacts to consumers, markets, communities that depend on the resource, competition, ex-vessel prices, wholesale prices, product distribution, and the less dominant participants in the Processing Sector, including Kodiak processors, and those processors who did not receive the largesse and capitalization that was granted in the American Fisheries Act (AFA).

#### V. Regionalization

There are significant anti-competitive impacts and effects that must be understood and analyzed with respect to the combination of the theoretical concept of IPQs with the concept of "Regionalization". There is a significant and undeniable anticompetitive economic environment that is created if the BSAI crab fleet overall, or individual harvesting vessels specifically, are forced to deliver a required percentage of the Guideline Harvest Level (GHL) for whatever BSAI crab species to a particular community or port. The anticompetitive environment is greatly enhanced if only one processing entity, or only a few processing entities, are present in the community to purchase or process crab. These anticompetitive effects are further exacerbated if such entity (or few entities): (1) are dominant in the BSAI crab industry; (2) are dominant in the fishing industry generally; (3) operate crab processing operations in other regions and communities; (4) are beneficiaries to the largesse of the American Fisheries Act (AFA); (5) have other economic or political arrangements or associations with the community or region, or with other economic or political entities in the community or region (such entities that may own the land upon which the processing entity is situated, or that may have some ownership interest with the processing entity, etc.); (6) are permitted to lease IPQs from other Processors in the Region; etc.

The combined anticompetitive impacts and barriers that result from the coupling of IPQs with Regionalization present anticompetitive and other economic barriers to the entry of other processing entities into whatever community or region is governed by the restrictions of Regionalization.

The combined anticompetitive impacts and barriers that result from the coupling of IPQs with Regionalization are significantly more intense than the separate and respective impacts of IPQs and Regionalization.

The effects of Regionalization and IPQs respectively, and separately, and also of the coupling of Regionalization and IPQs, are difficult to analyze and understand. However, it is imperative that a thorough scoping and understanding of these anticompetitive and other social and economic impacts are thoroughly investigated, explored and understood prior to a serious consideration of Regionalization or IPQs.

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#### VI. Processor Ownership and Control of the Harvesting Sector

A comprehensive understanding is needed of the distribution and extent of Processing Sector ownership and control of the BSAI Crab Harvesting Sector, including LLP Licenses, harvesting vessels, and relevant Harvester Sector fishing history (i.e., landings, participation and other criteria that will determine the qualification of Harvesting Sector entities to receive a distribution of BSAI crab harvesting rights), including:

To what extent do Processing Sector entities own, have acquired ownership interest in, hold options to purchase, or exert other means of economic control of, LLP Licenses, harvesting vessels and fishing history;

How many harvesting vessels are owned or otherwise controlled by Processing Sector entities;

How many LLP Licenses are owned or otherwise controlled by Processing Sector entities;

How much fishing history has been earned by vessels that are owned or otherwise controlled by Processing Sector entities (i.e., including options or other mechanisms that result in the control of Harvesting Sector fishing history by Processing Sector entities, or in the transfer of, or conversion to, Harvesting Sector fishing history to Processing Sector entities);

What other ownership interest, and what other economic control or influence, is held by Processing Sector entities with respect to the Harvesting Sector, including partnerships, corporations, loan guarantees, promissory notes, other loans, cash advances, debt instruments, credits, etc.

#### VII. Foreign Ownership and Control of the Harvesting Sector

A comprehensive understanding is needed of the distribution and extent of foreign ownership and control of the BSAI crab Harvesting Sector, including LLP Licenses, harvesting vessels and relevant Harvesting Sector fishing history (i.e., landings, participation and other criteria that will determine the qualification of Harvesting Sector entities to receive a distribution of BSAI crab harvesting rights), including:

To what extent do foreign entities own, have acquired ownership interest in, hold options to purchase, or exert other means of economic control of, LLP Licenses, harvesting vessels and fishing history;

How many harvesting vessels are owned or otherwise controlled by foreign entities;

How many LLP Licenses are owned or otherwise controlled by foreign entities;

How much fishing history has been earned by vessels that are owned or otherwise controlled by foreign entities (i.e., including options or other mechanisms that result in the control of

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Harvesting Sector fishing history by foreign entities, or in the transfer of, or conversion to, Harvesting Sector fishing history to foreign entities);

What other ownership interest, and what other economic control or influence, is held by foreign entities with respect to the Harvesting Sector, including partnerships, corporations, loan guarantees, promissory notes, other loans, cash advances, debt instruments, credits, etc.

**VIII. Restrictions for Processing Sector Eligibility to Own Processor IPQs and Harvester IFQs**

UFMA is opposed to IPQs in the BSAI crab fishery. There are significant anti-competitive impacts to the competitiveness of the BSAI crab industry if a Processor who is eligible to receive IPQs can also be eligible to receive, own or otherwise control IFQs or vessels that harvest BSAI crab. Therefore, if the Council proceeds with an initiative to consider IPQs, UFMA recommends that the Council adopt provisions that impose significant prohibitions and other restrictions on Processing Sector ownership of Harvester IFQs and BSAI crab vessels. UFMA recommends that the Council adopt the following provisions as part of any initiative that advances the theoretical concept of IPQs:

A. A Processor, or any entity that has an ownership interest in or with such Processor ("Processor"), may not receive an initial allocation of IPQs, and may not otherwise own, hold, acquire, attempt or intend to acquire, or in any way engage in any activity that intends to control or acquire IPQs, if such Processor receives, holds, owns or otherwise controls, or receives by sale or other transfer device, Harvester IFQs, or other harvesting right or harvesting history ("Harvester IFQs"), except that,

1. A Processor shall be eligible to receive by initial allocation or other transfer device such Harvester IFQs that such Processor may have earned on or before December 31, 1999, as a result of an ownership interest that such Processor held in a harvesting vessel, or as a result of a sale or transfer of ownership of fishing rights, only if such Processor first,

(a) divests all rights to and interest in Harvester IFQs that such Processor may have earned after December 31, 1999, as a result of an ownership interest in a harvesting vessel,

(b) divests all rights to and interest in Harvester IFQs that such Processor may have acquired after December 31, 1999, as a result of a sale or transfer of ownership of fishing rights.

B. A Processor, or any entity that has an ownership interest in or with such Processor ("Processor"), may not receive an initial allocation of IPQs, or IFQs that were earned on or before December 31, 1999, and may not otherwise own, hold, acquire, attempt or intend to acquire, or in any way engage in any activity that intends to control or acquire IPQs, or IFQs that were earned on or before December 31, 1999, unless such Processor first divests itself of all ownership interest and control of any vessel that is used in the harvest of BSAI crab.

C. A Processor may lease IFQs that were earned on or before December 31, 1999, to persons who are eligible to own IFQs.

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#### IX. Restrictions on Ownership of IPQs

UFMA is opposed to IPQs in the BSAI crab fishery. There are significant anti-competitive impacts to the competitiveness of the BSAI crab industry if the Processing Sector is allocated IPQs for some percentage of the GHL for whatever BSAI crab species or management area. Therefore, if the Council proceeds with an initiative to consider IPQs, UFMA recommends that the Council adopt provisions that impose significant prohibitions and other restrictions on Processing Sector ownership of IPQs. UFMA recommends that the Council adopt the following provisions as part of any initiative that advances the theoretical concept of IPQs:

- A. The Processing Sector BSAI Crab IPQ Pool shall be allocated no more than 20% of any BSAI crab GHL for any BSAI crab species or management area in any year, and
- B. A Processor may not own, hold, acquire, attempt or intend to acquire, or in any way control, receive by sale, allocation, or other transfer device IPQs in excess of 15% of the aggregate IPQ Pool for any BSAI crab species and management area, except that,
  1. A Processor may receive an initial allocation of IPQs in excess of 15% of the aggregate IPQ Pool for any BSAI crab species and management area if such Processor earned such percentage as a result of the formula that is used as the basis for the calculation and distribution of IPQs to Processors,
  2. A Processor that changes its ownership structure must divest itself of all IPQs that it owns or otherwise controls in excess of 15% of the aggregate IPQ Pool for any BSAI crab species and management area. (Note: Provisions in the Halibut/Sablefish IFQ Program that regulate individual, area and vessel caps, and the manner in which changes in the ownership of an entity impact the ability of such entity to own in excess of these caps, should be included in the provisions that govern those caps that are applied to the Processor IFQ Program)
- C. A merger, acquisition or other combination that includes 2 or more Processors that hold IPQs must be submitted to the Federal Trade Commission and to the Antitrust Division of the Department of Justice for a review of the potential impacts to competition that such merger or acquisition may pose.

#### X. Sunset of IPQs

Any IPQ program that may be recommended by the Council, and approved by the Secretary, shall operate for no more than 2 full years of operation, and shall sunset on the second anniversary date following the IPQ Implementation Date.

#### XI. Transfer, Sale and Lease of Processor IFQs

IPQs are transferable by sale, trade, barter or other means of transfer device, except that the leasing of IPQs in an amount that exceeds 10% of any BSAI crab species or management area that are owned or otherwise controlled by a Processor is not permitted.

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XII. Foreign Ownership of IPQs

A. A Processor that has more than ??% of foreign ownership interest may not own IPQs, or otherwise hold, acquire, attempt or intend to acquire, or in any way control, or receive by sale, allocation, or other transfer device IPQs. (Note: Provisions that restrict foreign ownership of Halibut/Sablefish IFQs should be mirrored in the provisions that govern the ownership of BSAI Crab IPQs).

B. A Processor that has more than ??% of foreign ownership interest may not own IFQs, or otherwise hold, acquire, attempt or intend to acquire, or in any way control, receive by sale, allocation or other transfer device IFQs. (Note: Provisions that restrict foreign ownership of Halibut/Sablefish IFQs should be included in the provisions that govern the ownership of BSAI Crab Processor IFQs).

Thank you for your consideration of our comments with respect to the rationalization of the BSAI crab fishery.

Sincerely,



Jeffrey R. Stephan



C-5 - Crab Rationalization

1.  
*Joe Sullivan*

Comments on  
Alternative 1.2, "Persons Eligible to receive an initial allocation of QS"  
Alternative 1.4, "Initial Allocation of QS"

The following comments are submitted February 9, 2002 by Joe Sullivan, Mundt MacGregor LLP, on behalf of Seawind Fisheries Group LLC, Ocean Ballad, Inc., and similarly situated vessel owners.

We support Option 1 under Alternative 1.2, which defines the class of persons eligible to receive an initial allocation of QS as the holders of valid, permanent, fully transferable LLP licenses. We support Option 1 under Alternative 1.4.1(b), under which the basis for QS distribution is the catch history of the vessel on which the LLP license is based. We do not support Option 2 under Alternative 1.2 and Option 2 under Alternative 1.4.1(b), as both of those Options are inconsistent with the current BSAI crab limited access management regime. We request that Option 2 under both Alternatives 1.2 and 1.4.1(b) be deleted.

For reasons provided below, we support a new sub-option under Alternative 1.4.1(b), adopted by the Advisory Panel to address an issue identified by Council staff. Under that sub-option, in cases where an LLP qualifying vessel's federal fishing privileges have been transferred to another vessel, initial QS would be allocated to the LLP holder on the basis of the catch history of the vessel on which the LLP is based (up to the date of transfer) and on the catch history of the transferee vessel after the date of transfer. This sub-option is not intended to allow the catch history of any vessel to be double-counted for purposes of QS allocation, and we request that it be analyzed accordingly.

For purposes of this comment, "QS" is used to refer to both harvester quota shares that would be issued under an IFQ approach to rationalization, as well as cooperative shares that would be issued under a cooperative-based rationalization system.

1. Eligibility Criteria - LLP Licenses versus Steel. Initial crab QS eligibility should be based on whether a person holds a valid, permanent, fully transferable LLP license, rather than the vessel that was used to meet the LLP program landing requirements. The reasons for doing so are explained well on pages 136 -141 of the Council staff's January 22, 2002 draft analysis (the "Staff Analysis"). The following comments are intended to reinforce the points made in that section of the Staff Analysis.

1.1 Conditioning QS eligibility on holding an LLP license is consistent with the continuum of limited access programs adopted by the Council. Conditioning

QS eligibility on ownership of a qualifying vessel is not. Since the Vessel Moratorium Program ("VMP") (Amendments 23/28/4) was adopted in 1992, the Council has granted fishing privileges to persons rather than vessels. Under the VMP, persons were issued moratorium qualifications for vessels, which gave them eligibility to obtain permits under which the vessels operated. See, generally, VMP Final Rule, 60 Fed. Reg. 154 (August 10, 1995), pgs. 40763-40775. VMP moratorium qualifications were transferable from vessel to vessel, so long as the vessels to which they were transferred did not exceed the related length overall restrictions. Transfers were permitted to allow a vessel owner to make improvements to or replace an existing vessel. See VMP Final Rule pg. 40766. They were also transferable from person to person, so long as transferee met the relevant citizenship requirements. Id. at 40766.

Under the License Limitation Program ("LLP"), licenses were initially issued to the "qualified persons." Qualified persons included (i) the owner, on June 17, 1995, of a vessel that made landings in both the General Qualification Period ("GQP") and the Endorsement Qualification Period ("EQP"), or met the requirements of a landing exemption (a "qualified vessel") and (ii) the person to whom a qualified vessel's fishing history was transferred by written contract or by whom it was retained. LLP Final Rule, 63 Fed. Reg. 190 (October 1, 1998), pg. 52645. Thus, even at initial allocation, the recipient of an LLP license could be a person other than the qualifying vessel's owner.

In October of 1995, the Council reinforced its position that catch histories and fishing rights were severable from vessels and transferable in their own right. The Council specifically advised NMFS to recognize written transfers and reservations of catch history when issuing licenses, to the extent practicable. See October 1995 Council Newsletter, pg. 7. Further, the Council expressed its intent regarding vessel transfers that did not specify the disposition of catch history and fishing rights: if the vessel was sold on or before June 17, 1995, the catch history and license qualification were presumed to be transferred with the vessel; if the sale occurred after June 17, 1995, the catch history and license qualification were presumed to be retained by the seller of the vessel. Id.; see LLP Final Rule pg. 52646 (emphasis added). Thus, not only were catch histories and fishing rights severable from vessels; in vessel transactions after June 17, 1995, they were presumed to be severed, in the absence of written documentation otherwise.

LLP licenses can be transferred from person to person, subject to LLP program citizenship requirements, and from vessel to vessel, subject to LLP program length overall restrictions. See, generally Council Newsletter, June 1995, pgs. 12-15; LLP Final Rule 52646; LLP Transfer Final Rule, 64 Fed. Reg. 151 (August 6, 1999), pgs. 42826-42830.

The LLP provisions concerning transfers of licenses from person to person and from vessel to vessel explicitly contemplate what is commonly referred to as "stacking." Persons are allowed to acquire up to 5 licenses, and persons eligible to receive more than five licenses on initial allocation are initially exempted from the 5 license limit. See June 1995 Council Newsletter, pg. 14; LLP Transfer Rule. The crab LLP framework adopted by the Council includes an explicit provision permitting an unlimited number of licenses or endorsements to be used on a single vessel. See June 1995 Council Newsletter, pg. 14.

Basing QS eligibility on whether a person holds an LLP license rather than on whether that person owns a vessel is the only approach that is consistent with the current rules for defining eligibility, and thus maintains continuity of participation. Currently eligible fishermen will not be disqualified by rationalization, nor will currently ineligible persons obtain a privilege to which they currently have no claim. See Staff Analysis, pg. 136.

Implicit in this observation is a fundamental legal consideration. Some fishermen have sold qualifying vessels that proved to be uneconomical or unsafe. In some cases, given the highly overcapitalized state of the crab fisheries, they have decided not to replace them, and instead have either employed their licenses on other vessels, or are holding the LLP licenses and catch history pending adoption of the rationalization and buyback programs. Other fishermen have invested in reasonable reliance on these provisions, in some cases hundreds of thousands of dollars, to acquire catch histories and fishing rights with the intention of accumulating LLP area/species endorsements and the potential benefits of future rationalization systems. In the process of doing so, they have reduced the number of vessels that could potentially be employed in the fishery, to the direct benefit of the resource, the managers and other fishermen.

The fishermen who have sold their vessels or acquired LLP licenses for stacking would not be eligible to receive QS under the vessel ownership requirements of Option 2. It would not only be cruel irony if replacing unsafe or uneconomical vessels, or stacking crab licenses, actions explicitly anticipated and completely legal under the LLP program, became the grounds for invalidating a fisherman's QS eligibility; we respectfully submit that the result would be arbitrary, capricious, inequitable and a taking without just compensation.

On the other hand, no matter what a vessel's catch history may have been, it is not eligible to be employed in the BSAI crab fisheries unless it is operating under an LLP license. A vessel owner without an LLP license cannot reasonably argue that she or he expects to remain eligible to participate in the BSAI crab fisheries. See Staff Analysis, pg. 138. However, Option 2 would qualify such parties as initial QS applicants, to the exclusion of the crab LLP license holder who sold them the vessel.

1.2 Basing QS eligibility on LLP licenses builds on existing RAM Division administrative procedures and NMFS eligibility determinations. As the Staff Analysis points out, adopting vessel ownership as a standard for eligibility would require the agency to undertake an entirely new process of determining who is eligible to participate in the BSAI crab fisheries. See Staff Analysis, pg. 136. This process would almost certainly result in implementation delays and substantially higher administrative costs.

1.3 The MarAd certification and Coast Guard documentation requirements of Option 2 are contrary to the Magnuson-Stevens Act, and violate the due process "arbitrary and capricious" standard. The Staff analysis contains an extensive discussion of the problems related to the vessel documentation eligibility component of Option 2. See Staff Analysis, pgs. 139-140. The following comments are intended to highlight and supplement some of the key points of that discussion.

- The vessel documentation standards in Option 2 are not necessary to keep non-citizens from holding crab QS. U.S citizenship is a currently a condition that must be met to hold an LLP license (and thus would carry through under an LLP-based eligibility standard), and could be adopted on a stand-alone basis as a QS eligibility requirement.
- The record related to the vessel documentation standards of Option 2 establishes that their true purpose is to exclude from initial allocation of BSAI crab QS the owners of the catch history and fishing rights of certain vessels that have left U.S. documentation.
- NOAA General Counsel has opined that, notwithstanding adoption of the American Fisheries Act, the vessel documentation standards of Option 2 violate the Magnuson-Stevens Act and would be overturned as "arbitrary and capricious" by a court.
- Even if Congress acted in an attempt to address the legal deficiencies of the vessel documentation component of Option 2, that action would be fundamentally inequitable, and would likely be found to constitute a taking without just compensation in violation of the 5<sup>th</sup> Amendment. Owners of LLP licenses have made reasonable investments in reliance on the LLP program rules. Adopting the standards of Option 2 would extinguish the value of their fishing rights. The action would be retroactive and individually targeted in character. Under the American Pelagic case, these elements supported a takings claim by owners of a vessel excluded from the Atlantic herring and mackerel fisheries by Congressional action. See American Pelagic Fishing Company, L.P. v. United States, 49 Fed.Cl. 36 (2001).

## 2 Allocation Criteria - LLP License versus Steel.

2.1 Allocating QS to an LLP holder on the basis of the catch history of the qualifying vessel(s) is consistent with the lineage of the Council's limited access programs, as currently implemented. Allocating on the basis of vessel ownership is not. To a large extent, the points made above in connection with QS eligibility apply here as well. Under Option 1 of Alternative 1.4.1(b), QS would be allocated to LLP license holders on the basis of the catch history of vessel on which the license was earned, regardless of the current status of that vessel. As explained above, that approach is consistent with the lineage of the VMP and LLP programs, and would enable NMFS to build on its LLP eligibility determinations.

On the other hand, under Option 2 of Alternative 1.4.1(b), QS is allocated on the basis of the catch history of the vessel which formed the basis for eligibility under Option 2 of Alternative 1.2. See Staff Analysis, pg. 146. In other words, a person would not only be required to own an LLP qualifying vessel to eligible to receive a QS allocation, but she or he could only receive a QS allocation in connection with the catch history of the qualifying vessel(s) that she or he still owned.<sup>1</sup> Further, any such allocation would be subject to the additional requirement that the qualifying vessel be MarAd certified and/or Coast Guard documented vessel.

As explained above, eligibility to participate in BSAI crab fisheries has been conditioned on holding an LLP license rather than owning the vessel on whose catch history the license was based. Acting in reasonable reliance on this policy, fishermen have sold (and in some cases replaced at great expense) their original LLP qualifying vessels, with the reasonable expectation that the ultimate disposition of those vessels would not affect the validity of their LLP licenses, the fishing rights and catch histories they retained, or their eligibility for an allocation of QS under crab rationalization.

These transactions were legitimate under the LLP program. Many of them had the beneficial effect of removing excess capacity from the BSAI crab fishery, by directly reducing the number of vessels that could be employed. However, under Option 2, the fishermen who sold their qualifying vessel would not receive the QS allocation related to its catch history.

In other cases, the fishing rights of LLP qualifying vessels have been purchased in good faith and for value, to be "stacked" on vessels for purposes of obtaining an additional LLP endorsement, and/or the benefit of additional QS under crab

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<sup>1</sup> Option 2 under Alternative 1.4.1(b) refers to replacement vessels. The effect of this reference is not clear. First, the eligibility criteria of Option 2 of Alternative 1.2 contain no such reference. Therefore, it is not clear how a person could be eligible to seek an allocation on the basis of a replacement vessel's catch history. Second, "replacement vessel" is not defined. In the absence of the definition, we assume that the term includes only vessels that replaced vessels that were lost or destroyed during the LLP qualifying years, under one of the relevant LLP exemptions.

rationalization. As noted above, stacking is a legitimate and explicitly contemplated activity under the LLP. It should therefore be credited under the successor crab rationalization system, however it may be structured.

Option 2 will retroactively dispossess fishermen of QS related to fishing rights and catch history that were legitimately retained or purchased under LLP policies and rules. For the reasons cited in the eligibility discussion above, Option 2 is inconsistent with the lineage of the Council's limited access programs and current LLP program administration, and should be deleted.

**2.2 Conditioning QS allocations on the documentation status of the related vessel is inappropriate.** For the reasons set forth in Section 1.3 of this comment, we respectfully submit that the validity and creditability of catch history for purposes of QS allocation should not be conditioned on the MarAd or Coast Guard documentation status of the vessel on which it was earned.

**2.3 Catch history accrued under valid LLP fishing rights should be credited in QS allocations.** As noted above, we support the new sub-option under Option 1 of Alternative 1.4.1(b), as adopted by the Advisory Panel on February 8, 2002.

The Staff Analysis identifies a potential inconsistency between the current wording of both allocation Options under Alternative 1.4.1(b) and several of the qualifying year options. See Staff Analysis, pg. 148, "Catch history since satisfaction of the LLP requirements." Both Options under Alternative 1.4.1(b) would initially allocate QS on the basis of the catch history of the vessel "on which the LLP license is based."

A vessel could have made the last landing necessary to satisfy the LLP program's requirements, including Amendment 10 recency, as long ago as January 1996. However, many qualifying year options include one or more years more recent than 1996.

If the fishing rights and catch history of the qualifying vessel have not been transferred, there appears to be no impediment to crediting the catch history related to operations after the LLP qualifying years. However, in some cases, the original LLP qualifying vessel has sunk, been sold, or retired from the fishery. In such cases, the federal fishing privileges and catch history of an LLP qualifying vessel have been transferred to a second vessel, which has then accrued catch history under the first vessel's fishing privileges.

This activity is consistent with the structure and intent of the LLP program, and therefore the resulting catch history should be credited in the QS allocation process. However, Council staff determined that, in the absence of a sub-option of the type adopted by the AP, it would not be permissible to do so.

We support the sub-option adopted by the AP for further analysis. We do so on the understanding that it will not be interpreted to allow the catch history of any vessel to be double-counted for purposes of QS allocation, and request that it be analyzed accordingly.

## North Pacific Crab Association

### Representing:

Alyeska Seafoods  
Icicle Seafoods  
NorQuest Seafoods  
Peter Pan Seafoods  
Snopac Products

Trident Seafoods  
UniSea Inc  
Westward Seafoods  
Yard Arm Knot

### COMMENTS ON THE INITIAL COUNCIL REVIEW DRAFT, BSAI CRAB RATIONALIZATION ALTERNATIVES, Dated January 22, 2002

The North Pacific Crab Association members buy and process approximately 85% of the crab harvested out of the Bering Sea. Its members are both large processing companies and small, operating from shore plants and floating (mothership) style platforms. Their operations are centered in Dutch Harbor, Akutan, King Cove and the Pribilof Islands. They are also significant operators in other Alaska fisheries; in recent years they purchased over 55% of the salmon harvested in the state, over 60% of the roe herring, and collectively contributed over 70% of the annual raw fish taxes paid to the State of Alaska.

Crab has been, is now, and hopefully will continue to be an important component of the operations of these companies. They have invested well over \$500 million dollars in facilities (shore based and floating) that are used in the crab fishery in the Bering Sea alone. In many cases crab is an essential component to support a facility engaged in other activities. Without crab, halibut and cod operations in St. Paul would be unlikely, and salmon and herring operations in Bristol Bay and Western Alaska would be jeopardized. Evidence of the pain of low crab quotas, and the corresponding lack of crab profits, are the numerous crab floating processors that have been removed from the fishery in the last several years. Without crab profits to contribute to these operations, their total activities have been shut down as other operations cannot, alone, support the costs.

Crab rationalization that excludes processors will further the decline of the crab-processing sector. That will impact not just the communities and processing workers in the crab operations, but will also impact the operations of these companies in other fisheries.

The crab processing companies, including all of the members of our association, joined in signing the "majority report" of the Crab Rationalization Committee. The majority report recommended that this Council adopt a modified "two-pie" system under which harvesters would receive 100% of their catch history, processors would receive no more than 90% of their catch history, with a regional overlay to protect community interests. We believe this approach is equitable and protects the interests of all. At the last Council meeting, ADF&G introduced a new "voluntary cooperative" structure under which harvesters and processors would be allocated history on an individual basis. The basis for the allocation of these privileges would be the same as the various alternatives



available under the two-pie option before the Council. Although all details of this option are not fully understood, we believe that this option may be a viable alternative to the Two-Pie structure contained within the majority report.

Our members reject all options which create a one-pie "IFQ" rationalization program. Such programs will strand our capital investments, will fail to address the significant overcapitalization and excess capacity in the processing sector, and redistribute future revenues in the fishery from processors to the harvesting sector. We also reject the so-called "plurality fishery cooperative" option incorporated in the December, 2001 Council motion. This option creates immediate imbalances on initial cooperative formation, disadvantages some classes of processors and favors others with no apparent rationale, and will, we believe, lead to lengthy discussions and disagreement over the terms and conditions for cooperative formation and exit rules. There is no way for the processing sector to rationalize their activities in the context of these cooperatives, and the alternative therefore fails to achieve the goal of rationalization to reduce excess processing capacity.

We believe that the Council staff has done an excellent job of describing the alternatives and presenting you with the base data needed to analyze the impact each alternative will have on various sectors of the fishery. We would recommend that most provisions of the document be released for public review, comment and further analysis.

However, we recommend not sending out that portion of the analysis contained in Appendix 3-7, "A Comparative Analysis of Alternative Rationalization Models for the Bering Sea Aleutian Islands (BSAI) Crab Fisheries" dated January, 2002 (the Milon-Hamilton report). We believe that the conclusions drawn in this analysis are fatally flawed because they are premised upon an erroneous assumption, *vis*, that crab harvesters are price takers (and are therefore highly competitive with respect to pricing activities). Crab fishermen have, for many years, formed (legally) a bargaining unit that acts on behalf of all catcher vessels in the crab fishery. This monopoly has effectively constrained the crab fleet from engaging in harvesting activities until all crab processors agree to a minimum price acceptable to the fleet. Recently, the association has used production of the fleet as a reward (in the form of increased market share) for the processor that leads the settlement of price.

The Milon-Hamilton report assumed, incorrectly, that the harvesters were price takers, and in that context assessed the relative impact of various alternatives under consideration by the Council. The conclusions drawn from that analysis are conclusions that are useless to making decisions because they rest on this flawed assumption.

For example, the Milon model asserts that any processor share will result in a decrease in ex-vessel prices. As evidence of this conclusion, Milon states that the pollock fishermen have been paid less since the institution of the cooperatives authorized under the American Fisheries Act. That is factually incorrect. The evidence shows that pollock fishermen have been paid more since the cooperatives were introduced in any way prices may be measured: they are receiving more per pound than before the cooperative

structure; the formulae under which they receive payment (where formulae are used) have increased the percentage they get of the egg revenues; and, expressed as a percentage of wholesale values, the harvesters share has increased significantly. In short, the Pollock fishers have shared in the efficiency gains in the processing sector following the introduction of the rationalized fishery.

The Milon report also concludes, incorrectly in our view, that omission of processors from a rationalization program would likely result in only short term stranding of processor capital, and that in the long term that capital would be redeployed to alternative fishery activities. The facts are that many crab-processing platforms have been inactive for three or four years due to low GHs in the major fisheries, and there are no alternative activities available. There is no reason to believe that situation will change in the near term due to the unique configuration of these investments.

We also have several specific comments on the main text of the analysis:

(Please note all page numbers are from the pagination associated with a copy of the report retrieved from the NPFMC web page; we are advised this pagination may differ from the pagination on documents distributed to the Council family)

Page 100, table 2.4-1, Participation of processor affiliated with vessels in BSAI crab fisheries. The purpose of this table is to show the share of crab associated with vessels owned by processors or shareholders of processors. The table includes all catcher processors in the share calculation, even if an inshore processing company or one of its shareholders does not own them. The analysts have included the "independent" catcher processor fleet because they are treated as processors for analysis purposes. While this inclusion may be useful for some aspects of the analysis, it does not lend itself to an analysis of the share inshore processors may have of the harvesting sector by reason of cross ownership interests. We would request that another table be developed including those vessels owned by the inshore processors or their shareholders. The text should also note that the vessel ownership standard used was the "10% entity rule" employed in the AFA. Additionally, the data in this table displays the share of history associated with processor-affiliated vessels based on all harvest from 1991 through 2000. That period of time is not the period likely to be used for distribution of catch histories; it would be helpful to run this table using the actual options on the Council motion.

Page 101, Pricing in the Bristol Bay red king crab and Bering Sea C. Opilio fisheries. The analyst comments that in the 2001 Bristol Bay red king crab fishery the AMA rewarded the processor that offered the price that became accepted by the fleet with an increased share of red king crab. Since this was drafted, the AMA similarly rewarded the processor that offered the price accepted for the 2002 Opilio fishery with an increased and guaranteed share of the GHs. The narrative should be updated with this recent development.

Page 111, Table 3.1-1, Table of Elements and Options for Rationalization of the BSAI Crab Fisheries. This table treats the two cooperative proposals (the Plurality Fishery

Cooperative and the Voluntary Cooperative) as one; it would be clearer and more informative if they were displayed separately.

Page 123, discussion of an open access component to a rationalized fishery. The State of Alaska comments in this section that any structure for rationalizing the crab fishery should exclude the possibility of an open access component. This comment would apply specifically to the Plurality Fishery cooperative, and should be reiterated here.

Page 124, 3.2.6, Overages and Underages in a Rationalized Fishery. These comments would seem applicable to individual harvester allocations; however, if the structure allows the formation of voluntary cooperatives (as with the ADF&G option), individual vessels should be allowed to harvest over their quota so long as the cooperative as a whole does not exceed the collective quota of its members. The ability to pool quota, and to use the over and under mechanism, is a major benefit of the voluntary cooperative.

Pages 139-142, Eligibility to receive initial allocation of Quota Share. Many of the catcher processors that have been of concern because they have left the country (but the LLP of course has not) would be solved if the council adopted the option that all processors, including catcher processors, are eligible for quota only if they processed in either 1998 or 1999. If a vessel did not participate in the fishery during either of those years, it would be ineligible for catcher processor quota share on initial allocation. On a related matter, staff expresses a concern that a catcher processor would receive a different allocation of catcher quota than processor quota. See the discussion at page 225. We believe that the staff misunderstands the intent of the proposals, which is, we believe, that catcher processor vessels would receive quota share exactly the same for catching and processing. The base period for determining this share is of course an issue for council determination.

Page 196, Eligible processors. We support option 1, section 2.3 to establish the basis for distributing processor quota (under the two pie option) or share (under the voluntary cooperative model). Option 2 uses a "best 4 seasons" approach, allowing the processor to select the years included for calculating share. This system may make sense for the harvester sector, but we believe it has no place in the processor sector. In any case, Council staff should calculate the "denominator" (i.e., the total pounds processed using this best of four approach) and make it available to the public; then, all firms would be in a position to estimate the impact of this option on their IPQ. Option 3 would eliminate processors that are no longer active in the crab fishery. The purpose of this option, and the definition of "no longer active in the crab fishery", is unclear.

Page 199. Table 3.4-2. This table states that under option 1, section 2.3, 31 processors would receive an initial allocation of processor quota, while under option 2 (the best of four seasons), the number would increase to 33. Staff should clarify if it applied the threshold rule of processing in 1998 or 1999 to arrive at the number of processors under Option 2. If it did not, what eligibility rule did it use? A similar question may arise in other crab fisheries. See, for example, Bristol Bay red king crab discussion at page 201 (Option 1, 27 processors, Option 2, 30 processors).

Page 216, section 2.5, Implementation of the open access processing portion of the fishery. This describes the option, under the two pie proposal and under the ADF&G voluntary cooperative proposal, under which any buyer may purchase crab delivered using "Class B" quota share. In the description of this, the Class B "fishery" is described as an "open access" fishery. This is an inaccurate description of the activity, as "open access" as used elsewhere in the document implies a derby like fishery that does not operate under rationalization rules (and which the managers state should not be allowed in the rationalization program). Consequently, to avoid confusion, the fishery employing Class B shares should be described using different terminology. For example, it may be more properly described as the "B free quota" fishery.

Page 217, processors eligible to purchase crab delivered under Class B quota. Staff notes that some Council discussion would suggest Class B quota crab ("free quota") could only be delivered to "eligible processors" (i.e., those that processed crab in either 1998 or 1999). Our members, in the Crab Rationalization Committee majority report, agreed that any processor (whether an eligible processor or not) could purchase the crab delivered under Class B quota shares. We would extend that understanding to the use of Class B shares in the ADF&G option.

Page 217-218, processor ownership of harvesting shares. This section was never completed, with the important discussion regarding processor shares stopped mid sentence. We have several comments on this topic:

- A. To the extent the Staff or the Council believe that processor ownership of harvester shares is important, the data provided to show that ownership should accurately portray the degree the inshore sector (i.e., the buyers of crab from catcher vessels) has such ownership. The data lumps the offshore fleet (the catcher processors) with the inshore fleet even when there is no common ownership. They need to be separated for an accurate picture of this vertical integration.
- B. It is important to look to the facts in other fisheries to the extent that they bear on this issue. For example, in the pollock fishery it is well known that the degree of processor ownership of harvesting vessels is far greater than in crab. Yet, since the rationalization of the pollock fishery, the independent harvesting vessels have received a higher price for pollock, measured in any way one might wish to measure it: absolute amount per pound, expressed as a percentage of wholesale value, or the percentage of revenues allocated to the harvester where such formulae are used. All have increased in spite of the degree of vertical integration.
- C. Indeed, one could speculate that the reason that independent Pollock harvester prices have increased is in part due to the high degree of vertical integration of the industry. Processor ownership of harvesting quota results in a lower overall cost of raw supply because the processor is paying itself for that portion it owns. Since the processor has surplus capacity, it has an incentive to bid more for independent product. That incentive is demonstrated, for example, in the high degree of success of the factory trawler section of the Pollock fishery in obtaining

CDQ Pollock. As perfectly vertically integrated firms (i.e., they own 100% of the harvesting rights to match their processing), they are well positioned to out-compete the inshore firms, which are less integrated.

Pages 218 to 221, controls on vertical integration. The analysis needs to be revised to reflect the ownership by the inshore processing sector of harvesting rights; the inclusion of the catcher processor sector unaffiliated with the inshore sector inflates the numbers and will mislead the public. The years used (1991-2000) are also not years likely to be selected for distribution of harvester shares; it would be helpful to perform this analysis using one or more of the options before the Council, or, in the alternative, when a preferred alternative is selected to revise the table using that option.

Page 222, loss of processor quota when not used. Staff has provided a good discussion of this topic. We believe the analysis misses the point when it states on page 223 that "(Processor) Concern about exceeding quotas is a less compelling reason for not meeting a processor quota, since processors weigh crab as it is offloaded by vessels." The reason a processor might not reach its quota is because the harvester either a) does not want to deliver if it must stop the offload mid tank when the processor reaches its cap and b) the harvester may not capture 100% of its quota, for a wide variety of reasons, resulting in some processor falling short of its quota.

Page 225, processing history for catcher processors. It was our understanding that any option adopted would allocate a class of catcher processor shares, under which a single unit would be awarded for each pound that was historically caught and processed. If in addition to that, a catcher processor purchased crab from an independent vessel, it would receive processor quota just like any other inshore processor will receive. To obtain the catcher processor history, we believe that the vessel must be an "eligible processor" (i.e., have processed in either 1998 or 1999). The base period used to then allocate history to the vessel is up to the Council. If the eligibility standard is not used, then we would urge that the catcher processor receive its catcher processor quota based upon the years used for all other processors. If neither of these options is adopted, the net effect will be to issue quota to vessels that left the fishery prior to 1998, all of which is a removal of quota from the current processors. Any catcher processor currently in the fishery would be unaffected under the view we present here.

Pages 226-229, rejected cooperative models (AFA and Dooley-Hall). Staff provides a good discussion of the reasons why the Council chose to reject these cooperative models for further consideration. We would add to these comments the comment by the State of Alaska elsewhere in the document that there is no room for an open access (derby style) fishery as a component to the rationalization system. The AFA cooperative models rejected for further analysis included that system as a method for a harvester to exit the cooperative. As the State has commented, such small derby fisheries are unmanageable and will not be allowed. As the staff points out, many of the reasons for rejecting the AFA and Dooley-Hall model apply directly to the Plurality Fishery Cooperative now included in their place for analysis.

Page 232, transfer of shares under ADF&G rationalization option. The analysis assumes that transfer of quota under the State proposal can occur only if the harvester (and with respect to processor shares as well?) is operating within a voluntary cooperative. That is not our understanding of the proposal. We believe the intent is that transfer of quota can occur either within the cooperative or external to it. Clarification of this point is needed.

Page 232, section 6.1.4), new processor entry. It was our understanding that this provision applies only to the purchase of crab harvested under Class A type quota; any processor can purchase crab harvested under Class B quota. Clarification of this point is needed.

Page 232, ADF&G rationalization option. It would be helpful for the Council to clarify that the various sub-options to the "two-pie" model all apply to the ADF&G proposal, as we believe they intended.

Page 233, discussion of custom processing. Custom processing is a needed means of retaining multiple processors while rationalizing the costs of production (through temporary consolidation of processing platforms) in low quota years. If custom processing is not allowed, the effect may be to force permanent consolidation of the processing sector through the sale of shares.

Page 240, open access fishery in the Plurality Cooperative Model. Note that the council motion provides for an open access fishery; after open access, a vessel would become eligible to join the cooperative with the processor from which it (the vessel) received the plurality of money during the open access fishery. The council rejected the use of ex-vessel revenues as a standard for assignment to a cooperative on initial formation and, if this alternative receives further consideration, this method for subsequent qualification should also be changed to pounds rather than dollars.

Pages 245-246, discrepancies of regional shares if processor and regional shares differ. It makes most sense for the regional share to be based upon the same years used to assign processor quota. The tag is to ensure processing in the region, and therefore the processor shares in the region should match up to the regional share. To the extent that harvesters might collectively have a different quota subject to the regional tag, each harvester that historically delivered into the region should be adjusted (up or down) on a species by species basis so that there is a match. Staff points out a specific problem with Baridi, where there is as much as a 30% discrepancy due to the allocation of processing quota based on red and Opilio crab processing. However, Baridi in recent times have been harvested incidental to the BBRKC and Opilio fisheries, so tagging Baridi as with these other fisheries should not present a significant burden. Given the historically very small Baridi quotas, the impact on the participants should be small.

Page 253, binding arbitration. Staff notes that the literature suggests that when binding arbitration is available it tends to increase disputes among the parties. However, it is our understanding, at least with respect to the Canadian system used to establish Opilio prices, in the five or so years that binding arbitration has available, it has not been used

once. It is, if you will, the gorilla in the closet that forces the parties to settle their disputes, rather than facing the gorilla.

Pages 287-289 buyback program. Staff speculates that a catcher processor that sells under the buyback program would be able to retain its 'processing rights' associated with its catch and process history. We would strongly object to this outcome, and any rationalization program must eliminate that possibility. Similarly, we are very concerned that the buyback program might unintentionally increase the share of the catcher processor sector because catcher vessels are more likely to sell than catcher processors. This increase will come at the expense of the inshore processing sector.

Pages 281-282, AFA/Non-AFA allocations compared to AFA crab processing sideboards. Staff should clarify if the allocations contemplated under each option are for eligible processors or all processors.

Appendix 2-4, vessel ownership information and vertical integration. It should be noted that the vessels listed under Alyeska Seafoods are actually owned by either Wards Cove Packing Company, a minority owner of Alyeska, Alaska Boat Company, an entity affiliated with Wards Cove, or shareholders of either Wards Cove or Alaska Boat. Alyeska Seafoods itself owns no vessels.

In summary, we believe the staff did a good job of reviewing the various options and sub options, and the analysis should be released for public comment and review.

February 9, 2002

**ALASKA CRAB COALITION PROPOSAL TO AMEND SECTION 1.7.2.3  
ALLOWANCES FOR CATCHER/PROCESSORS (CPs) TO ADDRESS THE  
SIGNIFICANT ALLOCATIVE IMPACTS OF CP LATENT CAPACITY ON THE  
SHOREBASED CATCHER VESSEL SECTOR OF THE INDUSTRY:**

**The crab rationalization analysis now shows there are an estimated 13 catcher processors with permanent CP LLP licenses, that have not caught or processed BSAI crab in the U.S. EEZ from December 31<sup>st</sup>, 1997 through February 8, 2002, (the season close date for the 2002 snow crab season). The CP LLPs will be eligible for CP quota shares or, catching and processing quota shares in the crab rationalization program, (See attachments, p. 142, eligibility for QS; and p. 66, Table 2.2-1: LLP Licenses, BSAI Crab Fisheries).**

1.7.2.3

Amended Option 5 proposal:

**Option 5. Only catcher processors that caught and processed crab onboard their vessels in any BSAI crab FMP fishery during 1998 or 1999 will be included in the IFQ program eligible for CP quota shares, or harvesting and processing quota shares in any IFQ or cooperative program.**



**CATCHER PROCESSOR (CP) SUMMARY ANALYSIS:**

Revised 2-08-02

ARNI THOMSON, ACC

**14: CURRENT AMENDMENT 10 APPROVED CATCHER PROCESSORS WITH CP ACTIVITY IN 1998 OR 1999**

**13: ADDITIONAL AMENDMENT 10 APPROVED CATCHER PROCESSORS , INELIGIBLE FOR A USCG ENDORSEMENT AND MARAD CERTIFICATION. (BSAI CRAB PROGRAM ALTERNATIVES, ELIGIBILITY, PAGE 142, attachment)**

**27: TOTAL AMENDMENT 10 QUALIFIED CATCHER PROCESSORS (SEE TABLE 2.2-1, PAGE 66, BSAI CRAB PROGRAM ALTERNATIVES, LLP LICENSES IN THE BSAI CRAB FISHERIES, attachment)**

**CATCHER PROCESSOR CATCH HISTORY:**

(References: ADF&G Westward Region, and NMFS RAM Division)

**Opilio crab:**

2001: 7 vessels                   13% of the GHL  
2000: 9 vessels                   4% of the GHL  
1999: 11 vessels                  5% of the GHL  
1998: 14 vessels                  7% of the GHL

**1995-1999 Average:               10.2% of the GHL**

**1995-1999 Average vessels: 15**

**1990-1994 Average vessels: 23   8.2% of the GHL**

**Bristol Bay king crab:**

2000: 6 vessels                  2.7% of the GHL  
1999: 8 vessels                  5.4% of the GHL

**1993-1999: 8 vessels            5.7% of the GHL**

## INITIAL COUNCIL REVIEW DRAFT

On November 28, 2001 the industry provided a list of vessels that would be affected under this option. There are a total of 24 vessels, 16 catcher processors and 8 catcher vessels. According to the industry who confirmed with the USCG, these vessels have continuously not held USCG fishery endorsements since October 10, 1998 with the exception of one vessel. Council staff has not independently verified this list with USCG, but has verified crab licenses using data provided by RAM division. Of the vessels on the industry supplied list, 16 have permanent crab licenses and 6 have interim crab licenses. Crab licenses could not be verified for two vessels.

*(CPs) Will double the number of CPs to 27. Table 2.2-1*

Thirteen of the vessels on the list are over 165 feet in registered length and thus are barred from reentering the U.S. fisheries due to AFA provisions. The impact of the suggested option would prevent those U.S. persons that hold LLPs based on the catch of these vessels from utilizing the catch history of these vessels for stacking purposes. Those vessels on the industry supplied list less than or equal to 165 feet in registered length, would be able to reenter the U.S. fishery upon receiving USCG documentation. The proposed option would prevent the catch history from these boats from being used for stacking purposes (regardless of stacking permitted by Amendment 10).

The following suboption is included in section 1.2:

Suboption: A person who has purchased an LLP, with GQP, EQP, and RRP qualifications to remain in a fishery is eligible to obtain a distribution of QS on the history of either the vessel on which the LLP is based or on which the LLP is used, NOT both.

This suboption would ensure that a person that purchased an LLP in order to retain eligibility in a fishery would be entitled to a distribution based on a vessel that does not meet the LLP qualification requirements. This option is applicable only to Option 2 since ownership of the LLP would qualify the person for a distribution under Option 1. Under Option 2, the person might not be eligible for an allocation since the person might have purchased only the LLP, not the vessel that met the LLP qualification requirements. Alternatively, the person would not qualify for an allocation if the vessel that met the LLP qualification is retired from the fishery, in favor of an alternative vessel. Finally, the history (during the IFQ qualification period) of the vessel on which the LLP qualification was earned may be much smaller than the history of the vessel currently being fished. This could occur as a result of the various qualification years used for the different programs. In that case, a person buying the LLP rights may fair better with the history of the vessel they are currently (and historically) fishing relative to the allocation they would receive from the vessel used to earn the LLP endorsement.

### 3.2.2.2 Calculation and Basis for Initial Allocation of QS

Paragraph 1.4.1(a) of the elements and options defines the following method for calculating the amount of QS (or cooperative shares) each eligible person will receive:

1.4.1. Calculation of initial QS distribution will be based on legal landings excluding deadloss.

(a) Calculation of QS distribution. The calculation is to be done, on a vessel-by-vessel basis, as a percent of the total catch, year-by-year during the qualifying period. Then the sum of the yearly percentages, on a fishery-by-fishery basis, is to be divided by the number of qualifying years included in the qualifying period on a fishery-by-fishery basis to derive a vessel's QS.

Table 2.2-1: LLP Licenses in the Bering Sea and Aleutian Islands Crab Fisheries

AI Brown king endorsement: 41 licenses		Non-Interim C/P	Non-Interim CV	Interim C/P	Interim CV	Interim Total	Total
MLOA < 60	0	0	0	0	0	0	0
MLOA >=60 & <125	0	13	13	0	0	13	13
MLOA >= 125	6	6	8	2	5	12	14
AI Red king endorsement: 46 licenses							
MLOA < 60	0	0	0	0	0	0	0
MLOA >=60 & <125	0	0	17	0	13	17	13
MLOA >= 125	3	3	4	1	6	7	7
BSAI Opti/Bairdi Tanner endorsement: 353 licenses							
MLOA < 60	0	5	5	0	9	9	9
MLOA >=60 & <125	1	161	162	1	55	162	56
MLOA >= 125	26	67	93	5	23	87	93
BSAI Baited Bay Red king endorsement: 49 licenses							
MLOA < 60	0	2	2	0	3	3	3
MLOA >=60 & <125	1	165	166	1	57	166	58
MLOA >= 125	25	67	92	5	23	83	89
Norton Sound red/blue king endorsement: 64 licenses							
MLOA < 60	0	57	57	0	3	3	3
MLOA >=60 & <125	0	2	2	0	2	2	2
MLOA >= 125	0	0	0	0	0	0	0
Pribilof Red/Blue king endorsement: 158 licenses							
MLOA < 60	0	9	9	0	4	4	4
MLOA >=60 & <125	0	74	74	0	31	74	31
MLOA >= 125	2	25	27	0	13	27	13
SI Mathew Blue King endorsement: 213 licenses							
MLOA < 60	0	0	0	0	0	0	0
MLOA >=60 & <125	1	91	92	1	37	92	38
MLOA >= 125	13	49	62	2	19	62	21
Total							
MLOA < 60	0	140	140	3	56	140	59
MLOA >=60 & <125	1	91	92	1	37	92	38
MLOA >= 125	13	49	62	2	19	62	21
Total							
MLOA < 60	0	140	140	3	56	140	59

Dear Mr. Arni Thomson:

This letter is written in response to your inquiry that involved 24 vessels. You were requesting vessel documentation status on these vessels. Our findings are as follows:

<u>VESSEL NAME</u>	<u>OFFICIAL NUMBER</u>	<u>COD STATUS</u>
Arctic Discovery	ON: 572452	Deleted
Bering Empire (Kapitan Basov)	ON: 636416	Deleted
Deep Sea Harvester	ON: 627840	Deleted
Jacquelyn R (Atamah)	ON: 612288	Deleted
Northern Enterprise	ON: 629978	Deleted
Seawind #2 (Northern Wind)	ON: 597261	Deleted
American Champion (Geco Triton)	ON: 527411	Deleted
Arctic Orion	ON: 596653	Deleted
Atka Enterprise	ON: 555416	Deleted
Karla Faye	ON: 960004	Deleted
Olympic	ON: 599434	Deleted
Pacific Orion	ON: 960005	Deleted
Sjovind	ON: 587409	Deleted
Western Enterprise	ON: 629826	Deleted
Windance (Vindans)	ON: 577231	Deleted
Seawind	ON: 610220	Deleted
Alaska Trader	ON: 567664	Deleted
Juno	ON: 260614	Deleted
Magnum	ON: 529675	Deleted
Ocean Tempest	ON: 509743	Deleted
Rondys	ON: 291085	Deleted
Sea Producer	ON: 284437	Deleted
Shelikof	ON: 597967	Deleted
Sourdough	ON: 597229	Deleted

In addition the to vessels listed above, you also wanted verification for the vessel named Mr. B. with the official number 600325. Currently this vessel has the operational endorsements of Coastwise, Fishery and Registry. The Certificate of Documentation is valid .

We are unable to find any information for the vessel named ADF&G 54744. If you can provide a 6 or 7-digit official number, we will search again.

**IFQ PURCHASE LOANS UNDER NMFS' FISHERIES FINANCE  
PROGRAM  
February 5, 2002**

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**(1) Statutory Authority.**

The IFQ loan program is authorized by section 303(d)(4) of the Magnuson Fishery Conservation and Management Act (MSA). The Sustainable Fisheries Act authorized the first application of this Magnuson-Act authority (i.e., in Alaska's halibut/sablefish fishery). The Fisheries Finance Program (FFP) actually makes these loans. Title XI of the Merchant Marine Act, 1936, authorizes the FFP itself.

**(2) IFQ Loan Activity.**

IFQ loans are presently authorized in only one fishery, Alaska's halibut/sablefish fishery.

MSA section 303(d)(4) conditions the availability of IFQ loans in a fishery upon the appropriate Fishery Management Council requesting the availability of these loans in that fishery. In the case of the halibut/sablefish fishery, the Sustainable Fisheries Act itself required the North Pacific Fishery Management Council to make this request, the Council did so, and we implemented the first (and, so far, only) IFQ loan program in that fishery.

No other Council has thus far requested an IFQ loan program in any other fishery.

The halibut/sablefish IFQ loan program has existed for four fiscal years (1998 through 2001). During those four fiscal years, we made 155 IFQ loans in this fishery for a total of \$18.6 million (see attachment No. 1).

Like all other FFP loans, ceilings for IFQ loans must be annually authorized under the Federal Credit Reform Act (FCRA). If we project a net loss (i.e., a positive FCRA cost), over term, of a loan ceiling category, the FCRA requires the net loss to be appropriated as the basis for authorizing the annual ceiling for that category. Otherwise, annually authorized loan ceilings for FFP loans have no budgetary consequences. Other than any positive FCRA cost that may be involved, no loan capital is appropriated (we borrow the loan capital from the U.S. Treasury, relend it to fishermen, and repay Treasury's loan to us with the

repayment proceeds of our own loans to fishermen). Because of our limited experience with these IFQ loans, we initially projected loan losses (i.e., a positive FCRA cost), over term, equal to 2% of IFQ loan ceilings. This, in conjunction with the amount of positive FCRA cost that Congress annually appropriated for this purpose, restricted annual ceilings for this loan category to about \$5 million per year. Four years of actual experience (although still limited) indicates, however, that future loss projections for this loan category should be lower than previous ones. Consequently, annual ceilings for halibut/sablefish IFQ loans could increase in the future (because they may require less, or no, appropriation of positive FCRA cost).

Congress intended an annual ceiling for halibut/sablefish IFQ loans in FY 2002, but there is presently a technical problem with all FY 2002 FFP loan ceilings (including those for halibut/sablefish IFQ loans).

The annual demand for halibut/sablefish IFQ loans has always exceeded the annual ceilings available for this purpose, and we have each year had to put applicants on waiting lists.

MSA 304(d) provides that up to 25% of a fishery's IFQ fees may be reserved for the purpose of funding any positive FCRA cost associated with annual IFQ loan ceilings in that fishery. The Sustainable Fisheries Act directed that the full 25% of the halibut/sablefish IFQ fee be reserved for this purpose. Some \$0.8 million has so far been reserved for this purpose, but Congress has thus far appropriated none of it as the positive FCRA cost of annual IFQ loan ceilings in the halibut/sablefish fishery (relying instead on appropriating small amounts of positive FCRA cost from other sources). Appropriating these reserved funds as positive FCRA cost supporting annual ceilings for halibut/sablefish IFQ loans could result in much higher annual ceilings for these loans in years to come.

### **(3) Loan Costs.**

The interest rate for all FFP loans is 2% higher than the U.S. Treasury's borrowing cost for similar maturities. We have made most halibut/sablefish IFQ loans thus far with 20-year maturities (although FFP maturities can be as high as 25 years). There are no prepayment penalties. There is a 0.5% application fee.

Rates 2% above the U.S. Treasury's cost of borrowing are, comparatively, very reasonable for long-term fisheries loans

collateralized by fishing permits.

**(4) Small Boat Versus Entry-Level Fishermen.** MSA section 304(d) limits IFQ loans to fishermen who fish from small vessels and to entry-level fishermen. Ordinarily, a Council's request for an IFQ loan program in any fishery would recommend the definition of these terms in the IFQ loan program for that fishery. In the case of the halibut/sablefish fishery only, however, the Sustainable Fisheries Act itself defined these terms, approximately as follows.

(a) Small-boat Fishermen. Anyone who:

- (i) Owns less than 50,000 pounds of quota in the year in which he applies for a loan,
- (ii) Will participate aboard the vessel harvesting the quota,
- (iii) Has had at least 150 days experience working as part of the harvesting crew of any U.S. fishing vessel, and
- (iv) Does not own in whole or in part any Category A or Category B vessel; and

(b) Entry-level Fishermen. Anyone who:

- (i) Does not own any quota,
- (ii) Wishes to buy not more than 8,000 pounds of quota in the year in which he applies for a loan, and
- (iii) Will participate aboard the vessel harvesting the quota.

IFQ applicants, as long as they meet the requirements of however these terms might be particularly defined in any IFQ loan program fishery, can be either skippers or crewmen. Nevertheless, under MSA 304(d) as it presently exists, skippers eligible to apply for IFQ loans would presumably be limited to the skippers of "small vessels" (however that term might be defined in any particular IFQ loan program fishery).

Congress would presumably have to amend MSA 304(d) before any IFQ program could lend to the skippers of "large vessels" or to crewmen who either already owned some quota share or were beyond the level of "entry-level fishermen". Such an amendment would

almost certainly be required if the intention in a post IFQ crab fishery were that an IFQ loan program be available to all skippers in the fleet (rather than just to the skippers of "small vessels") and to all non-skipper crewmen (rather than just to "entry level" ones who owned no quota).

The halibut-sablefish IFQ program does not maintain data that readily allows distinguishing loans between skippers and crewmen.

Most IFQ borrowers have, however, probably been crewmen rather than skippers, and borrowers who are skippers would have to be "small boat" skippers.

**(5) Eligibility Requirements.** Beyond the eligibility requirements of however any particular IFQ loan program might define the terms "small boat fishermen" and "entry-level fishermen", there are relatively few eligibility requirements. Basically, applicants must:

(a) Be U.S. citizens,

(b) Be eligible, under a fishery's FMP, to purchase and own quota,

(c) Have a downpayment equal to 20% of the quota to be purchased with loan proceeds,

(d) Pledge the quota shares purchased with loan proceeds as loan collateral, and

(d) Demonstrate to our satisfaction that their character, credit capacity, collateral and related credit factors are sufficient to repay the loans.

In the halibut/sablefish fishery, we have generally limited loan collateral to the quota purchased with loan proceeds.

**(6) Our Experience in the Halibut/Sablefish IFQ Program.** We have found most applicants to be better than average credit risks (some are exceptionally good credit risks). After four years, not a single IFQ loan has defaulted. Most applicants are able to service their IFQ loan debts (despite, in almost all cases, other sources of cash flow) solely from the additional cash-flow resulting from the quota they purchase with their loan proceeds.

Most halibut/sablefish IFQ loan program applicants appear to be hard working, thrifty, and responsible citizens.

The major long-term risk in an IFQ loan program is post-loan



fishery experience that causes quota share and fishing permits to decrease in value. This risk is, however, little different than the risks associated with any other type of fisheries loan.

**(7) What Would the North Pacific Fishery Management Council Have To Do to Develop an IFQ Loan Program for Skippers and Crewmen in the BSAI Crab Fishery?**

(a) First, implement an IFQ program in the crab fishery,

(b) Second (if the intent is to let skippers and crewmen buy quota share), implement an FMP that makes skippers and crewmen, under whatever conditions might be most appropriate in this fishery, eligible to purchase and hold crab quota share from those to whom it is originally issued.

(b) Afterwards, request that we implement an IFQ loan program in this fishery (which includes recommending the definitions for "small-boat fishermen" and "entry-level fishermen" and the percentage of crab IFQ fees that are to be reserved to fund the positive FCRA cost, if any, of crab IFQ loans).

The Congress would, of course, then have to authorize annual loan ceilings for IFQ loans in the BSAI crab fishery.

As noted in item No. (4) above, however, Congress might first have to amend MSA 304(d) if the intent in the BSAI crab fishery is to make IFQ loans available to all skippers and all crewmen (rather than just to skippers on small vessels and crewmen who either work on small or are entry-level fishery who don't otherwise own any quota).

Michael Grable  
NMFS, Fisheries Financial Services  
Washington, D.C.

## ATTACHMENT NO. 1

Halibut and Sablefish IFQ Loans, Fiscal Years 1998 through 2001			
State	Number	LOANS	
		TOTAL \$	AVERAGE \$
AK	90	\$9,641,512	\$107,128
AZ	1	\$185,000	\$185,000
CA	1	\$260,000	\$260,000
GA	3	\$542,871	\$180,957
ID	3	\$379,564	\$126,521
MI	1	\$61,500	\$61,500
NV	1	\$200,000	\$200,000
OR	9	\$1,042,291	\$115,810
UT	2	\$276,808	\$138,404
VA	1	\$170,363	\$170,363
WA	42	\$5,824,991	\$138,690
WI	1	\$65,089	\$65,089
Total	155	\$18,649,990	\$120,323



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## Recommendations for Changes in the Crab Rationalization Analysis February 2002

### 1. AMCC's recommendations reflecting comments made by the SSC:

- **The SSC requested more discussion on the environmental impacts.** AMCC recommends that the document specifically include the following:
  - Add as much information from the biological and affected environment sections of the crab EIS (now underway) as possible.
  - *Establish* → ~~List~~ clear conservation goals. These would include 1) management objectives (such as minimizing bycatch and preventing highgrading) and 2) facilitating progress toward rebuilding (such as achieving abundance thresholds, exceeding overfished levels, achieving rebuilt levels and timeframes for rebuilding as applicable).
  - Relate the discussion on the how the different components of rationalization will contribute to achieving conservation goals.
  - Add evaluation of conservation objectives to Section 3.10.3 "Program Duration and Review." This would include progress toward rebuilding, directed fisheries bycatch reduction, and highgrading.
- **The SSC recommends that the problem statement needs further development to explicitly describe the problems and concerns for processors and communities that should be addressed through rationalization.** This would provide a better basis for evaluating and comparing the alternatives.
- **The SSC identified the need for more economic information.** They say in very strong terms that reporting of more socio-economic information is "mandatory" to "determine the magnitude and distribution of net benefits." The SSC lists specific information gaps in their minutes.

### 2. Processor Elements

AMCC does not favor the two-pie system because of the controlling effects that processor quota would have on independent fishermen and, in our view, coastal communities.

(over)

Having said that, we absolutely appreciate the importance of processors to communities and the symbiotic relationship between processors and harvesters. We recognize the economic consequences of racing for fish – or in some cases, racing for history – in an open access system.

**We recommend the analysis include an additional option to achieve benefits for the processing sector during this transition to rationalization:**

- Add an option for a one-time buy out of stranded capital or surplus processing equipment that would not be needed under a slower, rationalized fishery. Economic relief combined with regionalization of deliveries may provide appropriate compensation and stabilization to the processing sector and communities.

### **3. Public Policy**

Our concerns extend beyond crab rationalization. It seems obvious to us that whatever system is approved for Bering Sea crab will become the template for Gulf groundfish rationalization. This decision has public policy implications that extend well beyond the crab fishery and so we ask the Council to consider the bigger picture at this stage.

**NORTH PACIFIC COUNCIL COMMENTS - FEBRUARY 2002**  
**BSAI CRAB RATIONALIZATION**  
 by Linda Kozak

The Council is requested to send a letter to National Marine Fisheries Service asking that the RAM initial administrative determination process and the office of Administrative Appeals work diligently and quickly to complete the process of reviewing and ruling on the applications and appeals for interim crab licenses and endorsements.

It is important to recognize the potential issue of non-qualified LLP holders or those with non-qualified endorsements to later attempt to gain credit for catch history with a license or endorsement that is later determined to be non-eligible. The Council is requested to use the base of the moratorium, LLP and Amendment 10 (recent landing requirements) in order to establish the eligibility criteria in Sections 1.2 and 1.4. By approving Option 1 in both of these sections, the Council will remain consistent with earlier eligibility determinations for access to the BSAI crab fisheries.

**TABLE 2.2-1 - LLP Licenses in the BSAI Crab Fisheries:**

	<b>Endorsements</b>			
<b>Area</b>	<b>Total</b>	<b>Non-Interim</b>	<b>Interim</b>	<b>Interim %</b>
AI brown king	41	27	14	34%
AI red king	46	24	22	47%
Opilio/bairdi	353	260	93	35%
BB red king	349	260	89	25%
Norton Sound	64	59	5	7%
Pribilof	158	110	48	30%
St. Matthew	213	154	59	27%
	<b>TOTAL</b>	<b>894</b>	<b>330</b>	<b>37%</b>

**Council Testimony**  
**Duncan Fields - GOAC<sup>3</sup>**  
**Bering Sea Crab Rationalization (C-5)**

Mr. Chairman, members of the Council:

My name is Duncan Fields and I'm representing the Gulf of Alaska Coastal Communities Coalition. I will be addressing two issues regarding Bering Sea Crab Rationalization.

**First:** I request that you consider, for the analysis, the Owner on Board provisions outlined on page 8 of the AP report. The communities I represent believe that it is important for the Council to consider entry opportunities for new entrants to these fisheries and owner on board requirements may serve as a catalyst for the availability of harvester quota shares.

The Owner on Board provisions would provide the Council with the option to maintain the current proportionality between owners that fish their vessels and absentee owners. The proposal has five components.

1. Catcher quota shares would be issued with a percentage (range of 15-50%) identified as "Owner on Board".
2. All initial issues of harvester quota shares would be "grand fathered" into the fishery and would not be required to be aboard the vessel when their "owner on board" quota shares are fished.
3. Initial issues that purchase "owner on board" quota shares in the first (3-7) years of the program would not be required to be aboard the vessel when these "owner on board" quota shares are fished.
4. Exceptions to "owner on board" requirements would be available for hardship situations.
5. Shares initially issued to CDQ groups are exempt from "owner on board" requirements.

We believe the "owner on board" provisions merit analysis to see if they could enhance safety, resource conservation, crew protections and access to the fishery.

**Second:** The second issue is an alternative approach for protecting the communities of St. Paul and St. George from the possible effects of rationalization. Currently the Council only has the regionalization option to consider. Our communities are concerned that regional crab landing requirements, in perpetuity, may result in unexpected and unintended consequences to fishermen and processors as well as Gulf of Alaska communities. We would suggest an alternative that looks at economic compensation rather than a landing requirement.

Perhaps, under item 9 on page 27, the council could consider suboptions that would issue harvester quota shares to the Pribilof communities in a one pie system and harvester quota shares and processor quota shares to the Pribilof communities in a two pie system. I would suggest a range of 1-5%. The idea would be to issue the communities an amount of shares that approximates the differential between processing and harvesting costs in the Pribilofs and costs in other communities.

For example, if a catcher vessel would normally deliver in Dutch Harbor, what would be enough of an economic incentive to deliver in St. Paul? Some fishermen have suggested that 10 cents per pound above the Dutch Harbor price would be persuasive. Assuming a \$2.00 per pound price, the 10 cents would be 5% of the exvessel value. If St. Paul has 40% market share it would need an allocation of 2% of the quota shares. to approximate the differential costs and attract crab vessels to the community.

Thank you for your consideration of our suggestions.

Snyder

The following table shows the GHL and Catch in the Western Aleutian Islands (Adak) golden king crab fisheries. Prior to the 1996-1997 season, the fisheries were managed through monitoring inseason harvests rather than with a specified GHL. This management prevents any determination of a specified percent of the fishery that was unused in those years. In the 2000-2001 season, catch exceeded the GHL so no unharvested crab were left on the table. In 1999-2000 season, approximately 99 percent of the GHL was harvested. state managers believe that the small amount of excess crab that year is insufficient to make a separate allocation. In the 1998-1999 season, only 62 percent of the allocation was harvested leaving slightly more than 1 million pounds on the table. In both the 1996-1997 and the 1997-1998 seasons, approximately 89 percent of the GHL was harvested.

Table \_\_\_: GHL and Catch from the Aleutian Islands Golden King Crab Fisheries from 1996-1997 to 2000-2001 (in thousands of pounds).

Season	GHL	Catch	Unharvested GHL	Percent Unharvested
1996-1997	2,700	2,404	296	11.0
1997-1998	2,700	2,406	294	11.0
1998-1999	2,700	1,670	1,030	38.1
1999-2000	2,700	2,663	37	1.4
2000-2001	2,700	2,903	0	0



Table 4-4. (Page 3 of 3)

Season	Locale	Number of			Harvest <sup>b,c</sup>	Number of Pots		CPUE <sup>d</sup>	Average		Deadloss <sup>e</sup>
		Vessels <sup>a</sup>	Landings	Crabs <sup>b</sup>		Registered	Lifted		Weight <sup>c</sup>	Carapace length <sup>e</sup>	
1997/98	East of 174° W.	13	74	780,609	3,501,054	10,100	106,403	7	4.5		131,480
	West of 174° W.	8	160	569,550	2,444,628	4,690	86,811	7	4.3		79,525
	<b>TOTAL</b>	<b>15</b>	<b>234</b>	<b>1,350,159</b>	<b>5,945,682</b>	<b>10,100</b>	<b>193,214</b>	<b>7</b>	<b>4.4</b>	<b>147</b>	<b>211,005</b>
1998/99	East of 174° W.	14	55	740,011	3,247,863	8,365	83,378	9	4.4		82,113
	West of 174° W.	3	44	409,531	1,691,385	1,930	35,920	12	4.1		21,218
	<b>TOTAL</b>	<b>16</b>	<b>99</b>	<b>1,149,542</b>	<b>4,939,248</b>	<b>10,295</b>	<b>119,298</b>	<b>10</b>	<b>4.3</b>	<b>147</b>	<b>103,331</b>
1999/00	East of 174° W.	16	60	709,332	3,069,886	9,514	79,129	9	4.3	147	67,574
	West of 174° W.	15	113	676,558	2,768,902	10,564	101,040	7	4.1	147	104,675
	<b>TOTAL</b>	<b>17</b>	<b>173</b>	<b>1,385,890</b>	<b>5,838,788</b>	<b>20,078</b>	<b>180,169</b>	<b>8</b>	<b>4.2</b>	<b>147</b>	<b>172,249</b>

<sup>a</sup>Many vessels fished both east and west of 174W, thus total number of vessels reflects registrations for entire Aleutian Islands.

<sup>b</sup>Deadloss included.

<sup>c</sup>In pounds.

<sup>d</sup>Number of legal crabs per pot lift.

<sup>e</sup>In millimeters.

Table 4-4. (Page 2 of 3)

Season	Locale	Number of		Harvest <sup>b,c</sup>	Number of Pots		CPUE <sup>d</sup>	Average			
		Vessels <sup>a</sup>	Landings		Crabs <sup>b</sup>	Registered		Lifted	Weight <sup>c</sup>	Carapace length <sup>e</sup>	Deadloss <sup>c</sup>
1989/90	East of 171° W.	13	70	424,067	1,852,249	5,635	43,345	10	4.4	151	17,421
	West of 171° W.	64	505	2,520,786	10,162,400	14,724	324,153	8	4.0	149	100,724
	<b>TOTAL</b>		<b>575</b>	<b>2,944,853</b>	<b>12,014,649</b>	<b>20,359</b>	<b>367,498</b>	<b>8</b>	<b>4.1</b>		<b>118,145</b>
1990/91	East of 171° W.	16	58	384,885	1,718,848	5,225	54,618	7	4.3	148	42,800
	West of 171° W.	13	167	1,312,116	5,250,687	7,380	160,960	8	4.0	145	176,583
	<b>TOTAL</b>	<b>24</b>	<b>235</b>	<b>1,697,001</b>	<b>6,969,535</b>	<b>12,605</b>	<b>214,578</b>	<b>8</b>	<b>4.1</b>		<b>219,383</b>
1991/92	East of 171° W.	11	50	335,647	1,447,732	3,760	40,604	8	4.3	148	45,100
	West of 171° W.	16	206	1,511,751	6,254,409	7,635	192,949	8	4.1	145	96,848
	<b>TOTAL</b>	<b>20</b>	<b>256</b>	<b>1,847,398</b>	<b>7,702,141</b>	<b>11,395</b>	<b>233,553</b>	<b>8</b>	<b>4.2</b>		<b>141,948</b>
1992/93	East of 171° W.	10	44	330,159	1,375,048	4,222	37,718	9	4.1	148	37,200
	West of 171° W.	18	130	1,198,169	4,916,149	8,236	165,503	7	4.1	147	104,215
	<b>TOTAL</b>	<b>22</b>	<b>174</b>	<b>1,528,328</b>	<b>6,291,197</b>	<b>12,458</b>	<b>203,221</b>	<b>8</b>	<b>4.1</b>		<b>141,415</b>
1993/94	East of 171° W.	4	14	217,788	915,460	2,334	22,490	10	4.2	149	7,324
	West of 171° W.	21	147	1,102,541	4,635,683	11,970	212,164	5	4.2	148	165,358
	<b>TOTAL</b>	<b>21</b>	<b>161</b>	<b>1,320,329</b>	<b>5,551,143</b>	<b>14,304</b>	<b>234,654</b>	<b>6</b>	<b>4.2</b>		<b>172,682</b>
1994/95	East of 171° W.	14	45	384,353	1,750,267	7,378	67,537	6	4.6	148	29,908
	West of 171° W.	34	247	1,539,866	6,378,030	15,604	319,006	5	4.1	150	242,065
	<b>TOTAL</b>	<b>35</b>	<b>292</b>	<b>1,924,219</b>	<b>8,128,297</b>	<b>22,982</b>	<b>386,543</b>	<b>5</b>	<b>4.2</b>		<b>271,973</b>
1995/96	East of 171° W.	17	42	431,867	1,993,980	10,325	65,030	7	4.6	150	14,676
	West of 171° W.	25	139	1,134,274	4,896,926	14,213	226,463	5	4.2	147	338,223
	<b>TOTAL</b>	<b>28</b>	<b>181</b>	<b>1,566,141</b>	<b>6,890,906</b>	<b>24,538</b>	<b>291,493</b>	<b>5</b>	<b>4.4</b>		<b>352,899</b>
1996/97	East of 174° W.	14	70	725,452	3,262,516	NA	113,460	6	4.5		156,857
	West of 174° W.	13	100	618,498	2,591,720	NA	100,340	6	4.2		78,973
	<b>TOTAL</b>	<b>18</b>	<b>170</b>	<b>1,343,950</b>	<b>5,854,236</b>	<b>11,080</b>	<b>213,800</b>	<b>6</b>	<b>4.4</b>	<b>147</b>	<b>235,830</b>

-Continued-

*Suydam*

Table of Allocations of the Options for the most Recent Participation Taken from Analysis

Fishery	#Vessels	Mean%	Median%	Average of 4 Largest %
Bering Sea Opilio Option 4A 1996-2000 (Best 4)	249 Vessels	0.4%	0.4%	1.0%
Bristol Bay Red King Crab Option 3A 1996-2000 (Best 4)	256 Vessels	0.4%	0.4%	0.9%
St. Matthew Blue King Option 2B 1994-1998 (Drop 1)	139 Vessels	0.7%	0.7%	1.5%
Pribilof Red King Option 2B 1994-1998 (Drop1)	109 Vessels	0.9%	0.6%	5.0%
Pribilof Blue King Option 1A 1993-1998 (Best 4)	84 Vessels	1.2%	0.8%	4.9%
Bering Sea Bairdi Option 2A 1991-1996 (Best 5)	269 Vessels	0.4%	0.4%	1.1%
Eastern AI Golden King Option 4A 1996/97-2000/01 (Best 4)	15 Vessels	8.3%	7.4%	15.4%
Western AI Golden King Option 4A 1996/97-2000/01 (Best4)	11 Vessels	8.3%	6.3%	16.9%

For the Opilio, Red King Crab, Bairdi, St. Matthew Fisheries the highest Allocation slightly exceed 1%

For the Eastern and Western Golden King Fisheries the highest Allocation ranges to 42%

Suydam

## Problem of Excessive Shares in The Brown Crab Fishery

My name is Kevin Suydam, owner of the Crab vessel "Lady Alaska". I have invested in excess of \$500,000 in equipment and gear, which is for Brown Crab use exclusively. This was at a time of annual un-harvested Quota and having the least number of participants since the start of the Fishery. After reviewing the Crab Rationalization Analysis Paper by staff, it appears that there is little difference to which option of years for Brown Crab Fishery are used; as the problem remains the same. The problem is the huge windfall of awarding excessive Quota Shares to a select few vessel owners, which is exaggerated by not recognizing recent participation. As an example, there are approximately 250 vessels in the Opilio and Red Crab Fisheries with the highest shares of 1%; and approximately 20 vessels in the Brown Crab Fishery, some of which have top shares between 15%-40%.

From the start, it was debatable whether the NPFMC Council should include Brown Crab. Essentially we are trying to rationalize the Brown Crab Fishery years ahead of its time. The Brown Crab Fishery is the youngest, only starting in 1981, which is approximately 30 years after the Red King Crab Fishery had started in 1953. It is easy to see that Brown Crab was still evolving with seasons continuing year-round and Quotas left un-harvested. Yet here we are trying to use options of years of under-utilization, and are years in which there were the fewest number of participants since the start of the Brown Crab Fishery. For example there had been at one time in excess of 100 vessels, and as recent as 1995 there were only 35 vessels. Within the years 96-2000 there are between 17 and 18 participating vessels.

Contributing to the excessive share problem, are inequities between vessels as there were no pot limits in the Brown Crab Fishery. We have pot limits in the Opilio and Red Crab fisheries, yet no pot limits for the Brown Crab Fishery. Because of no pot limits in Brown Crab, some vessels have had a huge advantage over other vessels and have dominated productive fishing grounds by keeping out competitive vessels. These vessels with large amounts of pots they are able to retain possession of their historically established fishing grounds, which typically are the most productive. Brown Crab has been a "Territorial Fishery" in which older participants have established their "Turf", resulting in harvesting better catches each season. The excessive share problem from no pot limit diminishes as you use the most recent history as other vessels have increased their gear and equipment.

Historically it is the tendency of North Pacific Fisheries Management Council to take measures to reduce overfishing by limiting participation. The Brown Crab Fishery is an anomaly because we have the opposite problem in that there are not enough participants, compounded with having no pot limits. It is important that the Council should not restrict any participating vessel in Brown Crab and further create larger excessive shares. The years for Analysis proposed thus far for Brown Crab encompasses the least number of participants in this very short history of Brown Crab, which was still evolving to full utilization. Therefore it appears the Council would need to take the opposite approach from being restrictive, to being lenient and include any current participating vessels by recognizing for face value each vessel's full potential to harvest Brown Crab.

National Standards of the Magnuson Stevens Act call for Fishery Management Plans to be implemented having Optimum Yields. Using the years where Optimum Yield in the Brown Crab Fishery was not met, does not conform to the intent of National Standard #1. National Standard #4 calls for avoidance of excessive shares. This is a huge problem within the Brown Crab Fishery that warrants flexibility for Vessels like mine. NEPA Guidelines require, as well as NOAA General Counsel statements; that we consider use of years through Final Action. Therefore we need new options for Brown Crab qualification years to be introduced. These should focus on the most recent years up through final action in the Brown Crab Fishery. It should also require that most of the weight if not all, be put on those years in which the Brown Crab Quota was fully taken with season closure.

Therefore my request for Analysis is option of years in the Brown Crab Fishery is:

Add the option: 1996 up to final action with allowance to drop a year.

Add sub-option of: A LLP qualified vessel that entered the fishery prior to full-utilization will have its' history start from date of first participation to final action..

Comment: In response to the question of above sub-option, "will this disadvantage older participants?"

Response: I've asked various Council members the question of why is the Brown Crab Fishery included in the Rationalization process. I've been told that Brown Crab as a stand alone Fishery would not be rationalized. Thus we are rationalizing it ahead of its time. Therefore the real answer to the question above is ironic; as my vessel the "Lady Alaska" is disadvantaged, because other vessels are allowed to reach back in the period of the least participation/competition to use years that did not reach full-utilization.

Thank you for your time and attention, Kevin Suydam

## NPFMC reality check on the ability of ITQ programs to compensate resource failures.

Gordon Blue

February 10, 2002.

An important function of the public input to the considerations of the NPFMC is to provide a reality check on the theoretic considerations of the Council. The industry Advisory Panel is, of course, a primary resource for this function. This becomes particularly important when the action contemplated includes elements with a great deal of uncertainty, or novelty. In the present case of the BSAI crab fisheries rationalization program, there is more belief, than critical thinking, about the degree of benefits which can be expected. Enthusiasm for the BSAI crab ITQ has distorted the expectations of present benefits.

It is helpful to the discussion of program costs and benefits to adopt a division of expected benefits into categories. These are as follows:

1. Safety improvements - elements which promote the safety of life at sea. This category is of primary benefit to harvesters.
2. Resource improvements - elements which act to promote the rebuilding of overfished or depressed stocks, and sustainable fisheries. This category is of benefit to communities, processors and harvesters. Stock rebuilding has little or no distributional effect between these sectors.
3. Efficiency improvements - elements which promote increased efficiency. This category has been the focus of most of the discussion, and has the greatest cost/benefit allocation impact between sectors. The importance of this element is leveraged by the potential of future stock rebuilding.

*The benefits available in category three efficiency improvements are not sufficient to compensate the losses of category two resource failures in these fisheries.*

A spreadsheet analysis has been prepared for further review by staff, and it is requested that the NPFMC provide for consideration of this approach, and insertion of the results in the appropriate places within the analytic package. Data for the spreadsheet has been taken from three places:

The crab industry buyback committee reviewed and adopted data for a 'typical' BSAI crab vessel operation, incorporating fixed and variable costs, together with incremental costs necessary to increase production, in an operating model. A 'typical' vessel is one which is capable of producing mean revenues over an extended period. A 'typical' vessel has a BSAI tanner crab and a Bristol bay king crab endorsement, but no Aleutian Islands brown crab endorsement. Fishery closures make the specific suites of further endorsements, irrelevant to the present case.

Crab Rationalization draft alternatives appendix 2-1, figures 2-1-1 (opilio) and 2-1-2 (BBKC) provide necessary catch, vessel and revenue data.

Crab rationalization draft analysis, Harvester allocations, pp. 153-4 provides basic allocation data.

Between 1998 and 2000, typical vessel revenue decreased by 88% in the opilio fishery, and 47% in the Bristol bay king crab fishery. The typical vessel revenue in 2000, net of fixed and variable costs, lost \$202,000. This compares to a net gain of \$69,000 in 1998. Capital costs or tax effects are not included, of course.

After establishing an ITQ program, but without taking any measures to mitigate program effects, and without transfer or other consolidation of quota, the typical vessel loses \$294,000. It is doubtful that the efficiency gains for a single vessel will exceed the \$92,000 cost of allocation.

In order to achieve efficiencies commensurate with the resource losses between 1998 and 2000, consolidation of effort through transfer of quota shares is required. This consolidation is of a relatively high order. A 35% royalty rate, for quota share allocated in the typical case, returns net revenues comparable to those available in 1998, for vessels idled. A typical vessel electing to fish will return only \$3,472 net revenue (less than that of the vessels not fishing) after payment of the additional incremental and royalty costs necessary to capture the catch of three additional vessels. Higher royalties necessitate even greater consolidation.

It is only after four vessels are idled, that the fishing vessel shows a return above that of the vessels not fishing - and in this instance, return for the activity is only \$30,000 greater than not fishing. To achieve this, the fleet must be consolidated to 50 vessels. This certainly has implications for the distribution of market share, both among processors, and regions.

Assume that this were allowed, and that it were decided that the "benefit" of the program is to be defined as the increased revenues generated by the efficiency gains of the program. Also assume that "pareto safety" is to be observed, and that this benefit is shared equally:

1/3 to Communities

1/3 to Processors

1/3 to Harvesters.

However this is accomplished, by two-pie or not, it must be accompanied by a mechanism to force more than \$15,000 of actual losses on each vessel. This certainly leaves the vessels better off than the status-quo losses of more than \$200,000/vessel. The resolution would imply even further consolidation of vessels, to fewer than 40, for the vessel sector to operate at no loss.

Clearly, alternative mechanisms are required to provide for compensation of the losses due to resource collapse, and the "sharing of rents" from the efficiency gains of the ITQ program must be analyzed separately from these resource losses. The specifics of these alternatives must be tailored to the circumstances of the affected sector. The implications of the resource collapse for communities may well be subsidies or cash assistance, for the interim. The degree of impact upon the processing industry is related to the surplus of capital stranded in processing platforms that are now standing idle - before any rationalization program has begun.

For the harvester sector, the \$100,000,000 industry-funded buyback accompanied by a further consolidation of effort brought about by the ITQ program, would be sufficient. Assume that the program brings about the retirement of 80 'typical' vessels and their associated quota share, resulting in an opilio fleet of 170 vessels, and a king crab fleet of 190. A section of the model based in part upon net present value of anticipated cash flows from ITQ leasing shows that this is not an unreasonable number, and that the number of typical vessel units retired may well exceed this. The result of this initial consolidation, net of all buyback program costs, is that additional fleet consolidation of 1.5 vessels idle for each vessel fishing would result in ex-vessel revenues at 1998 levels, and a fleet of around 100 vessels fishing will operate without losses.

# F/V ERLA-N

*Alan Bing Henkel - Owner/Operator*

David Benton  
Chairman,  
North Pacific Fisheries Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, Alaska 99501-2817

February 6,th 2001

Re: Aleutian Island Brown Crab Rationalization

Dear Mr. Benton

I am writing this letter for the owners of 13 of the 21 vessels who participate in the Aleutian Island brown crab fishery. See back of page. Most of our vessels have long histories in the fishery and have had substantial investments in recent years to strengthen their crab catching capabilities. The Aleutian Island brown crab fishery is critical to our economic viability.

This letter is to request that the council base each vessels initial allocation of quota share upon "more recent participation" in the fishery

We ask that council include as qualifying years the years up to the time the council has made final action. Assuming completion of the councils work is finished this year, we request the council uses Sec.1.4.2.7 Option (5) 1996-1997 through 2001-2002 seasons as qualifying years for quota shares in the Aleutian Island brown crab fishery. With these years as qualifying years, the distribution of quota share will spread among more vessels and there will be a reduced chance that a few will receive windfall allocations.

The Aleutian Island brown crab fishery is a well managed and sustainable fishery. We do not have the same set of problems associated with the other crab fisheries therefore it is not as critical to further reduce the small number of vessels that participate.

For reasons of safety and economy, our vessels have had very little participation in the western region. Forced participation there, would greatly alter our historical fishing practices. For this reason, we also ask that the Aleutian Island brown crab quota shares be awarded for the region in which a vessel has historically fished. Sec. 1.4.2.7 Suboption (B)

In making these requests, we share your goal that the process will ultimately developed for crab rationization will be fair to all concerned parties.

Sincerely,



Bing Henkel



List of vessels in our group that participate in the Aleutian Island Brown crab fishery.

- F/V Alaska Sea, Owner - Ozzie Nordheim
- F/V Andronica, Owner - Gary Howe
- F/V Arctic Dawn, Owner – Olie Helgevold
- F/V Aleutian No. 1, Owner – Jostein Karlsen, Bill Peterson
- F/V Ballyhoo, Owner - John Sjong
- F/V Early Dawn, Owner – Rick Mezich
- F/V Erla-N, Owner - Bing Henkel
- F/V Lady Alaska, Owner – Kevin Suydam
- F/V Pacific Star, Owner – Teresa Hjele
- F/V Shishaldin, Owner – John Sjong
- F/V Western Viking, Owner – Gordon Rush
- F/V Sea Venture, Owner- Dan Gunn
- F/V Aleutian Spray, Owner- Chris Knutsen

Gary Painter  
C-5

## Costs and Benefits of an ITQ/Co-op system

### Costs

1. TAC vs. GHL (What might be done to adopt the upper range of the GHL for the TAC?)	10%
2. CDQ% of GHL	5%
3. Skipper allocation	10%
4. GHL lost to boats returning from Russia	7%
5. Management tax of 3% ends up costing	4.5%
<b>Total</b>	<b>36.5%</b>

### Costs that are difficult to quantify.

1. Processor ownership of harvester fishing rights.
2. Regionalization. Can we build something into the system that guarantees fair charges?
3. Cash buyers' market access. **Now: 100%; After: 0-20%**
4. Cost of oligopolies in boats & processors. (Because of crab rationalization and AFA.)
5. Recency – Any years used for history later than 1999 could skew the results against those who fished in a more open Opie fishery.

### Benefits (All difficult to quantify.)

1. Cost saving from fishing when it is optimal for the individual as compared with current system.
2. No fishery closures due to unmanageability. (Threshold)
3. Reduction in lost gear.
4. Improved safety.
5. Longer pot soaks; reduced crab handling.
6. Increased profit (By those who are left.) from leasing or stacking.
7. Long term security.
8. IFQ asset value.

**An individual boat that stays in the crab fisheries may increase its gross by 20% or so. This doesn't appear to pay the freight.**

Draft January 25, 2002

Tom Casey  
C-5

## Probable Costs of Crab Rationalization

	Status Quo	ITQ's/ Coops	Initials
1. GHL overage	+10-60%	+0%	_____
2. CDQ% of GHL	7.5%	10-15%	_____
3. Skipper % of initial allocation	0%	5-10%	_____
4. Russian boats % of GHL	0%	5-9%	_____
5. Guaranteed processor ownership of crab fishing rights	0%	20%	_____
6. Regionalization costs	voluntary	45-55 %	_____
7. Cash buyers' market access	100%	0-20%	_____
8. Oligopoly risk	Low	High to Very High	_____
9. AFA crossovers' % ownership of fishing history	1-12%	approx. 25% (if 1% cap)	_____
10. New management tax (on Gross \$)	0%	2-3%	_____
11. Buyback tax	3%	3%	_____

12. A:B value ratio

\_\_\_\_\_

*Draft January 25, 2002*

# Probable Benefits of Crab Rationalization

		Status Quo	ITQ's/Coops	Initials
1.	% GHL guarantee	0%	.5%-1.5%	_____
2.	Cost savings from leasing	0%	50-100%	_____
3.	Buyback GHL share increase	10-20%	10-20%	_____
4.	Lost crab pots @ \$750	More	Less	_____
5.	<i>Enhanced Vessel Safety</i>	?	?	_____

## Verdict

Rationalize \_\_\_\_\_

Preserve status quo \_\_\_\_\_

Sub. by Frank Kelty



Alaska Peninsula ♦ Aleutian Chain ♦ Bristol Bay ♦ Kodiak Island ♦ Pribilof Islands

February 6, 2002

David Benton, Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501

Subject: Rationalization of the Bering Sea/Aleutian Island Crab Fisheries

Dear Chairman Benton:

Attached is a copy of Resolution No. 02-06, supporting rationalization of the Bering Sea/Aleutian Island crab fisheries, that was adopted by the Southwest Alaska Municipal Conference (SWAMC) Board of Directors at our annual membership meeting on February 2, 2002.

SWAMC is a nonprofit, membership-based organization that advances and promotes long-term responsible development and the creation of job and other economic opportunities for the betterment of southwest Alaska, including its people, business, and communities. SWAMC was designated as an Alaska Regional Development Organization (ARDOR) in 1989 and received Federal designation as an Economic Development District (EDD) in 1994. SWAMC currently has approximately 130 members, including municipal and tribal governments, regional and village Native corporations and associations, businesses, nonprofit corporations, state and Federal agencies, and others.

The SWAMC service area encompasses approximately 62,000 square miles and includes the Alaska Peninsula, Bristol Bay, Kodiak Island, and Aleutian and Pribilof Island regions. The SWAMC region includes 54 communities with a combined population of 30,000 residents, of whom approximately 50 percent are Alaska Native. The communities located within the SWAMC region are dependent upon commercial fishing and support activities throughout the Gulf of Alaska and Bering Sea. The economic importance of the fishing industry to its coastal communities in the form of locally generated fish, sales, and property taxes and State of Alaska shared fish taxes, as well as the economic importance of the fisheries support sectors cannot be overstated.

*The Southwest Alaska Municipal Conference is a regional membership organization that advances the collective interests of Southwest Alaska people, business and communities.*

---

**Southwest Alaska Municipal Conference (SWAMC)**  
♦ 3300 Arctic Boulevard, Suite 203 ♦ Anchorage, AK 99503 ♦  
(ph) 907-562-7380 ♦ (fx) 907-562-0438 ♦ [www.swamc.org](http://www.swamc.org)

Letter to Chairman Benton  
February 6, 2002  
Page 2

Southwest Alaska Municipal Conference supports the rationalization of crab fisheries of the Bering Sea-Aleutian Islands as a way to address high levels of overcapacity, economic instability, the "race for fish", restoration of crab stocks, industry consolidation, continued participation of fishery dependant communities, safety concerns, and to the maximum extent possible maintain the economic and social well being of fishery dependent communities in southwest Alaska. We respectfully urge the North Pacific Fishery Management Council to complete their analysis in a timely manner as this issue is of utmost importance to the crab industry of the Bering Sea and fishery dependent communities of the southwest Alaska region.

Thanks you for your continued efforts on this important issue to our region.

Sincerely,



Mark Earnest  
Executive Director

cc: SWAMC President Wayne Stevens and Members of the Board

**SOUTHWEST ALASKA MUNICIPAL CONFERENCE  
RESOLUTION NO. 02-06**

**A RESOLUTION OF THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE BOARD OF DIRECTORS SUPPORTING CRAB RATIONALIZATION FOR THE BERING SEA AND ALEUTIAN ISLAND CRAB FISHERIES**

**WHEREAS**, the purpose of crab rationalization is to assist an industry that is facing a severe downturn of crab stocks, high levels of overcapacity, industry-wide economic instability; and

**WHEREAS**, the situation warrants immediate relief to enable an alternative management solution to stop the "race for fish", encourage restoration of stocks, address safety concerns, and enable industry consolidation; and

**WHEREAS**, pursuant to the December 2000 omnibus appropriations bill, the United States Congress authorized provisions that direct the North Pacific Fishery Management Council to perform an analysis of crab rationalization options; and

**WHEREAS**, the North Pacific Fishery Management Council is on record supporting an overall rationalization process for the Bering Sea crab fisheries, including a crab vessel buyback program; and

**WHEREAS**, the Southwest Alaska Municipal Conference recognizes the need for crab rationalization and requests that historical crab deliveries and the economic importance of this industry to fishery dependent communities of southwest Alaska be addressed under any rationalization plan that is chosen.

**THEREFORE BE IT RESOLVED** that the Southwest Alaska Municipal Conference supports the rationalization of crab fisheries of the Bering Sea-Aleutian Islands as a way to address high levels of overcapacity, economic instability, the "race for fish", restoration of crab stocks, industry consolidation, continued participation of fishery dependant communities, safety concerns, and to the maximum extent possible maintain the economic and social well being of fishery dependent communities in southwest Alaska; and

**BE IT FURTHER RESOLVED** that the Southwest Alaska Municipal Conference urges the North Pacific Fishery Management Council to complete their analysis in a timely manner as this issue is of utmost importance to the crab industry of the Bering Sea and fishery dependant communities of the southwest Alaska region.

**PASSED AND ADOPTED** by a duly constituted quorum of the Southwest Alaska Municipal Conference Board of Directors this 2<sup>nd</sup> day of February 2002.

  
\_\_\_\_\_  
Wayne A. Stevens, President

  
\_\_\_\_\_  
Mark Earhest, Executive Director

**ALASKA MARKETING ASSOCIATION**  
**4917 LEARY WAY, SEATTLE, WA 98107**  
**206-784-8948**

NOT  
DIST  
No one  
appeared

February 5, 2002

To: David Benton, Chairman  
North Pacific Fisheries Management Council

Re: Crab rationalization

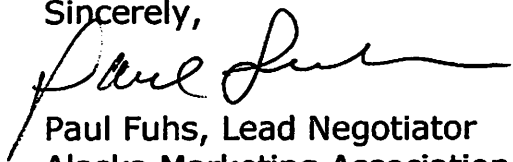
Dear Mr. Benton

Through this letter, the Alaska Marketing Association (AMA) which represents crab fishermen in price negotiations in the Bering Sea, is formally proposing the the Council include the attached price arbitration system in any crab rationalization programs. This mechanism is necessary to provide stability to the system and to ensure fair pricing to the fishermen under the two pie proposal.

While this would take federal legislation, it could be part of the legislation that would be necessary to establish a rationalization system. I would also refer you to the attached federal legislation which deals with some of the anti-trust issues. This would also be helpful in producing a more stable negotiating environment.

While the AMA does not endorse any particular rationalization proposal, we do believe that the proposed language on price arbitration should be included in any rationalization program.

Sincerely,

  
Paul Fuhs, Lead Negotiator  
Alaska Marketing Association



**DRAFT LANGUAGE FOR  
PRICE ARBITRATION AS AN INDEPENDENT SAFEGUARD FOR  
FAILED PRICE NEGOTIATIONS BETWEEN HARVESTERS  
AND PROCESSORS  
NPFMC BERING SEA/ALEUTIAN ISLANDS CRAB RATIONALIZATION  
PLAN**

(With Provision for Administrator of the Arbitration Panel)  
[12/28/2001]

**1. Parties.**

The parties to this Agreement are those crab fishing companies listed on Exhibit A hereto (the "Harvesters") and those crab processing companies listed on Exhibit B hereto (the "Processors") who shall have signed this Agreement as parties. (To be provided at a future date.)

**2. Establishment of the Price; Resolution of Disputes by Arbitration.**

The price to be paid by a Processor to a Harvester for each species and for each fishery ("Price") shall be set [no later than two weeks] [as soon as reasonably possible]<sup>1</sup> before the start of such fishery by good faith negotiations conducted by authorized representatives of the Harvester and the Processor, but if the parties shall fail to set a Price by [such date] [the start of such season]<sup>2</sup>, then either party may submit the issue of determination of the Price to binding arbitration before a single arbitrator. Either party may initiate the arbitration process by serving on the other party a demand for arbitration in writing, which shall include the name of a proposed arbitrator. Arbitration shall proceed before a single arbitrator selected by the parties (which arbitrator may be, but need not be, a member of the Arbitration Panel), but if the parties shall fail to agree on an arbitrator within five business days from the date of the service of a demand for arbitration, then either party may submit the issue of the selection of the arbitrator to the Administrator of the Arbitration Panel, described below. Promptly upon receipt of the submission of a party, the Administrator shall designate a single arbitrator from the Arbitration Panel to hear the dispute, and the arbitrator so selected shall promptly contact the parties to arrange a hearing.

**3. Hearing Procedure.**

The seat of arbitration shall be Seattle, unless the parties and the arbitrator agree otherwise. The arbitrator shall set the procedures for conducting the arbitration, consistent with the provisions of this Article. If the parties and the arbitrator agree, the arbitration may be conducted, in whole or in part, by electronic means, so long as each

---

<sup>1</sup> Should this be a time certain or a fuzzy suggestion of promptness?

<sup>2</sup> This date should be certain in order to make clear at what point a party may demand arbitration.

party shall be afforded the opportunity to present evidence in the form of documents and the testimony of witnesses and to present oral and written argument in support of its position. After each party shall have presented its case to the arbitrator, the arbitrator shall request from each party its last best offer ("LBO"), and each party shall then promptly deliver its LBO to the arbitrator and to the other party in writing in sealed envelopes. The arbitrator shall then retire to consider the evidence and arguments presented by the parties. No later than the end of the third business day after receipt of the parties' LBOs, the arbitrator shall pronounce the arbitral award, which shall be the same as one or the other of the LBOs submitted by the parties. The parties are free to negotiate a settlement between themselves at any time before pronouncement of the arbitral award. The arbitral award, once pronounced, shall be final and binding on the parties and may be confirmed and enforced by any court of competent jurisdiction. For this purpose, each party consents to the nonexclusive jurisdiction and venue of the Superior Court for King County, Washington, Seattle Case Assignment Area.

#### **4. Costs and Fees.**

Each party shall be responsible for its own costs incurred in connection with the arbitration, and the parties agree to pay the arbitrator's fee in equal shares. Notwithstanding the foregoing, should any party fail to participate in arbitration in good faith or fail to perform in accordance with the arbitral award, then the other party shall be entitled to an award of costs, arbitration fees and attorney's fees incurred as a result of the first party's failure to participate or to perform, including any such costs and fees incurred in enforcing the arbitral award.

#### **5. Arbitration Panel.**

##### **a. Representatives of the Parties.**

The Harvesters hereby designate the following person to serve as their initial representative:

\_\_\_\_\_

The Processors hereby designate the following person to serve as their initial representative:

\_\_\_\_\_

The Harvesters and the Processors, respectively, may replace their representative at any time upon the consent of no less than two-thirds of the Harvesters or Processors, as the case may be.

The representatives of the Harvesters and Processors are referred to herein as the "Representatives." The addresses of the Representatives, for notice purposes, are set forth on Exhibit C hereto.

**b. Selection of Administrator.**

Promptly after the execution of this Agreement, the Representatives shall select and retain a person to serve as the Administrator of the Arbitration Panel.

**c. Selection of Arbitration Panel.**

With the advice and consent of the Representatives, the Administrator shall recruit a panel of persons with relevant experience as an arbitrator of commercial disputes and having sufficient experience in the fishing industry (the Arbitration Panel). Each member of the Arbitration Panel shall commit to be available upon short notice at all relevant times to serve as arbitrator of price disputes between Harvesters and Processors, shall agree to expedite the process of arbitration, and shall agree to accept fees in accordance with the fee schedule set by the Administrator.

**d. Duties of the Administrator:**

(1) With the advice and consent of the Representatives, to select and maintain the Arbitration Panel with such number of qualified arbitrators as the Administrator shall deem sufficient for the purposes hereof.

(2) With the advice and consent of the Representatives, to develop a budget for the expenses of administering and maintaining the Arbitration Panel, to set an arbitration fee schedule to be followed by the members of the Arbitration Panel, to levy assessments upon the parties, as necessary and appropriate to fund the duties of the Administrator, and to establish procedures for the selection of arbitrators from the Arbitration Panel to conduct price arbitration for the parties who request the same.

(3) To receive submissions from the parties and to select arbitrators from the Arbitration Panel for parties who request an arbitrator, in accordance with the procedures established pursuant to subparagraph (2), above.

(4) To account for all revenues and expenditures related to the purposes hereof and to maintain books and records of account available at all times during normal business hours for inspection by any party hereto.

(5) To perform such other acts as the Administrator shall deem necessary and appropriate to accomplish the purposes hereof.

**e. Compensation and Retention of the Administrator.**

The Administrator shall be retained, on behalf of the parties hereto, by the Representatives, who shall set the compensation of the Administrator.<sup>3</sup> The Administrator shall serve at the pleasure of the Representatives, who shall act by unanimous consent in retaining, removing, replacing and setting compensation for the Administrator. In addition to such compensation, the Administrator shall be entitled to reimbursement for any expenditures incurred in accordance with the budget, or as may be otherwise approved by the Representatives. The Representatives shall serve without compensation, and shall look to the Harvesters and Processors, respectively, for reimbursement of expenses incurred in connection with their responsibilities hereunder.

**f. Assessments.**

Each party hereto agrees to pay promptly into an account maintained by the Administrator for such purpose the amount of \$\_\_\_\_\_ as an initial assessment to fund the duties of the Administrator in accordance with the budget. In addition, each party agrees promptly to pay any additional assessment levied by the Administrator after receiving the advice and consent of the Representatives for such assessment. In addition to assessments, the Administrator may fund the budget by deducting a portion of the arbitration fees paid by the parties, if such mechanism is deemed appropriate and consented to by the Representatives.

**6. Withdrawal of a Party.**

Any Party who is current in payment of assessments may withdraw from this Agreement by giving written notice to each other party and to the Administrator of intent to withdraw no later than three months before the end of any calendar year, which withdrawal shall be effective upon the first day of the next calendar year. A withdrawing party shall not be entitled to any refund of assessments paid. At any time, the remaining parties may agree to terminate this Agreement by a unanimous agreement in writing to terminate, in which case the Administrator shall settle all accounts and distribute any remaining funds to the parties in equal shares.

**7. Time of the Essence.**

Time is of the essence of this Agreement. Each party agrees to act and respond promptly to any and all requirements of the arbitration process as set forth herein and as set by any arbitrator hereunder. The Administrator shall secure a commitment from each member of the Arbitration Panel to act promptly in arbitrating any matter hereunder.

**8. Notices.**

All notices, demands, submissions and other communications required by or related to this Agreement shall be in writing and shall be effective when actually

---

<sup>3</sup> The position of the Administrator would be part time. The Administrator would probably be paid an hourly fee as an independent contractor. The Administrator could be a lawyer or arbitrator with experience in the fishing industry.

received, regardless of by what means transmitted, whether by mail, messenger, personal service, electronic means, or other means. All such communications shall be sent to the addresses set forth on the Exhibits to this Agreement, or to such address as may have been notified pursuant to this Article.

**9. Performance during Pendency of Arbitration.**

In the event that any parties hereto, having agreed to all of their respective obligations concerning the harvesting and processing of any species of crab for any season except for the Price to be paid by the Processor to the Harvester, notwithstanding the fact that the Price has not been set, if either of such parties shall submit the determination of the Price to arbitration hereunder, then both such parties shall proceed to perform their respective obligations to harvest and process crab under their contract during the pendency of the arbitration and shall settle the Price promptly upon the pronouncement of the arbitral award.

**10. Independent Parties.**

The parties to this Agreement are independent parties and no party has the authority to bind any other party except through the actions of the Representatives as specifically set forth herein. This Agreement shall not be construed to create a partnership or joint venture of the parties.

**11. Successors and Assigns, Third Parties.**

This Agreement binds the parties, their successors and assigns, but is not made for the benefit of any third party.

FEB - 5 - 02 TUE 3:38 P.M. D.WYHEE

04/10/1997 09:03 225-5258

SEAS

FROM SENATOR MURKOWSKI TO ALASKA BY FAX GROUP 10:11 AM

NEWS FROM THE OFFICE OF

# FRANK MURKOWSKI

*United States Senator - Alaska*



For Scott and MS. Prange!  
Cliff

For Immediate Release: April 9, 1997 Contact: Chuck Kleeschulte or Cindi Bookout  
O (202) 224-9306; H (301) 283-4149; O 224-8767

(Email: [chuck\\_kleeschulte@murkowski.senate.gov](mailto:chuck_kleeschulte@murkowski.senate.gov))

## MURKOWSKI-STEVENSONS INTRODUCE FISHING INDUSTRY BARGAINING ACT

WASHINGTON -- In an effort to improve the bargaining process and bolster the market position for processors and Alaska fishermen, Alaska's two senators today have introduced legislation to allow domestic fish processors to join fishermen to bargain for stronger wholesale prices.

Under the bill, The Fishing Industry Bargaining Act, fishermen and processors would be allowed to collectively bargain to establish the first-wholesale purchase prices -- the prices paid to processors for fish products -- and ex-vessel prices -- the prices paid to fishermen.

"Fish prices now all too often are set by first-wholesale buyers rather than the producers of the fish. As a result, processors forced to accept a price set by the buyers are, in turn, forced to set ex-vessel prices to fishermen based on the buyers' offers, rather than prices that respond fully to other market forces," said Sen. Frank Murkowski. In a statement about the bill.

"What this bill will accomplish is to strengthen the position of the U.S. seafood industry generally -- fishermen and processors together. It would apply to fishermen and fish processors in all parts of the country, not just in Alaska. It will go a long way towards preventing the types of destructive and inefficient fights over prices and strikes that only disrupt the scientifically and environmentally-designed opening of fishery harvests," said Murkowski.

"This bill would give fishermen a formal role in negotiating the wholesale price at which Alaska seafood is selling," said Sen. Ted Stevens. "It could be very helpful in improving the market conditions that Alaska fishermen have faced in recent years."

The senators pointed out that the bill in no way would allow processors to avoid current anti-trust laws and associate solely amongst

FEB - 5 - 02 TUE 3:39 F.V. OWYHEE  
 04/10/1997 09:03 225-5258 SEAS

P. 03

PAGE 02

FROM SENATOR MURKOWSKI TO ALASKA TV FAX DEPT PAGE 112

### **Murkowski-Stevens: Fishing Industry Bargaining Act Introduced**

**April 9, 1997**

themselves, either to set ex-vessel or wholesale prices. Those talks are the kind of activity that our current anti-trust laws are primarily designed to prevent, and this bill will leave that unchanged. Processors would continue to be prohibited from agreeing on prices unless fishermen participated in and were party to any agreement," said Murkowski in explaining the bill.

Murkowski and Stevens said the bill, patterned on one already adopted by the Alaska State Legislature, is important to try to make product markets more responsive and facilitate smoother fisheries. They said the bill can prevent the fish wastage that can occur when labor actions over prices prevent fishing from starting on time, permitting too many fish to escape harvest and swim upstream. That, at times, can permit such large escapements that fish returns in subsequent years are damaged by the environmental consequences.

"This bill is only designed to level the playing field to try to encourage more informed and timely discussions over fish prices -- something that should help all sides in the fishing industry," said Murkowski.

The senators noted the bill is prospective and would have no effect on any past complaints over how fish prices have been set nationwide.

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**Bill 1 of 100**

References to this bill in the Congressional Record	Digest and Status Information About this Bill.	Download this bill. (3,496 bytes).	GPO's PDF version for this bill
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## Fishing Industry Bargaining Act (Introduced in the Senate)

S 533 IS

105th CONGRESS

1st Session

**S. 533**

To exempt persons engaged in the fishing industry from certain Federal antitrust laws.

**IN THE SENATE OF THE UNITED STATES**

**April 9, 1997**

Mr. MURKOWSKI (for himself and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

**A BILL**

To exempt persons engaged in the fishing industry from certain Federal antitrust laws.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the 'Fishing Industry Bargaining Act'.



**SEC. 2. EXEMPTION FROM FEDERAL ANTITRUST LAWS.**

(a) The Act of June 25, 1934 (48 Stat. 1213 and 1214, chapter 742; 16 U.S.C. 521 and 522) is amended--

(1) in section 2, by striking 'If the Secretary' and inserting 'Subject to section 3, if the Secretary'; and

(2) by adding at the end the following new section:

**SEC. 3. PRICING.**

(a) IN GENERAL- For purposes of section 2, a price paid pursuant to a collective agreement entered into under subsection (b) shall not constitute a monopolization or restraint of trade in interstate or foreign commerce.

(b) COLLECTIVE AGREEMENT- Persons described in the first undesignated paragraph of section 1, acting through one or more associations described in that section, may enter into a collective agreement with fish processors, including fish processors acting through an association of fish processors, that establishes--

(1) the price to be paid to those persons by fish processors for an aquatic product; and

(2) the minimum price that a fish processor may accept for the sale of an aquatic product.

**(c) RULES OF CONSTRUCTION-**

(1) IN GENERAL- Nothing in this section is intended to permit fish processors to collectively agree with other fish processors on a price referred to in subsection (b)(1) without entering into an agreement under subsection (b).

(2) FEDERAL ANTITRUST LAWS- The establishment and implementation of a collective agreement under subsection (b) shall not be construed to be a violation of any of the Federal antitrust laws, including--

(A) the Act of July 2, 1890, commonly known as the 'Sherman Act' (26 Stat. 209 et seq., chapter 647; 15 U.S.C. 1 et seq.);

(B) the Act of October 15, 1914, commonly known as the 'Clayton Act' (38 Stat. 730 et seq., chapter 323; 15 U.S.C. 12 et seq.);

(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and

FEB - 5 - 02 TUE 3:41 P. V. OWYHEE

P. 06

04/22/1997 14:16 225-5258

SEAS

PAGE 03

'(D) the Act of June 19, 1936, commonly known as the  
'Robinson-Patman Antidiscrimination Act ' (49 Stat. 1526 et seq.,  
chapter 592; 15 U.S.C. 13, 13a, 13b, 13c, and 21a).'

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II

104TH CONGRESS  
1ST SESSION

# S. 1475

To provide an antitrust exemption for persons engaged in the fishing industry,  
and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 1995

Mr. STEVENS (for himself and Mr. MURKOWSKI) introduced the following bill;  
which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To provide an antitrust exemption for persons engaged in  
the fishing industry, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 "Fishing Industry Bargaining Act".

6 (b) **AMENDMENT TO ACT OF 1984.**—The Act ap-  
7 proved June 25, 1984, authorizing associations of produc-  
8 ers of aquatic products (15 U.S.C. 1521 et seq.) is amend-  
9 ed by inserting after section 2 the following new section:

2

1 "SEC. 3. Persons engaged in the fishing industry as  
 2 fishermen, including fishermen acting through associa-  
 3 tions allowed under section 1, may collectively agree with  
 4 fish processors, including fish processors acting through  
 5 associations of processors, on (1) the price paid to the  
 6 fishermen for aquatic products, and (2) the minimum  
 7 price that fish processors will accept for the sale of proc-  
 8 essed aquatic products. Nothing in this section shall be  
 9 construed to allow fish processors to agree among them-  
 10 selves on the price paid to fishermen or the minimum price  
 11 that fish processors will accept for sale of processed aquat-  
 12 ic products if fishermen did not participate in the making  
 13 of the agreement and are not a party to the agreement.

o

Addendum/Errata

Section 3.4

Page 214 - substitute the following table for Table 3.4-10. The average of the top four processors for the St. Matthew blue king crab and the Eastern Aleutian Islands (Dutch Harbor) golden king crab fisheries is corrected. The heading for the Western Aleutian Islands (Adak) golden king crab fishery is also corrected:

<i>Fishery/Option</i>	<i>Number of Owners Over 50 Percent Cap</i>	<i>Number of Owners Over 40 Percent Cap</i>	<i>Number of Owners Over 30 Percent Cap</i>	<i>Number of Owners Over 20 Percent Cap</i>	<i>Number of Owners</i>	<i>Average of the top 4 processors</i>
<b>Bering Sea Opilio</b>						
Option 1 - 1997 - 1999 (Three year average)	0	0	0	*	31	13.51%
Option 2 - 1996 - 2000 (Best of 4 seasons)	0	0	0	*	33	12.04%
<b>Bristol Bay Red King Crab</b>						
Option 1 - 1997 - 1999 (Three year average)	0	0	0	*	27	14.22%
Option 2 - 1996 - 2000 (Best of 4 seasons)	0	0	0	0	30	13.32%
<b>Bering Sea Bairdi (EBS Tanner Crab)</b>						
Option 1 - 1997 - 1999 (50/50 combination of BBPKC and opilio)	0	0	0	*	35	13.62%
<b>Pribilof Red King Crab</b>						
Option 1 - 1996 - 1998 (Three year average)	0	0	0	*	14	17.34%
<b>Pribilof Blue King Crab</b>						
Option 1 - 1996 - 1998 (Three year average)	0	0	0	*	15	17.35%
<b>St. Matthew Blue King Crab</b>						
Option 1 - 1996 - 1998 (Three year average)	0	0	*	*	15	19.11%
<b>Eastern Aleutian Islands (Dutch Harbor) Golden King Crab</b>						
Option 1 - 1996/1997, 1997/1998, & 1998/1999 (Three year average)	0	*	*	*	8	22.21%
Option 2 - 1996 - 1998 (Best of 4 season)	0	0	*	*	12	20.22%
<b>Western Aleutian Islands (Adak) Golden King Crab</b>						
Option 1 - 1996/1997, 1997/1998, & 1998/1999 (Three year average)	*	*	*	*	11	24.38%
Option 2 - 1996 - 1998 (Best of 4 season)	0	*	*	*	13	21.52%

Section 3.6

Table 3.6-3 below shows the number of vessels with landings in the north, south, and both regions in each year in each fishery. The table is useful to show the delivery patterns in the different fisheries and to gain some insight into the number of vessels that might have to change delivery patterns if both north and south shares are allocated to all vessels. For example, in the Bristol Bay red king crab fishery no vessels ever made deliveries to both the North and the South in a single season. Allocating both North and South shares to each vessel would require vessels to change delivery patterns or substantial trading. When reviewing these data, it is important to keep in mind that liberal transfer rules will enable persons to consolidate share holdings to a single area. Consolidation will have some transaction cost (such as broker fees) and may take some time.

Table3.6-3: Number of Qualified Vessels Making Deliveries in Each Region for which Delivery Regions are Known

Fishery	Season	Number of vessels delivering to			Total Number of Vessels	Average Deliveries per Vessel
		Both North and South	North Only	South Only		
Western Aleutian Islands (Adak) Golden King Crab	1990-1991			4	4	5.0
	1991-1992			4	4	3.8
	1992-1993			6	6	3.3
	1993-1994			15	15	4.1
	1994-1995			15	15	12.3
	1995-1996			10	10	23.0
	1996-1997			8	8	17.4
	1997-1998			5	5	35.2
	1999-2000			9	9	34.3
	2000-2001			8	8	28.3
Western Aleutian Islands (Adak) Red King Crab	1991-1992			5	5	2.2
	1992-1993			9	9	2.8
	1993-1994	1	1	8	10	2.9
	1994-1995			13	13	1.7
	1995-1996			3	3	4.7
Bristol Bay Red King Crab	1991		3	166	169	1.4
	1992		12	166	178	1.6
	1993		6	175	181	1.9
	1996			163	163	1.2
	1997		8	198	206	1.3
	1998		9	205	214	1.5
	1999		6	203	209	1.6
	2000			204	204	1.7
Bering Sea C. Oplio	1991	62	6	97	165	8.7
	1992	57	9	116	182	8.3
	1993	52	16	103	171	6.2
	1994	65	89	41	195	5.0
	1995	62	65	68	195	4.2
	1996	45	93	58	196	4.3
	1997	108	28	55	191	7.8
	1998	102	39	52	193	9.9
	1999	98	53	49	200	8.9
	2000	6	42	133	181	2.0
Bering Sea C. Bairdi	1990-1991	5	2	150	157	4.3
	1991-1992	23	7	175	205	6.7
	1992-1993	37	7	177	221	6.4
	1993-1994	8	6	208	222	3.1
	1994	13	6	145	164	2.3
	1995	3	7	165	175	1.9
	1996			173	173	2.1
Eastern Aleutian Islands (Dutch Harbor) Golden King Crab	1990-1991			2	2	7.0
	1991-1992			6	6	10.3
	1992-1993			6	6	9.7
	1993-1994			8	8	10.6
	1994-1995			13	13	10.9
	1995-1996			9	9	21.9
	1996-1997			9	9	17.1
	1997-1998			8	8	20.1
	1998-1999			9	9	12.9
	1999-2000			10	10	13.8
2000-2001			10	10	11.3	
Pribilof Blue King Crab	1995	3	38	34	75	1.5
	1996	6	18	21	45	1.9
	1997	10	16	7	33	2.4
	1998	8	15	17	40	2.1
Pribilof Red King Crab	1993	1	18	61	80	1.3
	1994	4	34	53	91	1.5
	1995	2	38	34	74	1.5
	1996	6	18	21	45	1.8
	1997	10	16	8	34	2.4
	1998	6	11	20	37	1.9
St. Matthew Blue King Crab	1991		8	4	12	1.0
	1992		38	18	56	1.0
	1993	9	40	13	62	1.6
	1994	9	50	16	75	1.8
	1995	5	44	23	72	1.4
	1996	12	61	18	91	2.1
	1997	16	51	23	90	1.7
	1998	21	62	15	98	2.4

The following set of tables (Table 3.6-4) show the allocations to communities that would be made under the Alternative community proposal. The allocations are estimated based on the two qualifying year options for the regionalization and the two qualifying year options for processors. Community allocations are aggregated in many cases to protect confidentiality. Aggregations were selected to make the data as revealing as possible. Three port designations require explanation. The designations "North" and "South" refer to processing activity that has been tracked to the North and South but could not be tracked to a specific community. The designation "Unknown" refers that processing activity that could not be tracked to a region or a community. All processing activity that could not be tracked to a community took place on floating processors. The tables show the potential community allocations and shed light on some of the distribution issues that arise from those allocations.

Several small allocations exist in some fisheries. For example, Adak, Wasilla, Ninilchik, Cordova, and Kodiak would receive allocations that combined total less than one-half of one percent of the Bering Sea *C. opilio* fishery under 3 of the 4 options evaluated. Two issues arise related to these allocations. First, if processor allocations do not correspond with regional community allocations several processors will receive allocations for very small shares in several communities in which they do not currently and never have processed fish. Second, whether or not vessel allocations have a community designation, the implementation could impose costs on a few vessels. If the small allocations are made to distant communities the cost of making those deliveries might be borne by a few vessels that were unfortunate enough to be unable to make delivery contracts with processors able to process harvests closer to the fishing grounds. Alternatively, a portion of the allocation may go unharvested and unprocessed, if processors or harvesters elect not to use their shares because of the cost of complying with the regional requirement. In any case, the processor could attempt to obtain community consent to move the allocation. A discussion of the mechanism for obtaining that consent is provided in the text of the main document.

Table 3.6-4: Regional Distribution of Processing by Community

Western Aleutian Islands (Adak) Golden king crab	Community Share				Number of Processors			
	Under Regional Option 1 1995-1999*	Under Regional Option 2 1997-1999*	Under Processor Option 1**	Under Processor Option 2**	Under Regional Option 1 1995-1999	Under Regional Option 2 1997-1999	Under Processor Option 1	Under Processor Option 2
<b>Community or Communities</b>								
Dutch Harbor, Akutan	0.567	0.480	0.485	0.377	7	4	7	7
Catcher/Processor, Unknown, Adak	0.433	0.520	0.515	0.623	5	4	4	6

Eastern Aleutian Islands (Dutch Harbor) Golden king crab	Community Share				Number of Processors			
	Under Regional Option 1 1995-1999*	Under Regional Option 2 1997-1999*	Under Processor Option 1**	Under Processor Option 2**	Under Regional Option 1 1995-1999	Under Regional Option 2 1997-1999	Under Processor Option 1	Under Processor Option 2
<b>Community or Communities</b>								
Dutch Harbor, Akutan	0.934	0.910	1.000	0.879	7	7	6	7
Catcher/Processor, South, Adak	0.066	0.090	***	0.121	5	4	2	5

Bering Sea C. Oplilo	Community Share				Number of Processors			
	Under Regional Option 1 1995-1999*	Under Regional Option 2 1997-1999*	Under Processor Option 1**	Under Processor Option 2**	Under Regional Option 1 1995-1999	Under Regional Option 2 1997-1999	Under Processor Option 1	Under Processor Option 2
<b>Community or Communities</b>								
Kodiak, Anchorage, Wasilla, Cordova, Ninilchik, Adak	0.003	0.001	0.001	0.015	8	6	5	9
Catcher/Processor	0.085	0.072	0.069	0.115	18	13	11	11
Dutch Harbor, Akutan, King Cove, South	0.408	0.427	0.431	0.441	21	17	17	17
St. Paul, St. George, St. Matthew	0.191	0.190	0.192	0.162	8	5	5	6
North	0.224	0.230	0.231	0.204	7	5	5	7
Unknown	0.089	0.079	0.075	0.064	9	5	4	4

Bristol Bay red king crab	Community Share				Number of Processors			
	Under Regional Option 1 1995-1999*	Under Regional Option 2 1997-1999*	Under Processor Option 1**	Under Processor Option 2**	Under Regional Option 1 1995-1999	Under Regional Option 2 1997-1999	Under Processor Option 1	Under Processor Option 2
<b>Community or Communities</b>								
Dutch Harbor, Akutan, King Cove, False Pass	0.712	0.704	0.704	0.679	11	11	11	11
Anchorage, Kodiak, Homer	0.038	0.036	0.036	0.053	5	4	4	6
Catcher/Processor	0.075	0.081	0.081	0.044	11	10	10	10
St. Paul, Unknown	0.056	0.059	0.059	0.065	7	6	6	7
South	0.120	0.120	0.120	0.159	4	4	4	4

Bering Sea C. Bairdi	Community Share				Number of Processors			
	Under Regional Option 1 1995-1999*	Under Regional Option 2 1997-1999*	Under Processor Option 1**	Under Processor Option 2**	Under Regional Option 1 1995-1999	Under Regional Option 2 1997-1999	Under Processor Option 1	Under Processor Option 2
<b>Community or Communities</b>								
Homer, King Cove, False Pass, Anchorage, Wasilla, Cordova, Ninilchik	0.250	NA	0.179	NA	4	NA	14	NA
Catcher/Processor	0.068	NA	0.075	NA	11	NA	11	NA
Dutch Harbor, Akutan	0.508	NA	0.448	NA	7	NA	12	NA
Kodiak	0.140	NA	0.019	NA	5	NA	4	NA
St. Paul, St. Matthew, North, Unknown	0.035	NA	0.279	NA	4	NA	17	NA



Pribilof Blue King Crab	Community Share					Number of Processors						
	Under Regional Option 1 1995-1999*	Under Regional Option 2 1997-1999*	Under Processor Option 1**	Under Processor Option 2**	Under Regional Option 1 1995-1999	Under Regional Option 2 1997-1999	Under Processor Option 1	Under Processor Option 2	Under Regional Option 1 1995-1999	Under Regional Option 2 1997-1999	Under Processor Option 1	Under Processor Option 2
	0.086	0.065	0.069	NA	6	5	6	NA	NA	5	6	6
0.328	0.226	0.302	NA	10	7	7	NA	NA	7	7	7	NA
0.586	0.710	0.630	NA	4	4	4	NA	NA	4	4	4	NA

Community or Communities  
 Anchorage, Kodiak, King Cove, Homer  
 Dutch Harbor, Catcher/Processor, Unknown  
 St. Paul, North

Pribilof Red King Crab	Community Share					Number of Processors						
	Under Regional Option 1 1995-1999*	Under Regional Option 2 1997-1999*	Under Processor Option 1**	Under Processor Option 2**	Under Regional Option 1 1995-1999	Under Regional Option 2 1997-1999	Under Processor Option 1	Under Processor Option 2	Under Regional Option 1 1995-1999	Under Regional Option 2 1997-1999	Under Processor Option 1	Under Processor Option 2
	0.254	0.205	0.204	NA	6	5	5	NA	NA	5	5	5
0.026	***	0.038	NA	4	3	4	NA	NA	3	4	4	NA
0.134	0.150	0.131	NA	5	4	4	NA	NA	4	4	4	NA
0.586	0.645	0.627	NA	4	4	4	NA	NA	4	4	4	NA

Community or Communities  
 Dutch Harbor, Akutan  
 Anchorage, Kodiak, Homer  
 King Cove, Unknown  
 St. Paul, North

St. Matthew Blue King Crab	Community Share					Number of Processors						
	Under Regional Option 1 1995-1999*	Under Regional Option 2 1997-1999*	Under Processor Option 1**	Under Processor Option 2**	Under Regional Option 1 1995-1999	Under Regional Option 2 1997-1999	Under Processor Option 1	Under Processor Option 2	Under Regional Option 1 1995-1999	Under Regional Option 2 1997-1999	Under Processor Option 1	Under Processor Option 2
	0.218	0.193	0.201	NA	7	6	7	NA	NA	6	6	7
0.104	0.100	0.082	NA	9	4	6	NA	NA	4	6	6	NA
0.678	0.707	0.717	NA	5	5	5	NA	NA	5	5	5	NA

Community or Communities  
 Dutch Harbor, Akutan  
 King Cove, Kodiak, Catcher/Processor, Unknown  
 St. Paul, North

Processor Option 1 - 1997-1999 Bristol Bay red king crab, 1996-1998 Pribilof red king, 1996-1998 Pribilof blue king, St. Matthew blue king crab, 1997-1999 C. opilio, C. bairdi based on 50/50 combination of processing history for Bristol Bay red king crab and C. opilio, 1996/7, 1997/8, 1998/9 Aleutian Islands golden king crab  
 Processor Option 2 - 1996-2000 (best 4 seasons) for C. opilio, Bristol Bay red king crab, and Aleutian Islands golden king crab

\* Includes all processors  
 \*\* Includes only eligible processors  
 \*\*\* Withheld for confidentiality. Amount is added with amount immediately above.

## Section 3.9

Page 272 - Table 3.9-1 should be replaced with the following table. Two changes are made in the table. First, the Pribilof red and blue king crab fisheries are combined. Although these two fisheries could be separated by the rationalization program, the most recent fishery combined the two fisheries using a single GHL. The analysis here uses the combined activity in the fishery to estimate the impact of the options. Since both of these Pribilof fisheries share a single LLP endorsement, the overlap in fleets is substantial. The number of vessels used for determining the vessel impacts is the average number that would receive an allocation in the Pribilof red king crab fishery, because that number is higher than the number that would receive an allocation in the Pribilof blue king crab fishery. The second change modifies the numbers for the St. Matthew blue king crab fishery to correct an error in the base GHL used in the calculation of impacts.

The following table shows the GHL and Catch in the Western Aleutian Islands (Adak) golden king crab fisheries. Section 3.4, Option 5 of the Council Motion would allocate the percentage of the resource that was unutilized to the community of Adak. Prior to the 1996-1997 season, this fishery was managed through monitoring in season harvests rather than with a specified GHL. This management prevents any determination of a specified percent of the fishery that was unused in those years. In the 2000-2001 season, catch exceeded the GHL, so no unharvested crab were left on the table. In 1999-2000 season, approximately 99 percent of

Average Pounds		Average Pounds		Average Pounds	
CDQ	Number of Non-CDQ Vessels*	CDQ	Number of Non-CDQ Vessels*	CDQ	Number of Non-CDQ Vessels*
<b>Bering Sea C opilio fishery (GHL in 2000 was 26.5 million pounds)</b>					
Option 1 - Status Quo (7.5% of GHL)	1,987,500	Option 1 - Status Quo (7.5% of GHL)	2,155	Option 1 - Status Quo (7.5% of GHL)	7,918
Option 3 - Increase to 10% of GHL	2,650,000	Option 3 - Increase to 10% of GHL	2,873	Option 3 - Increase to 10% of GHL	10,558
Option 4 - Increase to 12.5% of GHL	3,312,500	Option 4 - Increase to 12.5% of GHL	3,591	Option 4 - Increase to 12.5% of GHL	13,197
<b>Bristol Bay red king crab fishery (GHL in 2000 was 7.7 million pounds)</b>					
Option 1 - Status Quo (7.5% of GHL)	577,500	Option 1 - Status Quo (7.5% of GHL)	2,155	Option 1 - Status Quo (7.5% of GHL)	7,918
Option 3 - Increase to 10% of GHL	770,000	Option 3 - Increase to 10% of GHL	2,873	Option 3 - Increase to 10% of GHL	10,558
Option 4 - Increase to 12.5% of GHL	962,500	Option 4 - Increase to 12.5% of GHL	3,591	Option 4 - Increase to 12.5% of GHL	13,197
<b>Bering Sea C Baird fishery (GHL in 1996 was 6.2 million pounds)</b>					
Option 1 - Status Quo (7.5% of GHL)	465,000	Option 1 - Status Quo (7.5% of GHL)	1,735	Option 1 - Status Quo (7.5% of GHL)	7,918
Option 3 - Increase to 10% of GHL	620,000	Option 3 - Increase to 10% of GHL	2,313	Option 3 - Increase to 10% of GHL	10,558
Option 4 - Increase to 12.5% of GHL	775,000	Option 4 - Increase to 12.5% of GHL	2,892	Option 4 - Increase to 12.5% of GHL	13,197
<b>Eastern Aleutian Islands (Dutch) golden king crab fishery (GHL in 1999-2000 was 3 million pounds)</b>					
Option 1 - Status Quo (No allocation)	0	Option 1 - Status Quo (No allocation)	0	Option 1 - Status Quo (No allocation)	0
Option 2 - Expand existing program to Dutch golden (7.5%)	225,000	Option 2 - Expand existing program to Dutch golden (7.5%)	16,071	Option 2 - Expand existing program to Dutch golden (7.5%)	66,071
Option 3 - Increase to 10% of GHL	300,000	Option 3 - Increase to 10% of GHL	21,429	Option 3 - Increase to 10% of GHL	87,429
Option 4 - Increase to 12.5% of GHL	375,000	Option 4 - Increase to 12.5% of GHL	26,786	Option 4 - Increase to 12.5% of GHL	113,786
Option 5 - Percent of resource not utilized	0	Option 5 - Percent of resource not utilized	0	Option 5 - Percent of resource not utilized	0
<b>Pribilof red and blue king crab fisheries combined (GHL in 1998 was 1.25 million pounds)**</b>					
Option 1 - Status Quo (7.5% of GHL)	93,750	Option 1 - Status Quo (7.5% of GHL)	830	Option 1 - Status Quo (7.5% of GHL)	3,330
Option 3 - Increase to 10% of GHL	125,000	Option 3 - Increase to 10% of GHL	1,106	Option 3 - Increase to 10% of GHL	4,436
Option 4 - Increase to 12.5% of GHL	156,250	Option 4 - Increase to 12.5% of GHL	1,383	Option 4 - Increase to 12.5% of GHL	5,313
<b>St. Matthew blue king crab fishery (GHL in 1998 was 4.0 million pounds)</b>					
Option 1 - Status Quo (7.5% of GHL)	300,000	Option 1 - Status Quo (7.5% of GHL)	2,128	Option 1 - Status Quo (7.5% of GHL)	8,512
Option 3 - Increase to 10% of GHL	400,000	Option 3 - Increase to 10% of GHL	2,837	Option 3 - Increase to 10% of GHL	11,357
Option 4 - Increase to 12.5% of GHL	500,000	Option 4 - Increase to 12.5% of GHL	3,546	Option 4 - Increase to 12.5% of GHL	14,166
<b>Eastern Aleutian Islands (Adak) golden king crab fishery (GHL in 1999-2000 was 2.7 million pounds)</b>					
Option 1 - Status Quo (No allocation)	0	Option 1 - Status Quo (No allocation)	0	Option 1 - Status Quo (No allocation)	0
Option 2 - Expand existing program to Adak golden (7.5%)	202,500	Option 2 - Expand existing program to Adak golden (7.5%)	13,500	Option 2 - Expand existing program to Adak golden (7.5%)	51,500
Option 3 - Increase to 10% of GHL	270,000	Option 3 - Increase to 10% of GHL	18,000	Option 3 - Increase to 10% of GHL	69,000
Option 4 - Increase to 12.5% of GHL	337,500	Option 4 - Increase to 12.5% of GHL	22,500	Option 4 - Increase to 12.5% of GHL	86,500
Option 5 - Percent of resource not utilized	15	Option 5 - Percent of resource not utilized	15	Option 5 - Percent of resource not utilized	15

\*Average number of vessels receiving allocation under the qualifying year period  
 \*\*In the most recent season, these fisheries were combined  
 \*\*\*Average number of vessels qualified in the Pribilof red king crab fishery.

the GHL was harvested. State managers believe that the small amount of excess crab that year is insufficient to make a separate allocation. In the 1998-1999 season, only 62 percent of the allocation was harvested leaving slightly more than 1 million pounds on the table. In both the 1996-1997 and the 1997-1998 seasons, approximately 89 percent of the GHL was harvested.

Table 3.9-2: GHL and Catch from the Aleutian Islands Golden King Crab Fisheries from 1996-1997 to 2000-2001 (in thousands of pounds).

<b>Season</b>	<b>GHL</b>	<b>Catch</b>	<b>Unharvested GHL</b>	<b>Percent Unharvested</b>
<b>1996-1997</b>	2,700	2,404	296	11.0
<b>1997-1998</b>	2,700	2,406	294	11.0
<b>1998-1999</b>	2,700	1,670	1,030	38.1
<b>1999-2000</b>	2,700	2,663	37	1.4
<b>2000-2001</b>	2,700	2,903	0	0

DRAFT – February 1, 2002

## Fisheries to Include in Crab Rationalization?

Division of Commercial Fisheries, ADF&G

### Under Consideration

In the NPFMC document, dated January 22, 2002 entitled BSAI Crab Rationalization Program Alternatives (Initial Council Review Draft), there is the following list of crab fisheries for which the Council is considering rationalization:

- Bristol Bay red king crab
- Pribilof red king crab
- Pribilof blue king crab
- St. Matthew blue king crab
- Eastern Aleutian Islands (Dutch Harbor) red king crab
- Western Aleutian Islands (Adak) red king crab
- Eastern Aleutian Islands (Dutch Harbor) golden king crab
- Western Aleutian Islands (Adak) golden king crab
- Bering Sea *C. bairdi*
- Bering Sea *C. opilio*
- Eastern Aleutian Islands (Dutch Harbor) *C. bairdi*
- Western Aleutian Islands (Adak) *C. bairdi*

The fisheries above are all subject, either by themselves or as portions of an aggregate, to the license limitation program (LLP) established by the Council and NMFS.

### Not Under Consideration

The State of Alaska has identified a number of other crab fisheries, which fortunately are not on the Council's list above, that should not be subject to a rationalization program. Thus, for the following fisheries, there should be no disagreement; they should not be included in the current rationalization effort:

- Norton Sound red king crab: subject to LLP but superexclusive, small vessels, and very constrained.
- Pribilof golden king crab: exploratory under a commissioner's permit.
- St. Matthew golden king crab: exploratory under commissioner's permit.
- BSAI scarlet king crab (deep-water king): exploratory under commissioner's permit.
- Bering Sea *C. tanneri/angulatus* (deep-water Tanner): exploratory under commissioner's permit.
- Aleutian Islands *C. tanneri/angulatus* (deep-water Tanner): exploratory under commissioner's permit.

### Under Consideration But Should be Reconsidered

The State of Alaska has also identified a number of the fisheries, which the Council is considering for rationalization, that perhaps should be removed from such consideration. Those fisheries which deserve reconsideration are:

- Eastern Aleutian Islands (Dutch Harbor) red king crab: closed since 1983, most catch in state waters.
- Eastern Aleutian Islands (Dutch Harbor) *C. bairdi*: closed since 1995, 95% of catch in state waters.
- Western Aleutian Islands (Adak) *C. bairdi*: closed since 1997, 70% of catch in state waters.
- Western Aleutian Islands (Adak) red king crab.

These are recently relatively small fisheries for which there is little biological information with which to set TAC/GHLs, and little or no recent history of participation upon which to base rationalization allocations. For three of these fisheries, these aspects plus the high proportion of historic catch that occurred in state waters argue that they should be removed from the federal FMP and be managed under authority of the State of Alaska (E. AI red king crab, E. AI C. bairdi, and W. AI C. bairdi).

Deciding whether to include or exclude the Western Aleutian Islands (Adak) red king crab fishery in the Council's rationalization process is more problematic. Historic harvests, at least in the Petrel Banks area, were predominately from federal-not state-waters, harvests in the more distant past were substantial, and recent participants in the overlapping golden king crab fishery have a growing or recurring interest in this red king crab fishery. However, while the Petrel Bank area of the fishery has been closed since only 1996, red king crab fisheries near Atka-Amlia and Attu have been closed since the 1980s, and harvests in these areas may have been closer to shore. The State of Alaska has conducted commercial test fisheries to assess a portion (Petrel Banks) of this stock recently, and some limited fishing may be warranted in the near future with conservative TAC/GHLs. But, the status and location of stocks in other portions of the western Aleutian Islands are unknown. Thus, issues needing further assessment for inclusion of this fishery in the Council's crab rationalization program will likely be: appropriate geographic extent of the fishery (or fisheries) in the western Aleutians, appropriate TAC/GHLs for red king crab by area or subarea, and determining eligible participants for the area as a whole or for various subareas.



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
Office of General Counsel  
P.O. Box 21109  
Juneau, Alaska 99802-1109

February 1, 2002

**RECEIVED**  
JAN 31 2002  
N.P.F.M.C

Kirsten K. Richmond  
Preston Gates Ellis, LLP  
420 L Street, Suite 400  
Anchorage, Alaska 99501-1937

Re: Crab Rationalization/Kevin Suydam

Dear Ms. Richmond:

This responds to your January 23, 2002, letter expressing your concerns about whether your client, Mr. Suydam, will be able to receive quota allocations if the North Pacific Fishery Management Council (Council) uses proposed years 1996 - 2000 as qualifying years for the brown crab fishery under a crab rationalization program. In particular, you state that Mr. Suydam has made a recent and substantial investment in a vessel for the brown crab fishery and fished only in the year 2000 of the 1996 - 2000 period. You have cited several of the national standards of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to support your position that while Mr. Suydam only fished for brown crab in 2000, he should qualify for quota shares because of his substantial investment and the failure of the fleet to reach the quota in the other years of the proposed qualifying period.

As you have cited, section 303(b)(6) of the MSA allows the Council to establish a limited access system for a fishery in order to achieve the optimum yield if they take into account certain facts set forth in such section. While the Secretary and the Council must consider these criteria in developing a crab limited entry system, the MSA does not require that they base the initial allocation of quota share upon a vessel's recent participation in the fishery. The Council could develop other criteria upon which to base the initial allocation of quota share. NOAA General Counsel has advised the Council accordingly during its development of the crab rationalization program as well as its development of previous limited access programs.

I will forward a copy of your letter to the NMFS Regional Administrator and the Council chairman for their consideration and to be made a part of the administrative record. I also suggest, however, that you submit your written comments to the Council for inclusion in their record as well as consider testifying at future meetings when the Council addresses crab rationalization.

If you have further questions, please contact Mr. Thomas Meyer of my staff at 907-586-7414, extension 234.

Sincerely,

Lisa L. Lindeman  
Alaska Regional Counsel

cc: Craig O'Connor, Acting NOAA GC  
Jim Balsiger, Regional Administrator  
Dave Benton, Chair, NPFMC



## ALEUTIAN ISLAND CATCHER VESSELS

RECEIVED JAN 14 2002

January 5, 2001

Lisa Lindeman  
Regional Attorney  
Office of General Council  
709 West 9 th St.  
Room 909 A  
Juneau, Alaska 99804-7414

Dear Lisa,,


I am writing this letter for the owners of 13 of the 21 vessels who participate in the Aleutian Island brown crab fishery. See attachment A. Most of our vessels have long histories in the fishery and have had substantial investments in recent years to strengthen their crab catching capabilities. The Aleutian Island brown crab fishery is critical to our economic viability.

This letter is to request that you recommend to the NPFMC that it base a vessel's initial allocation of quota share upon its recent participation in the fishery and include as qualifying years the years up to the time that the council has taken final action. This request is consistent with the National Research Council Report recommendations as set forth in the preliminary draft Analysis of BSAI Crab Rationalization Program Alternatives. See attachment B.

As crab rationalization moves forward, there needs to be a mechanism in place that is fair and will reduce the chance that a few will receive windfalls. For example, if recent participation is not considered, one catcher-processor could receive an initial quota share in excess of 40% of the entire Western Aleutian Island brown crab GHL. A process that would result in lopsided quota share distributions to a few large vessels will fail to have any appearance of fairness. Our proposal to include the years 2001/2002 will broaden the distribution of shares and reduce the chance that there will be windfall allocations.

We are confident that you will give this your careful consideration.

Sincerely,



Bing Henkel

1736 205<sup>th</sup> Place NE, Sammamish, WA 9807  
Phone: 425-868-8870 Fax: 425-868-7574 E-mail: abhenkel@atfbi.com