

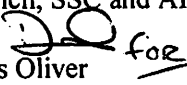
Public Testimony Sign-Up Sheet

Agenda Item C-7(b-d) CRAB RATIONALIZATION PROGRAM

	NAME (PLEASE PRINT)	AFFILIATION
1	Stephen Taufen	Groundswell Fisheries Movement
2	Linda Kozak	Kozak + Associates
3	Tim Henkel	Deep Sea Fishermen's Union
4	Steve Minor	NACA
5	DAVE Zielinski	none
6	Tam Miller	displaced crew
7	Arni Thompson	AFC
8	Simon C. Dochtermann	BSCCA
9	Leonard Herzog	Kay Cab Aneston Coop -
10	TIM MILLER	crew
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

MEMORANDUM

TO: Council, SSC and AP Members
FROM:  Chris Oliver
Executive Director
DATE: February 29, 2009
SUBJECT: Crab management

ESTIMATED TIME 6 HOURS (All C-7 items)
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ACTION REQUIRED

- (b) Receive Crab Committee Report.
- (c) Receive proposed workplan and timeline for crab analysis/discussion papers.
- (d) Receive progress report on Crab EDR surveys.

BACKGROUND

(b) Report of the crab advisory committee

At its December 2008 meeting, the Council received a report from its crab advisory committee that included the committee's discussion of proposed measures to address crew interests arising under the program. On receipt of the report and public testimony, the Council requested the committee to discuss two such proposals. Under the first proposal, a regional fishery association (RFA) would be formed to address crew interests. The C share allocation (available exclusively to active participants in the fishery) would be increased to between 6 and 10 percent and the RFA would hold and distribute quota on behalf of its members. Under the second proposal, a private financing program would be developed by industry to increase share acquisition by active participants in the fisheries. The program would apply to both owner and C share purchases, with fixed goals identifying the amount of quota to be held by active participants by given dates. The minutes of the committee's meeting at which these issues were discussed are attached (see Item C-7(b)).

(c) Receive proposed workplan and timeline for crab analysis/discussion papers

At its December 2008 meeting, the Council received a staff report summarizing the performance of the Bering Sea and Aleutian Islands crab rationalization program during its first three years. That report considered the effects of all aspects of the program, including effects on harvesters, processors, communities and crew. The Council also received a report from its advisory committee concerning proposals to address crew issues, community rights of first refusal, and the Western Aleutian Islands golden king crab fishery. Staff also presented a brief paper summarizing alternatives created by the Council's April 2008 motion to revise the crab rationalization program.

In response to these presentations and public testimony, the Council revised its purpose and need statement and its proposed alternatives to modify the program, focusing its alternatives on crew issues and the redesignation of owner quota share and crew quota share, the development of regional fishery associations to address crew

issues, and an industry proposal to facilitate crew acquisition of quota share. In addition, the Council tasked staff to produce discussion papers concerning four topics: two possible revisions to management of the Western Aleutian Islands golden king crab fishery to address unutilized individual fishing quota, potential extinguishment of processor quota shares from all fisheries, and measures to address the effects of leasing on crew and crew compensation (see Item C-7(c)).

The Council's motion creates several overlapping staff assignments. The Council's motion currently contains alternatives to redesignating a portion of the owner QS pool (accessible to most fishing interests) and/or PQS pool as C share QS (accessible only active participants), as well as capping the annual allocation of individual processing quota. Requested discussion papers concern the elimination of processor shares, potential changes to leasing provisions, and broad changes in management of the Western Aleutian Islands golden king crab fishery. In addition, portions of the Council's motion directed the Council's crab advisory committee to consider development of alternatives to address crew issues. Were the Council to take action based on issues considered by the committee or these discussion papers, those actions could obviate, modify, or interact with changes already advanced for analysis by the Council. These interactive effects could make it more difficult for the Council to understand the implications of any of its decisions, if the actions are not analyzed as part of a single package. For example, the Council might choose to redesignate a portion of the owner QS pool as C share QS in one action. If the Council then elects to revisit leasing rules with respect to either C share QS or owner QS, it is possible that the effects of the first action would not have been fully understood at the time of the decision because of the interaction of the share redesignation with the leasing changes. As a result of these complexities, staff proposes to proceed with the assigned discussion papers prior to preparing analyses of the identified alternatives. This approach will allow the Council to better frame its alternatives, which, in turn, will allow staff to prepare a more focused analysis of actions that the Council wishes to consider.

Assuming that the Council agrees with this approach, staff will begin preparing discussion papers, which will be presented to the Council as they are ready. The Council should advise staff concerning its priorities for the discussion papers.

(d) Receive progress report on Crab EDR surveys

At its December 2008 meeting, the Council received an update on the progress of the data quality review of data collected under the Economic Data Reporting program. At that time, the Council directed staff and the Pacific Northwest Crab Industry Advisory Committee (PNCIAC) to continue that process, including completion of metadata (specifying data quality for each variable) and revision of existing surveys and the process for data submission to improve data quality. Since that meeting, staff has continued its work on the metadata and has begun the process of survey revisions. **No further report is available** at this time, as that process is ongoing.

DRAFT

Crab Advisory Committee Meeting Minutes
January 14, 2009
Denali Room, Hilton Hotel
Anchorage, AK

Committee Members – Sam Cotten, Rob Rogers, Lenny Herzog, Florence Colburn (ph), Jerry Bongen (ph), Dave Hambleton, Phil Hanson, Linda Freed (ph), Rob Rogers, Kevin Kaldestad, Steve Branson (ph)
FRANK KELTY (ph)

Staff – Mark Fina (NPFMC), Herman Savikko (ADFG), Lauren Smoker (NOAA GC), Brad Robbins (ADFG)

Public – Linda Kozak (ph), Steve Minor, Pat Hardina (ph), Jeff Stephan (ph), Kris Norosz (ph), Arni Thomson (ph), Kale Garcia (ph), Terry Haines (ph), Jake Jacobsen (ph), Shawn Dochtermann (ph), Steve Taufen (ph), Margaret Hall (ph), Joe Sullivan, Brent Paine (ph), Mateo Paz-Soldan

Minutes

Review of Council motion

The committee reviewed the Council motion, including all alternatives and components and discussion papers currently under consideration. The discussion gave specific attention to the provisions directed to it by the Council for comment.

MSA provisions

The committee reviewed the regional fishery association (RFA) provisions and the extent of the Council's authority to provide for RFAs.

Review crew regional fishery association (RFA) proposal

The committee reviewed the crew RFA proposal, which suggests that an RFA would manage an allocation of QS on behalf of crew. Throughout the committee's discussion, members debated whether the Council motion suggests that the RFA would receive an allocation of QS or whether the RFA would manage the QS allocations of its members (without a direct allocation of shares to the RFA). The committee discussed a concern that under the MSA RFAs cannot receive an initial allocation of QS. An RFA can acquire (or buy) QS and is permitted to hold annual IFQ allocations of its members, but would not be permitted to receive QS from a Council allocation.

The need to develop participation criteria for RFAs was discussed. These criteria would need to be specified by the Council and an RFA would need to submit a plan to the Secretary and Council for approval based on the criteria.

The committee also discussed the requirement that an RFA be within the "region" of the Council. Region, however, is not clearly defined in the MSA. Question arose as to whether Seattle residents could form an RFA for these Bering Sea and Aleutian Island fisheries.

In response to concerns that an RFA could not receive an allocation, it was suggested that an allocation could be made to a Fishing Community, who could then manage the IFQ for the benefit of active crew. This proposal raised several concerns among committee members.

First, as noted above, some committee members questioned whether the Council's proposal for a crew RFA contemplated an allocation of QS to the RFA. If not, the development of a proposal to make an

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allocation to a Fishing Community on behalf of crew interests could be argued to be contrary to the intent of the Council motion.

Second, some committee members raised the question of whether a Fishing Community could represent non-residents. An entity that is intended to represent crew interests would likely need to include interests of crew that reside outside of Alaska. Whether this geographically disparate population could be represented as an MSA Fishing Community was a concern of some committee members.

Third, some committee members questioned whether a Fishing Community could serve a limited crew purpose. While this raised concerns among some who sought to develop an entity to represent solely crew, others suggested that a Fishing Community allocation that is shared between crew and other broader community interests would be desirable. Again, some committee members strongly objected, as a true community allocation would seem to be beyond the direction of the Council.

Committee members objecting to any allocation to crew suggested that an RFA structure could be developed to benefit C share holders through the coordination of their activities. The committee did not attempt to develop such a structure.

Some committee members also suggested that existing community entities (that are established to hold QS and PQS and rights of first refusal on behalf of communities) could serve their local active crew through participation in an RFA. Although these entities are acknowledged to serve several local interests, coordinating harvest activity for the benefit of local crew could be pursued.

Participants identified the following issues that would benefit from further input from NOAA GC:

- Must an MSA Fishing Community be defined through as geographic location - requiring a specific location may prevent accommodating all active crew through an allocation. Alternatively, can a Fishing Community be defined as all active crew.
- Can a Fishing Community be defined to include persons residing outside of the region of the Council, such as crew residing in the State of Washington.
- Can a Fishing Community that receives an allocation be defined to serve a limited purpose, such as the interests of active crew; or must the community be defined to serve broader social and economic needs, including interests of vessel owners, crew, processors and support industries.
- Can a community allocation be made to serve a single purpose by the community joining an RFA. Could a community that might otherwise be limited in its ability to serve a single purpose, focus its efforts on active crew through membership of an RFA.

Through the discussion, proponents of the crew proposal refashioned the proposal as follows:

Define a Fishing Community as an entity that acts for the benefit of all active participants. That Fishing Community would receive an allocation of QS that can be held on behalf of all active crew. The QS would be managed on behalf of active fishermen, with the annual distribution of IFQ being made to vessels based on defined criteria (which may include IFQ on the vessel).

It was suggested that NOAA GC could examine whether the Council has authority to adopt this proposal. Some committee members continued to express concern over whether the committee was deviating from the purpose intended by the Council by including a direct allocation to crew. These committee members suggested that the Council intended to look only at options under which crew would access shares through share redesignation (without reallocation).

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It was also suggested that a lease cap (limiting the percent of ex vessel value that may be realized on a lease) and vessel cap could be applied to benefit crew. It was suggested that these proposals were beyond the scope of the Council's direction to the committee.

Discussion of privately funded loan program

Committee members, including those supporting private loan funding, suggested that an industry managed private funding may not be feasible at this time. Lenders approached by supporters of the program have said that lending rates may not be competitive with the federally funded program. Supporters of the concept believe that if private lenders cannot aid in funding the program, there may be little advantage to an industry wide effort. Instead, individuals wishing to develop lending options for their crew could better serve their crew through individual private loans. A broader program would require the establishment of a lending board, which would add to administrative costs. In addition, industry members are unlikely to wish to part with autonomy that could be exercised in making lending choices. Industry members suggested that if funds are not available to support crew purchases in the future, it will be in the interest of industry to develop a private lending program. At this stage, no specific proposal is being advanced for this private lending.

Some committee members also questioned whether the State of Alaska manages lending programs that could be available for some crew, particularly state residents. Also, some committee members questioned whether efforts could not be made to expand the federal lending program, should funds be inadequate once that program is initiated.

Other issues

Linda Freed informed the committee that she will be resigning from her position as the City Manager of Kodiak on April 30. She suggested that the City will make a recommendation for a replacement on the committee, should the committee continue after that date.

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North Pacific Fishery Management Council
December 2008 Motion

C-4(a),(b), and (c) BSAI Crab Rationalization Program Revisions

Analysis of alternatives to revise the program

Purpose and need statement:

The Bering Sea/Aleutian Islands (BSAI) Crab Rationalization Program is a comprehensive approach to rationalize an overcapitalized fishery in which serious safety and conservation concerns needed to be addressed. Conservation, safety, and efficiency goals have largely been met under the program.

Experience under the BSAI Crab Rationalization Program has made apparent the need to analyze alternatives to status quo to achieve: entry-level investment opportunities for active participants

This focused analysis on entry level investment opportunities for active participants will by definition include an analysis of the A/B split through potential share conversions.

Additional flexibility under the program is needed to address some inefficiencies created through the share matching system. For example, if a PQS holder opts not to apply for IPQ, the program should allow competitive markets to determine whether resources are harvested rather than redistribute the IPQ for share matching.

Processors and communities have received protections through processor quota shares under this program since the year of implementation. Higher TACs afford an opportunity to expand competition while maintaining protection for processor investments and recognizing community dependency under an IPQ threshold.

Alternative 1:

No action, status quo.

Alternative 2:

Increase investment opportunities for active participants by increasing the proportion of C share quota in all rationalized fisheries through a market-based reallocation.

Change the 3 percent C share allocation to:

- a) 6 percent
- b) 8 percent
- c) 10 percent

Suboption: Applicable only to b) and c) above (increase to 8 or 10 percent), redesignated C shares will be subject to:

- 1) the A share/B share split (including regionalization)
- 2) regionalization

Suboptions: Use the following mechanism to achieve the increase (i and iii can be combined):

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- i) A pro-rata reduction in owner shares (distributed over a period not to exceed 5, 7, or 10 years) to create C shares available for active participants to purchase. Owner share holders who meet active participation requirements would be able to retain their converted C shares.
- ii) A percentage re-designation of owner shares to C shares at the time of each transfer. The purchasing owner is required to comply with the active participation definition or divest of the C shares.
- iii) A pro-rata reduction of PQS (distributed over a period not to exceed 5, 7, or 10 years) and conversion into C shares available for active participants to purchase through market transactions.

PQS/QS Conversion Rate

Each crab fishery may have a different conversion ratio. These ratios are based on rough estimates of the relative value of each PQS to CVO QS. This range could be expanded or modified based on further analysis.

- a) 1 PQS unit =- 0.5 CVO QS unit
- b) 1 PQS unit =- 0.4 CVO QS unit
- c) 1 PQS unit =- 0.3 CVO QS unit
- d) 1 PQS unit =- 0.2 CVO QS unit
- e) 1 PQS unit =- 0.1 CVO QS unit
- f) 1 PQS unit =- 0.075 CVO QS unit

Alternative 3:

Increase investment opportunities for active participants by establishing a preferential purchase and finance program for all share types (but no share conversion).

- 1) The Crab Advisory Committee is directed to consider the potential for a private contractual proposal to increase investment opportunities for active participants. A response and recommendations will be made to the Council.
- 2) The proposed program should address the following:
 - a. Establishing goals for an aggregate amount of QS owner shares to be held by active participants at 5, 7, and 10 years.
 - b. Identify and address any potential impacts on industry efficiency or investment and on communities.
 - c. Identify any regulatory issues that may need to be addressed, such as use and ownership caps, and provide recommendations to address these issues.

Alternative 4:

C share Regional Fishery Association

The committee is tasked to review proposals to form a regional fishery association (RFA) to hold and distribute C shares on behalf of RFA members.

If RFAs are established, the aggregate total of all C shares shall be:

- a) 6 percent
- b) 8 percent
- c) 10 percent.

Component 1 (IPQ accounting when PQS holder opts not to apply)

If a PQS holder opts not to apply for IPQ in a year, distribute harvesting quota that would have been the matching CVO IFQ A shares as open delivery B shares.

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Component 2 (Establish IPQ thresholds)

The amount of IPQ (individual processing quota) issued in any year shall not exceed,

Option a) in the *C. opilio* fishery,

- i) 26 million pounds.
- ii) 45 million pounds.
- iii) 64 million pounds.
- iv) 80 million pounds.

Option b) in the Bristol Bay red king crab fishery,

- i) 12 million pounds.
- ii) 15 million pounds.
- iii) 18 million pounds (status quo).

Suboption: Any IFQ above the threshold will be auctioned by NMFS to the highest bidder.

Discussion paper requests

The Council requests staff to prepare the following discussion papers:

Extinguishing PQS: A paper to focus issues for Council consideration of removing PQS from the Bering Sea/Aleutian Islands crab rationalization program.

Leasing restrictions: A paper addressing factors affecting lease rates in the Bristol Bay red king crab and Bering Sea *C. opilio* fisheries. Include a discussion of how the extraction of rents by quota holders through lease payments has changed payments to crew under the crab rationalization program. Provide examples from other programs of provisions that limit leasing activity and suggestions of how to achieve some reductions in either the extent of leasing activity or the lease rate in these two rationalized crab fisheries.

Emergency exemption from regionalization for Western Aleutian golden: A paper examining a mechanism to provide an emergency exemption from regional landing requirements in the Western Aleutian Island golden king crab fishery for lack of available processing capacity as defined by private contract between the holders of Class A IFQ and matched IPQ.

PQS removal for Western Aleutian golden (WAG): A paper examining a component to extinguish PQS in the Western Aleutian Islands golden king crab fishery (including options to extinguish west designated PQS only and to compensate PQS holders). The purpose of the proposed action is that additional flexibility under the program may be needed to address some inefficiencies created through the share matching system. For example, the program may need to be adjusted to avoid stranding resources when market conditions do not support PQS restrictions.

MICHAEL A. D. STANLEY

ATTORNEY AT LAW

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January 27, 2009

Sent via Facsimile Only

Eric Olson, Chairman
North Pacific Fishery Management Council
605 W. 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

RECEIVED
JAN 27 2009
N.P.F.M.C.

Re: Aleutian Islands Golden King Crab Fisheries

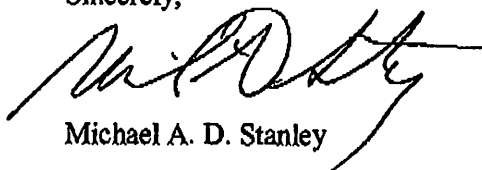
Dear Chairman Olson and Council Members:

I am writing on behalf of the Golden King Crab Harvesters Association (GKCHA), regarding the proposed work plan and timeline for various discussion papers related to the crab rationalization program (agenda item c-7(c)), which you will be considering at the upcoming meeting.

GKCHA encourages the Council to put the discussion papers related to the Western Aleutian Islands golden king crab fishery (WAG) on a fast track. Problems in the WAG fishery have been identified and discussed by the Crab Advisory Committee and the Council for over a year, and it is appropriate to move this issue forward promptly for review and analysis. That said, we also think it would be helpful if the proponents of the idea of developing a mechanism to provide for emergency relief from regional landing requirements in the event of a lack of available processing capacity, would provide some additional specificity about their proposal. We understand it is modeled somewhat on the emergency relief provision that you will also be considering at this meeting (agenda item C-7(a)), but after reviewing the EA/RIR/IRFA for that proposal, we have a number of questions about how such a provision would operate in the WAG fishery. The members of GKCHA believe that it would assist Council staff in preparing a discussion paper if the supporters of this proposal would provide more detail about how they see it working.

Thank you.

Sincerely,



Michael A. D. Stanley

C-7(b-d)

January 30, 2009

NOAA General Counsel response to Crab Advisory Committee Questions:

I've had a chance to discuss the committee's questions with some folks here in GCAK and also to review your responses to those questions. The following represents our preliminary thoughts on these general questions; additional detail developed by the Council and further consultation with NOAA GC may require refinement of these responses. As an initial starting point, I'd like to respond to a question that came up at the committee meeting as to whether allocations can be made to fishing communities. We think that the Council and the Secretary can make allocations (or initial allocations) to a fishing community under 303A(c)(3), in contrast to regional fishery associations.

In regards to the questions posed by the committee, we think that the eligibility criteria for a fishing community established by the MSA in section 303A(c)(3)(A)(i) requires, among other things, that a "fishing community" be a community geographically located within the management area of the relevant Council. In our case, that would mean a fishing community must be a community located in Alaska. In addition, in order to be eligible to participate in a LAPP, a fishing community must have (consist of) residents in the community who conduct commercial or recreational fishing, processing, or a fishery-dependent support business within the Council's management area. The questions of whether a fishing community could be established for a single purpose (i.e. representing crew interest) and whether a fishing community could benefit non-residents of the community are open questions, definitive answers to which are dependent on the participation criteria that may be developed by the Council for fishing communities and the extent to which a fishing community formed for a single purpose and that benefits non-residents could develop a community sustainability plan that demonstrates how the plan will address the social and economic development needs of coastal communities. Our preliminary thoughts are that the statutory language of section 303A(c)(3) states that communities must consist of residents that conduct commercial fishing or processing, etc., in order to be eligible to participate in a LAPP, but the language does not explicitly prohibit an eligible fishing community from benefiting residents and non-residents of the community as long as benefits to non-residents are consistent with the Council's participation criteria and the community sustainability plan. Non-residents could include Alaskans who are not residents of that community or non-Alaska residents, such as crew residing in the State of Washington.

Similarly, the statutory language of section 303A(c)(3) does not expressly prohibit a fishing community from being formed for a single or limited purpose, like representing the interests of active crew, but the MSA also provides the Council and NMFS with discretion in developing participation criteria which might require that fishing communities serve multiple purposes or a broader purpose than just representing crew interests. Additionally, a fishing community formed for a single purpose, like representing crew interests, would be required to demonstrate how its community sustainability plan will address the social and economic development needs of coastal communities.

99-659

(11) The term "exclusive economic zone" means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

99-659, 101-627

(12) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(13) The term "fishery" means—

(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(B) any fishing for such stocks.

109-479

(14) The term 'regional fishery association' means an association formed for the mutual benefit of members—

(A) to meet social and economic needs in a region or subregion; and

(B) comprised of persons engaging in the harvest or processing of fishery resources in that specific region or subregion or who otherwise own or operate businesses substantially dependent upon a fishery.

(15) The term "fishery resource" means any fishery, any stock of fish, any species of fish, and any habitat of fish.

(16) The term "fishing" means—

(A) the catching, taking, or harvesting of fish;

(B) the attempted catching, taking, or harvesting of fish;

(C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity which is conducted by a scientific research vessel.

104-297

(17) The term "fishing community" means a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community.

(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

- (A) the fishery has historically processed the fish outside of the United States; and
- (B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

(3) FISHING COMMUNITIES.—

(A) IN GENERAL.—

(i) ELIGIBILITY.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

- (I) be located within the management area of the relevant Council;
- (II) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and

(IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

(B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—

- (i) traditional fishing or processing practices in, and dependence on, the fishery;
- (ii) the cultural and social framework relevant to the fishery;
- (iii) economic barriers to access to fishery;
- (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
- (v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and
- (vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

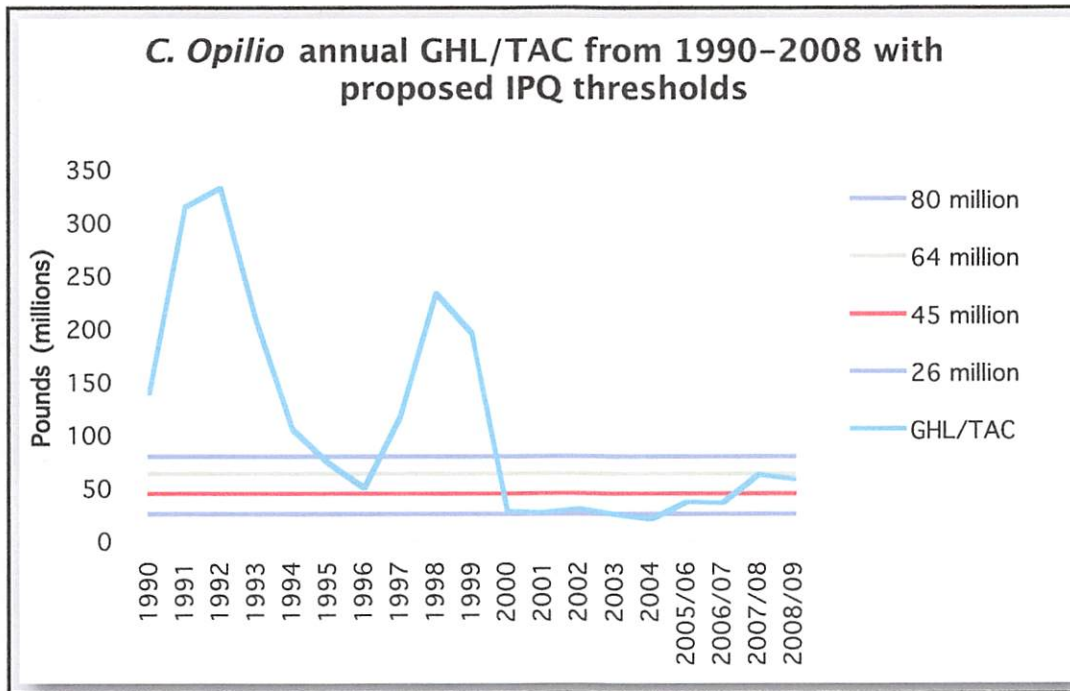
(4) REGIONAL FISHERY ASSOCIATIONS.—

(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

- (i) be located within the management area of the relevant Council;
- (ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (iii) be a voluntary association with established by-laws and operating procedures;
- (iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;
- (v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that is [sic]¹⁷ members contribute; and
- (vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

¹⁷ So in original.



The December 2008 Motion proposes a reduction in annual IPQ caps based on the assumption that "... higher TACs afford an opportunity to expand competition while maintaining protection for processor investment and recognizing community dependency under an IPQ threshold."

The range of C. Opilio IPQ thresholds under consideration do not maintain protection for processor investment(s) nor do they afford a reasonable level of community protection. The upper end of the range falls well below the historic average TAC/GHL levels that are the foundation of the Program's structure.

The IPQ threshold is by definition a regulatory dividing line between "Low TAC" years and "High TAC years". The average C. Opilio GHL/TAC from 1990-2008 is **110.5 million pounds**. Prior to the 2000 season, the GHL/TAC had only dropped below the 80 million pound option one time. **The range of IPQ thresholds in the current motion appear to be based solely on the 2000 - 2008 fisheries, which have been slowly rebuilding from the stock collapse of 1999/2000. This is a historically low set of years to use and we request an additional option of 110 million pounds be included in the range.**

Arni Thomson
ACC

Agenda C-7(c)

Draft ~~motion for~~ clarification on the scope of the leasing discussion paper

Background:

Reference is made to the December 2008, NPFMC motion requesting a discussion paper on leasing restrictions in the Bristol Bay red king crab fishery and the Bering Sea snow crab fishery; in addition to the motion calling for the paper to address the factors affecting lease rates in the above fisheries and how the extraction of rents by QS holders through lease payments has changed payments to crew under the crab program, the motion also calls for providing examples from other programs of provisions that limit leasing activity....etc.

~~Motion.~~ *Clarification:*

If the NPFMC wishes to proceed with development of a discussion paper on BSAI crab, the ACC recommends the staff do a qualitative analysis of the following programs to provide a reference point with other fisheries:

- GOA/BSAI Halibut, sablefish IFQ and CDQ
- BSAI Pollock coops and CDQ
- BSAI Amendment 80 coops and CDQ; and
- State of Alaska Commercial Fisheries Entry Commission Limited Entry Permits for salmon and herring fisheries.

The paper should include information on the regulatory provisions, and/or common practices that involve leasing, and/or royalty payments, eligibility criteria, limits, industry standards on rates and the extent of leasing/royalty payments.