



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
Office of General Counsel  
P.O. Box 21109  
Juneau, Alaska 99802-1109

Attachment D

DATE: October 3, 2003

FOR: Chris Oliver, Executive Director  
North Pacific Fishery Management Council

THROUGH: Lisa Lindeman, Regional Attorney  
NOAA General Counsel, Alaska Region *Lisa Lindeman*

FROM: Robert Babson, Attorney *RB*  
NOAA General Counsel, Alaska Region

SUBJECT: Delegation of Authority and the Community Incentive Fisheries Trust Proposal.

As part of the Gulf of Alaska rationalization program, the North Pacific Fishery Management Council (NPFMC) is considering the Community Incentive Fisheries Trust (CIFT) proposal. The CIFT proposal involves an initial allocation of quota share (QS) to organizations representing communities located on the Gulf of Alaska. Under the proposal, these community organizations will then re-allocate the individual fishing quota (IFQ) derived from that QS on an annual basis to members of the community. Because the proposal is in its early stages, many of the details crucial to its implementation have not been developed. This memorandum discusses some of legal limitations the Council should consider in the development of those details.

### Summary

While the Council could authorize allocations of QS to organizations representing communities and authorize such organizations to re-allocate IFQ annually, the authority thus delegated cannot be unlimited. Such sub-allocations of IFQ must be made subject to final approval by the Secretary. Any party aggrieved by such annual adjudications also would have a constitutional right to an agency appeal through the Office of Administrative Appeals before the agency can take final action on the recommendation.

### Discussion

Under the Magnuson-Stevens Fishery Conservation and Management Act (FCMA), the Secretary's responsibilities and authorities can be classified under two broad categories: rulemaking and administrative implementation. The Secretary's rulemaking responsibilities are provided in section



304. For regulations implementing fishery management plan (FMP) amendments proposed by the various Regional Fishery Management Councils:

...the Secretary shall - (A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, and other provisions of the Act, and any other applicable law....

16 U.S.C. 1854(a). *See also*, 16 U.S.C. 1854(b). Once regulations establishing an FMP amendment are promulgated, the Secretary's responsibilities for the implementation of such amendments is provided in section 305(d) of the Act, to wit:

The Secretary shall have general responsibility to carry out any fishery management plan or amendment approved or prepared by him, in accordance with the provisions of this Act...

16 U.S.C. 1855(d).

Because of the novel aspects of the CIFT proposal, both its approval under section 304 of the Act, and its implementation under section 305(d), present unique legal concerns.

#### **Rulemaking**

Pursuant to sections 304(a) and (b) of the Act, in order for the Secretary to approve regulations establishing the CIFT proposal, he will have to determine that it meets the requirements of the national standards contained in the Act. 16 U.S.C. 1851. In addition, since the CIFT proposal is part of a limited access system, he also will have to determine that the proposal complies with the requirements of section 303(b)(6). 16 U.S.C. 1853(b)(6). The approval of the initial allocation of QS to the community organizations participating in the CIFT program should be fairly straight forward; it is the approval of that part of the proposal that calls for the annual re-allocation of IFQ that could be problematic. The latter will involve the approval of actions which, by definition, will not take place until some time in the future. It seems clear that in order for the Secretary to be able to review the regulations establishing the program pursuant to section 304 (a) and (b) of the Act, they will need to include a clear set of standards applicable to the annual re-allocation of IFQ to the individuals who will actually participate in the fishery. The Secretary can then review these standards for compliance with the Act.

#### **Adjudication**

Limited access systems involve "rulemaking" to establish the general standards to be used in

determining eligibility for initial issuance of QS. Once the standards for initial allocation are established by such rulemaking, it is then the Secretary's responsibility to apply those general regulatory standards to individual applicants. This is generally referred to as the process of "adjudication."<sup>1</sup> The adjudication of eligibility of applicants under limited access systems is an example of the responsibilities imposed on the Secretary by section 305(d) of the Act to "carry out" FMP's. As discussed above, the CIFT proposal differs from previous limited access systems implemented by the Secretary in that it proposes to delegate the annual re-allocation of IFQ from the Secretary to participating community organizations. The ability to delegate the Secretary's authority and responsibility under section 305(d) of the Act, however, is strictly limited.

The rules applicable to the delegation of administrative authority has been summarized as follows:

Administrative officers and bodies cannot alienate, surrender, or abridge their powers and duties, or delegate authority and functions which under the law may be exercised only by them; and although they may delegate merely ministerial functions, in the absence of statute or organic act permitting it, they cannot delegate powers and functions which are discretionary or quasi-judicial in character, or which require the exercise of judgment. [Emphasis added.]

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<sup>1</sup> The Ninth Circuit Court of Appeals has differentiated between rulemaking and adjudication in the following manner:

A rule is:

[T]he whole or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency.... 5 U.S.C. [section] 551(4). An adjudication (which results in an order) is virtually any agency action that is not rulemaking. 5 U.S.C. [section] 551(6)-(7). Two principal characteristics distinguish rulemaking from adjudication. First, adjudications resolve disputes among specific individuals in specific cases, whereas rulemaking affects the rights of broad classes of unspecified individuals. [Citations omitted.] Second, because adjudications involve concrete disputes, they have an immediate effect on specific individuals (those involved in the dispute). Rulemaking, in contrast, is prospective, and has a definite effect on individuals only after the rule subsequently is applied. [Citations omitted.]

*Yesler Terrace Community v. Cisneros*, 37 F.3d 442, 448 (9<sup>th</sup> Cir. 1994). In short, rulemaking involves the creation of new law/regulation, whereas adjudication involves the application of existing law/regulation to individual situations.

73 C.J.S., *Public Administrative Law and Procedure* [section] 56 a. (1983). Thus, the general rule is

... that when Congress has specifically vested an agency with the authority to administer a statute, it may not shift that responsibility to a private actor....

*Perot v. Federal Election Com'n*, 97 F.3d 533, 559 (D.C. Cir. 1996), *cert. den.* *Hagelin v. Federal Election Com'n*, 520 U.S. 1210. See also *Population Institute v. McPherson*, 797 F.2d 1062, 1072 (D.C. Cir. 1986); *Sierra Club v. Sigler*, 695 F.2d 957, 962-63 n.3 (5<sup>th</sup> Cir. 1983); *Pistachio Group of Ass'n of Food Ind. v. U.S.*, 671 F.Supp. 31, 35 (CIT 1987). Although these concerns are lessened when the delegation is of ministerial duties (*McCarthy v. Wood*, 245 F.2d 848, 853 (5<sup>th</sup> Cir. 1957)), they are of particular concern when the delegation involves either quasi-judicial (*Id.*) or discretionary functions. Various Courts have held that the adjudication of license applications<sup>2</sup> is both a "quasi-judicial" (*Johnson v. Independent Life & Accident Ins. Co.*, 94 F.Supp. 959, 961 (E.D. S. Car. 1951) and "discretionary" function (*Office of Communication of United Church of Christ v. F.C.C.*, 359 F.2d 994 (D.C. Cir. 1966), *appeal after remand* 425 F.2d 543).

One of the major concerns with the delegation of quasi-judicial functions to private parties concerns the Constitutional right of procedural due process. Normally, when the agency performs license adjudications, applicants have a constitutional right to an agency appeal.<sup>3</sup> The agency's final action

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<sup>2</sup> The Administrative Procedure Act defines "license" as including

...the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission...

5 U.S.C. 551 (8). The APA also defines "licensing" as including

...agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license...

5 U.S.C. 551 (9). It is clear that an annual re-allocation of IFQ meets the definitions of licence and licensing, above.

<sup>3</sup> It is clear that procedural due process, as provided under the Due Process Clause of the 5<sup>th</sup> Amendment of the U.S. Constitution, applies to agency adjudications, as defined under the APA, 5 U.S.C. 551 *et seq.* *Nuclear Data, Inc. V. Atomic Energy Commission*, 364 F.Supp.

on such appeals is then subject to judicial review under the APA. *Foss v. NMFS*, 161 F.3d 584, 588 (9<sup>th</sup> Cir. 1998). If the function of making adjudications were delegated to a private party, then parties aggrieved by such adjudications would have no such agency appeal right, and such adjudications would not be subject to review by the Courts under the APA. This sort of delegation of quasi-judicial authority to a private party has been uniformly rejected by the Courts. See generally *Pistachio Group of Ass'n of Food Ind. v. U.S.*, 671 F.Supp. 31 (CIT 1987).

The Courts' concern about delegations (sometimes referred to as "subdelegations") of quasi-judicial functions to private parties (such as the community organizations who would be allocated QS under the CIFT proposal) are lessened when agency and judicial review and control over those functions are retained. Compare *Texas Office of Public Utility Counsel v. F.C.C.*, 265 F.3d 313, 328 (5<sup>th</sup> Cir. 2001) with *Save Our Wetlands, Inc. v. Sands*, 711 F.2d 634, 641 (5<sup>th</sup> Cir. 1983); *Sierra Club v. Lynn*, 502 F.2d 43, 59 (5<sup>th</sup> Cir. 1974), cert. den. 421 U.S. 994. The United States Court of International Trade has stated:

The courts have consistently required subdelegations of significant functions to be checked by some form of review, either within the agency itself, or ultimately by the courts. Lower level procedural decisions generally require less oversight than decisions which affect the substantive rights of regulated parties, or which embody the agency's most potent use of its discretionary authority. In all cases cited by the parties, however, courts were willing to approve subdelegations only if they ultimately were subject to some form of scrutiny.

\* \* \* \* \*

Such a decision cannot be abandoned to an independent agency with private sector components, and isolated from all types of review, administrative or judicial, merely for reasons of convenience.

*Pistachio Group of Ass'n of Food Ind. v. U.S.*, supra at 37. The Court went on to state

...the availability of administrative and judicial review may cause a court to conclude that no delegation has occurred. [Citation omitted.]

\* \* \* \* \*

By finding that "no delegation has occurred" rather than finding that a given delegation is proper, courts may avoid answering difficult separation of powers and related questions or objections to the degree of power transferred.

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423, 425 (D.C.D.C. 1973). It is also clear that agency permit decision making is an adjudication under the APA. *National Wildlife Federation v. Marsh*, 568 F.Supp. 985, 992 n. 12 (D.C.D.C. 1983).

***Id. at 39.* Absent a statutory provision for direct judicial review of annual IFQ adjudications made by community organization participating in the CIST program, the only judicial review possible would be for "final agency action" under the APA. In order to have such "final agency action," the annual IFQ adjudications must be made subject to agency review and Secretarial approval.**

cc: Jane Chalmers  
James Balsiger

**RECEIVED**

NOV 21 2003

N.P.F.M.C

Introduced by:  
Date:  
Action:  
Vote:

Moss  
11/18/03  
Adopted  
9 Yes, 0 No

**KENAI PENINSULA BOROUGH  
RESOLUTION 2003-122**

**A RESOLUTION SUPPORTING A GULF OF ALASKA GROUND FISH  
RATIONALIZATION PLAN THAT UNLOCKS THE VALUE OF KENAI PENINSULA  
BOROUGH RENEWABLE FISHERY RESOURCES, ENSURES COMPETITIVE  
PROCESSING MARKETS AND ALLOWS FOR REASONABLE GROWTH FOR  
KENAI PENINSULA PORTS, AND PROMOTES CONSERVATION OF FISHERY  
RESOURCES**

- WHEREAS**, the combined value of Kenai Peninsula ports (82.1 million dollars) is second only to Dutch Harbor in 2002 for Alaska and the third highest by value in the nation; and
- WHEREAS**, the majority of Kenai Peninsula Borough's groundfish fleet are fixed gear vessels (longliners and pot boats) generally run by owner-on-board, independent family fishermen; and
- WHEREAS**, the majority of KPB's processing businesses are generally small, entrepreneurial enterprises specializing in fresh high-valued products; and the strength of the KPB's waterfront is the ability to innovate and meet changing market demands and consumer tastes for fishery products; and
- WHEREAS**, a proposal known as the Gulf of Alaska ("GOA") Rationalization Plan is before the North Pacific Fishery Management Council ("NPFMC") to allocate groundfish to boats and fishermen in a manner similar to the halibut and sablefish program; and
- WHEREAS**, certain "processor provisions" and "community protection" measures (closed class of processors, linkages to processors, and regionalized landings), which are stated goals of the GOA Rationalization Plan may advantage non-Kenai Peninsula ports but seriously curtail economic development of the GOA groundfish resources processed on the Kenai Peninsula by requiring that the groundfish be delivered to processors in the area where they have historically been sold; and
- WHEREAS**, the KPB assembly previously passed Resolution 2002-049 opposing processor quotas; and
- WHEREAS**, fish taxes that support our communities are derived from ex-vessel fish prices, and rationalized fisheries with free markets and open delivery patterns generate the highest value for our fishery resources; and

**WHEREAS,** rationalized fisheries generally slow down the race for fish, promote safety at sea, allow for more orderly management, and promote conservation benefits such as reduced bycatch and wastage; and

**WHEREAS,** the KPB supports measures in the GOA Rationalization Plan to include prohibited species caps and/or trawl area closures to provide for the recovery of tanner and king crab, and to reduce the bycatch of Kenai king salmon; and

**WHEREAS,** the KPB supports measures in the GOA Rationalization Plan to allow voluntary gear conversions so that trawlers would be allowed to fish cod with pots, as this measure could significantly reduce halibut bycatch and reduce adverse affects on marine habitat; and

**WHEREAS,** the KPB supports adequate fishery observer coverage to ensure that the conservation goals of the program are being met; and

**WHEREAS,** the KPB supports including hired-skippers in allocations of harvest shares based on their historical participation; and

**WHEREAS,** the KPB supports maintaining entry level opportunities for new fishermen in any rationalized fishery; and

**WHEREAS,** the KPB recognizes that the trawl fleet members, the large processors they deliver to and the communities where they operate may have different needs for their region's economic stability;

**NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** That the Kenai Peninsula Borough Assembly supports options in the Gulf of Alaska Rationalization Plan that increase the value of our fisheries resources; allow open deliveries without processor restrictions for the entire fixed gear catcher fleet; and that provide opportunities for our small processors to purchase high quality groundfish.

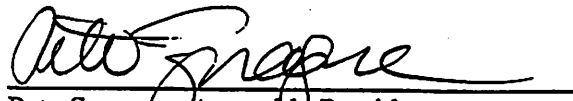
**SECTION 2.** If any regionalized landing requirements are imposed in the Plan, that the Kenai Peninsula be allowed reasonable incremental growth in groundfish landings to provide for economic development into the future.

**SECTION 3.** That copies of this resolution shall be provided to Governor Murkowski, Senator Stevens, Senator Murkowski, Congressman Young and the NPFMC.

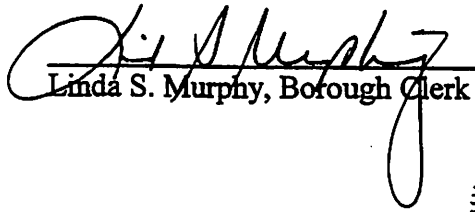
**SECTION 4.** That this resolution takes effect immediately upon its adoption.

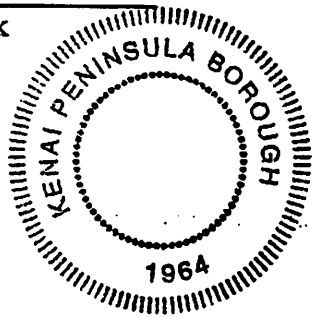


**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 18TH DAY OF NOVEMBER 2003.**

  
Pete Sprague, Assembly President

ATTEST:

  
Linda S. Murphy, Borough Clerk



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Re: GOA Rationalization  
North Pacific Fisheries Management Council:

I have three proposals:

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

1. That Regionalization, not Mandatory Co-ops, be the mechanism by which community protection concerns are addressed. Landings would be directed to traditional *areas* rather than to traditional *buyers*.
2. That all skippers and crew who are independent contractors be issued a plastic card as a license, and that that card be presented at every landing. Concerns over National security alone should mandate this.
3. That a profit sharing fund for skippers and crew be funded through a tax on landings. The fund would have two purposes: to provide a lifetime yearly disbursement to skippers and crew fishing during the qualifying years, and to provide low-cost insurance to present day crews of rationalized fisheries.

These actions would protect the communities and the livelihoods of independent contractors presently engaged in the GOA groundfish fishery.

Thank you, Terry Haines



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NPFMC;

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N.P.F.M.C

The awarding of rockfish quota to processors is detrimental to crewmen, communities and the small boat fleet. It is my understanding that only a select few will be able to fish outside three miles. This will dramatically reduce the economic viability for smaller jig and longline vessels. It will reduce the number of vessels engaged thus displacing the crew. Overtime, an important source of income for plant workers will be reduced or eliminated. Just as in the halibut and BC privatization, many people currently employed by the fishery will be forced to relocate and retrain, reducing the tax base and overall economy of communities.

The awarding of shares to processors goes against the decision of the council in June not to use IPQ's as a management tool in the gulf. This smacks of a blatant disregard for ethics. I cannot support a council that says one thing and does another. This sort of behavior shakes the foundation of trust in the council's integrity.

The resource could be effectively caught by other means than trawl with greatly improved quality, commanding an increased price. With the current state of the west coast fishery there is no question the market value will increase, even without the help of our processors. Entry level fishermen would have a real chance to engage in a lucrative fishery, something almost unheard of in these financially unstable times.

Please consider in your rationalizations of public resource, the result to the struggling many, not just the privileged few.

Dennis Carlsen

Dennis Carlsen

Box 9058

Kodiak AK

99615

F/V Carlsen Point

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**N.P.F.M. NPFMC**

Sirs; I am a fisherman. Not the kind you refer to in your rationalization plan, but a real, raingear wearing, splashed in the face type. I have been excluded from the huge give away of our public resource. Owners of the boats I worked on now will have rights to the fish and crab I harvested. By experience we know they will not fairly share the proceeds under privatization. A rent will be imposed, more than half the boats and crew will be retired, professionals will be replaced by family and friends. What you are doing is Bad for me, bad for Alaska, and a terrible example that will be followed by other fish councils.

You are taking the food off my, and most other crew and skippers tables.

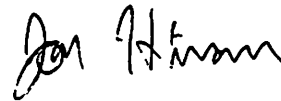
**WE ARE PISSED ABOUT THIS.**

Take us into account. You are supposed to be public servants, but pander only to the privileged few. I don't have the time or money to lobby, I actually fish for a living. If the council were ethical I wouldn't lose my job or be half shared, and would be included in the give away.

Unfortunately, this is not the case.

Sincerely

fisherman



**PUBLIC TESTIMONY SIGN-UP SHEET FOR  
AGENDA ITEM**

Call Rate C-1

	NAME (PLEASE PRINT)	AFFILIATION
1		
2	Steve Branson	Crewmens Association
3	<del>Joe Sullivan</del>	<del>Union Party Fishery</del>
4	* Joe Sullivan	Mundt Mac-Kodiak
5	<del>Joe Sullivan</del>	<del>OOAC<sup>3</sup></del>
6	<del>Joe Sullivan</del>	<del>AFES</del>
7	* JAY SIMON	ADA
8	<del>Joe Sullivan</del>	<del>ADA</del>
9	* Jerry Danson	Far-Western Fisheries
10	* TERRY HAINES	FISHHEADS
11	<del>Mike Shum</del>	<del>F. Sherman</del>
12	* Paul R. Grenoldt	Fisherman
13	* Margaret Nell	(EV Progress + Vanguard)
14	* Ken T. Pratt	Alaska Boat
15	Alexis Kuchka	Fisherman
16	* STEVE DRAGE	FISHERMAN
17	Mike Alfieri	FISHMAN
18	Julia [unclear]	NFDI
19	Jeff Stephen	UTMA
20	David Tokishkin	K Bay Fishing Assoc.
21	Dan Hall	CDFW Groundfish Division
22	Steve Branson	Crewmens Association
23		
24		
25		

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

# Testimony by Duncan Fields Gulf of Alaska Coastal Communities Coalition

December 10, 2003

Madam Chairman, members of the Council, my name is Duncan Fields and I represent the Gulf of Alaska Coastal Communities Coalition.

The coalition has reviewed the NOAA GC opinion dated October 3, 2003 and questions a number of the assumptions, inherent in the opinion. In addition, the opinion may confuse the transfer of quota share units to the community ownership entity with the non-ownership use of the annual fishing opportunity (the IFQ) by community members.

At this juncture, we're not sure the Council needs to modify the current purpose statement or elements and options of the proposed Community Fisheries Quota program in order to respond to NOAA General Council's concerns. Perhaps, as the program is further developed, Council's concerns regarding the delegation of rulemaking and adjudication will be satisfied. On the other hand, if Council wishes to address Council's concerns the language provided as part of the minority opinion in the AP motion should be considered to clarify the purpose statement. (see language page 14 of AP motion).

The coalition has concerns about the changes to section 2.9.2.6 on page 21 of the motion regarding allocation of the quota share.

The current motion would allocate Community Fisheries Quota to the administrative entity representing eligible communities. The proposed changes would provide the council an option to require, by statute, that the administrative entity transfer the annual use rights to each qualified community on the basis of a 50/50 formula — 50% equally to each community and 50% distributed pro rata based on population.

The coalition believes that the quota share units as well as the annual use rights should stay with the administrative entity for distribution to fishers in the qualifying communities. The communities themselves should decide the distribution of the rents from use of the quota shares and the communities should develop a formula internal to the administrative entity — subject, of course, to approval by the agency. A super majority, perhaps 75% of the qualifying communities, would need to agree on the distribution formula. The guidelines for determining the distribution formula internal to the ownership entity are what should be in regulation.

Nevertheless, if the Council believes that a distribution formula should be included in the motion, I would offer the following language for the two current criteria and add one additional criteria.

#### 2.9.2.6 Allocation Basis

**Option1. 0-100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on an equal basis.**

**0-100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on a pro-rata basis based on population.**

**0-100% of the annual harvest rights from the CFQ owned by the administrative entity from each GOA groundfish management area, by species, would be distributed amongst qualified communities located in the management area on an equal basis.**

Madam Chair, thank you for your consideration of the Coalition's comments. We would also like to thank Council staff for their through review of the Community protection issues and insightful comments.

## Crewmen's Resolution on Rationalization

WHEREAS, the privatization of halibut and sablefish bypassed entirely the fishermen on deck who harvested the fish during the qualifying years; and

WHEREAS, the majority of crewmen in the fishery were displaced; and

WHEREAS, most of the remaining crewmen's wages were dramatically reduced by IFQ "rents"; and

WHEREAS, the loan program provided for crewmen to buy into the fishery requires high enough down payment as to prohibit entry for most crewmen; and

WHEREAS, BSAI crab rationalization has again provided no benefit or safety net to protect the livelihoods of crewmen; and

WHEREAS, Privatization will most likely be used as a management tool in other fisheries; and

WHEREAS, the buyback program reduces the fleet without providing for crew displacement; and

WHEREAS, 19,529 crewmen's licenses were sold by the State of Alaska last year with additional crewmen that are permit card holders also engaging in fishing activities; and

WHEREAS, the privatization of the fisheries will ultimately degrade the quality of life for the vast majority of fishermen and their families; and

WHEREAS, conflicts of interest sway the council, rendering a fair plan impossible,

The Crewmen's Association does not support BSAI Crab Rationalization, or the use of co-ops in the rationalization of GOA groundfish without compensation for displaced crew and assurance of traditional deckshares for the few remaining active fishermen.

SPECIFICALLY, We would like: *21% of quota allotted to skipper and crew*

1. job security; exclusive rights to the deck of all privatized recourse boats, based on a point system according to time spent in the fishery during qualifying years.

- A. including BSAI crab plan
- B. Deck rights to be transferable, allowing entry level crew

2. Mandatory continuance of historic crew shares and division of gross ratios to avoid unfair rents as charged in current IFQ fisheries



3. First shot at buying the 10% of BSAI crab resource not required to be sold to traditional processors, be given to traditional crab crew if BSAI rationalization goes through.

4. Co-ops be stricken from consideration, due to crew displacement, unless compensation is provided for generously.

5. Regionalization be implemented according to catch areas instead.

6. The loan program be made more accessible to crew and skippers by reducing, sizably the down payment requirement.

7. Realistic compensation to crew and skippers displaced by the buyback program.

8. 100% owner on board requirements be instituted for GOA ground fisheries.

9. New management plans foster entry-level fisheries with traditional crew having first crack at access.

10. Skipper's shares under BSAI crab plan be made more similar to owner shares.

11. All conflicts of interest on council are resolved before the drafting of further legislation.

12. Removal of transferable bycatch option from present plan, halibut excluders considered instead.

13. Allocation of quota to environmentally friendly fisheries be made priority.

Name

Address

Signature

Email

*Toby Sullivan*

TJSULL@

TOBY SULLIVAN BOX 3047 KODIAK AK 99615 # PITILAKSKI

Craig Ophrem BOX 10 Ouzinkie AK 99644 CraigOphrem

Doug DeBener 3490 Pt. White Dr. NE Raines WA 98110 DougDeBene

Tim Milton B+B

~~X Mike Farris Box 331 Kodiak AK 99615~~

~~X Scott Timpke Box 5541 Kodiak AK 999615~~

George Timpke PO 9032 Kodiak 99615

TRAY ZIMMERMAN PO Box 391 454-5009

Gene W Ledoux 714 Hillside 9074865869

Feder Nelson 1317 Selif 486-6310

X Martha Jane Branson BX451 bransonsopticalak

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Mike Bo

# CREWMAN'S ASSOCIATION

Boring  
SE.  
Coffee  
9PM

PLEASE PRINT CLEARLY			
Name	Phone #	Address	signature
Bill Peters	907 376 8814	POB 870498 WAASS. 1111 99687	
Mike Bouray	907 486 4054	# 3291 BALIKA	Mike Bouray
Paul Yatsik	907 486 1996	PO Box 8725 Kodiak	Paul Yatsik
CASEY EADS	907-486-6064	PO Box 422 KODIAK	Casey Eads
JAMES ALPIAK	907-486-5693	P.O. Box 8592 Kodiak	James Alpiak
DENNIS HELMS	907-486-3810	P.O. Box 2757 Kodiak	Dennis Helms
Peter P. Elson	907 486-3455	PO 5954 Kodiak 99615	Peter P. Elson
ALEXIS KWACHKA	907-486-5558	226 COPE ST. KODIAK	Alexis Kwachka
Wayne Buck	907 486 419	POB 3300 1716 Rozens F	Wayne Buck
SARMOD COLLIER	907 486-3197	PO BOX 8152 KODIAK	Sarmod Collier
Andrew DeVries	907-486-1422	Box 3513 KODIAK 99615	Andrew DeVries
Robert Moore	907 487-2277	General	Robert Moore
DONNIE LANTHEAD	(907)-486-1447	3865 COLO CIR KODIAK AK 99615	Donnie Lanthead
Rachel Kennerson	(907) 487-4342	1301 Koch dr Kodiak AK 99615	Rachel Kennerson

Robert Moore

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W

# CREWMAN'S ASSOCIATION

PLEASE PRINT CLEARLY

Name	Phone #	Address	Signature
Ryan Johnson	486-8848	1325 Mission Rd. Kodiak	[Signature]
Jon Hinman	486-0998	Po Box 30610 Kodiak	Jon Hinman
Jeremy Williamson	486-2344	23 Rasmussen	[Signature]
Aaron Serton	486 4306	POB 3887	[Signature]
Stae esparza	486 5944	POB 3209	Steve Esparza
Dean Harker	381-6059	General Delivery P.O. # 108 Anchorage AK	[Signature]
Dennis Carlsen	486-0047	Box 9058 Kodiak	Dennis Carlsen
			email contact
Tathey Blair	418 Hillside	Kodiak Anchorage AK 99515	[Signature]
Mike Carter	P.O. Box 4411	Kodiak	[Signature]
John Simeonoff	Box 2489	Kodiak AK	John Simeonoff
Tom Eggertson	Box 965	Kodiak	[Signature]
Tom Frost	1110 Markers Ave		[Signature]
Shawn C. Dochtermann		PO Box 3886 Kodiak, AK	[Signature]
ANTHONY FULGONIA		713 LOWER MILL BAY	
RICHARD WILSON		PO BOX 8915 KODIAK AK	
Shannon McCorkle		8150 Northwind Ave #13 Anchorage, AK	
William Matthews		Box 8583 KODIAK, AK, 99515	

<del>PETER J Logan</del>	486-6594 481-1067	1620 MISSION Rd Kodiak AK 99615 3377 LAKE VIEW	
Mike Ferris	486-3740 654-1965	1311 Larch St Kodiak AK 99615	Mike Ferris
KEVIN THOMAS	486-5361	BOX 3258 KODIAK, AK. 99615	K. Thomas
ALEXUS KWACHKA	486-5558	326 LOPE ST KODIAK, AK 99615	Alexus

Kelly J Moore	NA	P.O. Box 10 <sup>99644</sup> Kodiak	Kelly Moore
C.K. Haen	6-4745 654-1012	PO Box 4463	C.K. Haen
G Tompke	486-4106	36 Seckson Lane <sup>Kodiak</sup>	G Tompke
Ty Anderson	486-3573	PO Box 310	Ty Anderson
Carl Burch	6-2037	2585 metron	Carl Burch
<del>GAMERAS</del>	<del>486-3607</del>	<del>3520</del> <sup>WARRAND</sup> <del>PLAZA</del>	
<del>Greg Bapty</del>	<del>486-3795</del>	<del>PO Box 759 Kodiak</del>	
Steven Eggemeier	486-2819 (487-2260)	P.O. Box 965 Kodiak 1111 Marine Way Kodiak, AK. 99615	Steven Eggemeier
William G. Banner	(360)	375 N.W. Oakmont Way Bremerton, WA 98311	William G. Banner
Joffrey Alan EUAL	698-0996		Joffrey Alan Eual

MIKE CLARK Bf2009 Midway and Codheadspoti

MATTHEW PATRICK CALLAGHAN M. B. B. alaska.net

809 Buena Vista Dr. TAILA ALASKA FLORIDA 32304

JASON BECK 305 CENTER AVE KODIAK AK 99615

Paul E. Schwaiblmirz Box 1443 Paul E. Schwaiblmirz GCIMET

Robert Crafty 11354 James Way SE duwamish OR

Bryan Wright P.O. Box 8861 99615

De Luwood P.O. Box 4472 KIWIDAVE Fleetwood

# Crewmen Association

Name	Phone	Address	Signature
X SAM LEAR	907-486-3668	3526 WOODLAND DRIVE	<i>[Signature]</i>
Blake Gloria	907-486-7616	P.O. Box 313 Kodiak	<i>[Signature]</i>
Mia	907-356-7319	Box 851 Kodiak	<i>[Signature]</i>
Mary J. Keane	907-694-1254	Box 6296 Kodiak	<i>[Signature]</i>
Ding Jue	907-486-1446	PO 674 Kodiak	<i>[Signature]</i>
<del>Scott Timpe</del>	<del>907-486-4106</del>	<del>PO Box 8546 Kodiak</del>	<del><i>[Signature]</i></del>
Marty Barton	6-5249	Box 2452	<i>[Signature]</i>
Fred Gordon	6-6318	Box 114	<i>[Signature]</i>
<del>ELIOT RAYMOND</del>	<del>6-2304</del>	<del>PO BOX 8362</del>	<del><i>[Signature]</i></del>
<del>SETH White</del>	<del>507-0684</del>	<del>PO Box 1559</del>	<del><i>[Signature]</i></del>
Chad Giersey		PO Box 3149 Kodiak AK	<i>[Signature]</i>
STEVE STARK	426-6400	" / "	<i>[Signature]</i>
Craig Schwiff	426-7670	Box 8400 Kodiak AK	<i>[Signature]</i>

Name

Address

Signature

Email

GARY L. Ward PO Box 8306 Kodiak AK Gary L. Ward <sup>WARD@WARD909.COM</sup> <sup>WARD@WARD.COM</sup>

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WANDA BULLOCK P.O. Box 8446 Kodiak AK Wanda Bullock <sup>CHERRY@WANDABULLOCK.COM</sup>

Anita VanRook PO Box 1850 Kodiak AK Anita VanRook <sup>AVANROOK@AK.M</sup>

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Derek Christian 9830 San Diego St. Spring Valley, Ca. 91977 Derek Christian <sup>dc@dc.com</sup>

Jay Pearson 205 E. Diamond #330 Anchorage, Al-99515 Jay Pearson <sup>JP@JAYPEARSON.COM</sup>

JOHN J. GILBERT Box 2432 KODIAK AK John J. Gilbert

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Please send this form to 904 or call

# Crewmen Association

Name	Phone	Address	Signature
<del>Steve BRANSON</del>	<del>486 1098</del>	<del>Box 451 Kodiak</del>	<del>[Signature]</del>
Rob	486-8571	PO Box 85 Old Harbor	[Signature]
Joe	486-2571	Po. Box 82 Old Harbor, 99643	[Signature]
Paul Capjohn Jr	481-2752 486-8571	PO Box 85 48	[Signature]

Name


address


signature

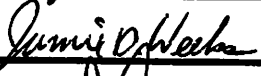
email

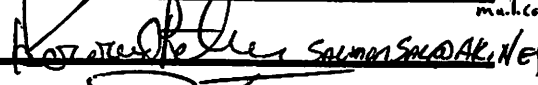
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Patrick castello 1519 E. REZANO ~~1519 E. REZANO~~ Patman-68@YAHOO

Greg Topping Box 759 Kodiak AK 

J. Cal Brown Box 361 

Jamie Weeks 1166 Lake Orion Circle, Kodiak  Jweeks@hotmail.com


HOWARD PETERSON Box 1063 Kodiak  salmonSA@AK.NET

BLAKE J THOMAS P.O. BOX 50 Kodiak AK 

Janet ~~1318~~ ~~1519~~ 99 (15)

~~JAN CRANDALL 1937 KODIAK AK~~

~~SAM EADS 3520 WOODLAND~~

Robert Jones P.O. Box 11204 

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# Crewmen Association

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Edgar Smith	907-245-0035	6534 Mail Way Anchorage, AK 99502	
SHANE YOUNG			
Albert JACOBSON	907 383 2181	Box 36 Snd Pt <del>99661</del>	99661
DAVE Gunderson	383 2131	Box 134 SAND Pt	
Sergey Yakimic	907 299 0419	P.O. Box 5044 Nikolaevsk Ak 99552	
Harry J Gunderson	208 377 8572 208 761 6551	3200 Pepperwood <sup>83704</sup> Boz ID	
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JOSHUA M WHITE	907 486-2689	Box 486 KODIAK, AK	
KAVIK <del>Address</del>	487 2489 299 7521 907	12218 Seward Dr Kodiak	
Tom Miller		Box 161 Homer AK, 99615	
MARVIN ABBOTT	P.O. BOX 1318 KODIAK AK.	907-486-8802	
<del>JOHN HAN</del>	P.O. 3186 Homer AK	907-299-2002	
<del>MATT STARR</del>	<del>P.O. Box 99602</del>		
Ryan Johnson	1325 Mission Rd 907 486-8848	Kodiak, AK 99615	
Kelvin Howard	P.O. Box 1817	Kodiak AK	
Lloyd Davis	907-286-5002	Kenai Ak	
Leo Robchand	907 486 2290	Kodiak AK	

# CREWMAN'S ASSOCIATION

<u>PLEASE PRINT CLEARLY</u>			
Name	Phone #	Address	signature
Shane McAuley	907 749 2400	Chignik	
John Anthony	486-6463	Kodiak	
Frank Miles	486-8264	Kodiak	Frank Miles
Paul Dan	486-2653	Dutch Harbor	Paul Dan
Mike Sharrah	486-2722	P.O. Box 8922 Kodiak	Mike Sharrah

Name	Phone	Address	Signature
Joshua Neal	(508) 430 1995	78 middle rd 02659 S. Chatham, Ma.	Joshua Neal
Ray Burke	P10112 Birch	112 Birch St	Ray Burke
JAMES Smit	(907) 486-1712	Box 6556 Kodiak	James Smit
TODD J CAUSEY	(907) 486-3670	PO BOX 145 Kodiak	Todd Causey

# CREWMAN'S ASSOCIATION

<u>PLEASE PRINT CLEARLY</u>			
Name	Phone #	Address	signature
Hans Leukuma	907-362-1433	P.O. Box 67146 Chignik AK, 99567	Hans Leukuma
Tom Frantti	907-491-0466	P.O. Box 473721 Wasilla AK 99687	Tom Frantti

Alan Parkes  
DID NOT  
TESTIFY

November 2003

Stephanie Madsen, Chair  
North Pacific Fishery Management Council  
605 West 4th Ave., Suite 306  
Anchorage, AK 99501-2252

Re: Gulf of Alaska Groundfish Rationalization

Dear Members of the NPFMC,

We are glad to see that the NPFMC has decided to include options in the Gulf groundfish rationalization program that will address salmon and crab bycatch. In the groundfish trawl fisheries, salmon bycatch has averaged 39,122 chinook and chum salmon over the past 12 years, and *C. bairdi* crab bycatch has averaged 79,238 crabs over the past 10 years. It is important and appropriate that the NPFMC address this situation given the low abundance of crab species, their sensitivity to bottom trawl gear and the high rate of mortality in the trawl fishery as part of the overall design of the Gulf program.

We have reviewed the range of elements and options under development for the Gulf analysis. We note that the NPFMC's current approach is to encourage halibut bycatch quotas to be transferred between fisheries, allowing trawl vessels to expand their participation in the incentive flatfish fisheries. For example, since less than half of the shallow water and deep water flatfish TAC is harvested under today's management system, the incentive fisheries will result in expansion of flatfish trawling. The most likely result will be increased crab bycatch, increased bottom trawl intensity and more area of the seafloor subject to bottom trawl impacts.

We stand together to recommend that you adopt a few options for analysis including 1) setting caps for crab and salmon bycatch, 2) time/area closures to minimize salmon bycatch, and 3) area closures that limit the area open to trawling to those areas least important to king and tanner crab species.

Sincerely,

Name	Address	Community	Vessel
JAMES COBB	P.O.B. 1289	HOMER, AK.	"LABRADOR"
TOM TEMPLE	Box 488 Elderberry	HOMER, AK	SARAH-M
MARK HOTTMANN	P.O. Box 3276 Homer, 99603	Homer, ALASKA	Walter A.

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Sincerely,

Name	Address	Community	Vessel
WILLIAM COLLIER	PO BOX 8152 KODIAK AK 99515	KODIAK	EV TERACIOUS
WALTER BENSON	Box 3523 KODIAK AK 99515	KODIAK	EV JENNIFER
TERRY HAINES	PO BOX 8112	KODIAK	EV S-001A

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Sincerely,

Name	Address	Community	Vessel
John Lockie	Box 2030	Home - / Sand Point	VIKING
MIKE DELANEY	454 Klonika Ave	Home - R	MISS CHARLOTTE
Tom Jones	P.O. Box 917 Anchorage AK	Home -	Sea Power

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Sincerely,

Name	Address	Community	Vessel
Tom James	PO BOX 915 Homer ALASKA	Homer	SEA POWER
Mike Nakada	Bx 1835 Homer	Homer 99603	KURO
Dan L'inn	Box 1272	Homer	Cignet

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Sincerely,

Name	Address	Community	Vessel
Paul Scaton	58395 Bruce Dr.	Homerville	Sea Spider
Mike Brooks	38225 Grier Rd	Homerville	FLV Ushagat
Glenn Carroll	P.O. Box 551	Homerville	FLV Hadassah

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Sincerely,

Name	Address	Community	Vessel
Alanna Peters	Box 2623 Homer	Homer	Dan 36
Catie Bursch		Homer	Flu Red Dog
Fan Fitzmaurice	4254 Seward	Homer	Jennifer A



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Name	Address	Community	Vessel
Stephanie Madsen	P.O. Box 3865	Kodiak	FLV Salva
Eva Holm	P.O. Box 3865	Kodiak	FLV Salva
Alan Parks	5055 Newlyte	Homer	FLV Katsy

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Sincerely,

Name	Address	Community	Vessel
Mike Yourkouski	3059 Karl-nude Dr	Homestead	FLV K. Thywale
Cy St-Amand	P.O. Box 230	Homestead	FLV Eomara
Mike Shura	P.O. Box 8422	Kodiak	FLV IRENE H.

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Sincerely,

Name	Address	Community	Vessel
Hazel Goodell	Box 31086	Kodiak AK	Eider Narrows
Wendy Beck	Box 2790	Kodiak AK	Eider Narrows
Don Dennis	Box 1723	Kodiak AK	Horsehoe Bay

Vessel	Community	Address	Name
AC NOKA F	KODICK	2625 Spruce Cherry Hill	[Signature]

November 2003 letter to the NPFMC