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September 23, 2013

RECEIVED
SEP 24 2013

Mr. Karl Johnstone, Chairman
Alaska Board of Fisheries
Alaska Department of Fish and Game
P.O. Box 115526
1255 W. 8th Street
Juneau, AK 99811-5526

**RE: Agenda Change Requests 2 & 8 related to Alaska's Scallop Fishery
Alaska Board of Fisheries Work Session - October 9-11, 2013**

Dear Chairman Johnstone:

We represent the Alaska Scallop Association and 6 scallop boats owners who operate in Alaska's state and federally managed scallop fisheries. We write to comment upon on Agenda Change Requests 2 and 8, which the Board of Fisheries ("Board") will consider at its Work Session in October 2013.

In sum, we ask the Board to schedule ACR 8 for a future meeting. We ask the Board to reject and not consider ACR 2 at all.

While there we have some concerns about specific provisions of ACR 8, ACR 8 appears to be an attempt by the Alaska Department of Fish and Game ("ADF&G") to deal with its conservation-based management of scallops in state waters in light of inaction by the Alaska Legislature related to the scallop fishery. As a precaution, it appears that ACR 8 may merit future consideration by the Board. On the other hand, ACR 2 is simply a blatant reallocation measure and is not conservation-based at all — indeed it would harm the scallop resource if adopted. ACR 2 also presents serious legal problems, violates the federal Scallop Fishery Management Plan ("FMP") from which the state of Alaska derives its authority to manage the scallop fishery in state waters, violates Alaska law, and is designed to harm past and existing participants in Alaska's scallop fishery.

II. THE BOARD SHOULD SCHEDULE ACR 8 FOR A FUTURE BOARD MEETING

We respectfully request that the Board consider scheduling ACR 8 for a future Board meeting.

ACR 8 should never have been brought before the Board. The only reason that ADF&G submitted ACR 8 to the Board is because the Alaska House of Representative's Special Committee on Fisheries failed to move Senate Bill 54 out of that committee. SB 54 would extend the termination date of the Commercial Fisheries Entry Commission's ("CFEC") authority to maintain a vessel-based limited entry fisheries system for the weathervane scallop to 2018.

Because SB 54 has not passed the Legislature, CFEC's authority to administer a vessel-based limited entry fisheries system for weathervane scallops will end on December 30, 2013. That means that this fishery will become "open-access." ACR 8 appears to be ADF&G's management response to that political situation, and a reasonably prudent, prophylactic move related to the management of the scallop fishery.

However, the Board should note that the weathervane scallop fishery opens on July 1, 2014. It is possible that the Legislature will pass SB 54 before the scallop fishery begins. Therefore, while we ask the Board to schedule the substance of ACR 8 for a future Board meeting, we believe that it would also be prudent for the Board to write a letter to the Governor and Speaker of the House asking the House to move SB 54 to the floor for a vote.¹ Those letters by the Board would be consistent with formal, long-time, and articulate support for CFEC's vessel-based limited entry fisheries system for the weathervane scallop by ADF&G and the North Pacific Fisheries Management Council ("Council").

Attached to this letter are statements by both ADF&G and the Council for adoption of the substance of SB 54. Both these agencies provide cogent statements in support of the state's continued prudent management of the scallop fishery by supporting passage of 54. As discussed below, both of these state and federal agencies provide reasons why ACR 2 manifests exactly the kind of problems that may occur without Alaska House passage of SB 54.

¹ The Senate Resource Committee Substitute for SB 54 already passed the Alaska Senate on an 18-1 vote on March 18, 2013.

II. THE BOARD SHOULD REJECT ACR 2

There is no reason for the Board to consider ACR 2 or schedule it for a future Board meeting. Unlike the ADF&G-submitted ACR 8, ACR 2 is a measure aimed at reallocation of the scallop resource. ACR 2 would also, if scheduled and adopted, negatively affect the scallop resource. ACR 2 would harm the present and future harvesters of the scallop resource. ACR 2 also does not meet the relevant legal standard the Board must use to evaluate ACRs and it cannot be legally considered by the Board.

ACR 2 takes advantage of the SB 54 political situation by shoehorning in effort to get the Board to harm existing participants in the scallop fishery by excluding vessels greater than 80 feet. All six of the members of the Alaska Scallop Association who are permit holders have scallop vessels that are ninety-five feet or longer. These vessels are long-time participants who essentially created the scallop fishery, and who historically operated in a reasonable, conservation-based system. ACR 2 would effect a massive disruption in the development, conservation, and economics of the scallop fishery.

1. ACR 2 Does not Comply with 5 AAC 39.999

The Board should not consider or schedule ACR 2 because it does not comply with 5 AAC 39.999, which sets forth the Board's policy for changing the Board's agenda, and establishes specific guidelines the Board must comply with before it accepts ACR 2.² 5 AAC 39.999 provides that the Board

² 5 AAC 39.999 reads in relevant part as follows:

(a) The Board of Fisheries (board) will, in its discretion, change its schedule for consideration of a proposed regulatory change in response to an agenda change request, submitted on a form provided by the board, in accordance with the following guidelines:

- (1) the board will accept an agenda change request only
 - (A) for a fishery conservation purpose or reason;
 - (B) to correct an error in a regulation; or
 - (C) to correct an effect on a fishery that was unforeseen when a regulation was adopted;

- (2) the board will not accept an agenda change request that is predominantly allocative in nature in the absence of new information that is found by the board to be compelling

may accept an agenda change request only for specific reasons.

2. **ACR 2 Does Not Have A Scallop Fishery Conservation Purpose Or Reason**

Nothing in ACR 2 remotely suggests that ACR 2 has any fishery conservation purpose or reason. The amount of scallops available in state waters is very small. Currently open, there are only two places where scallop beds bleed into state waters, the Kodiak-Shelikof, and Yakutat areas. These two areas would probably be allocated only about 10 thousand to 20 thousand pounds for each area based on historical catches, plus another very small GHL in Area O with 5 thousand pounds. All totaled and spread out over areas that are roughly 1 thousand miles apart, that is not enough biomass for a new fishery, but represents significant impact to current participants if it is lost.

The result of ACR 2, if considered and adopted, would be to open entry to many new boats to the exclusion of most of the experienced boats, which have already borne a huge reduction in harvest quotas over the years (from 1.2 million pounds in 1994 to less than 400 thousand pounds in the two most recent years, most of which is caught in federal waters). These reductions kept the fishery sustainable, and resulted in a CFEC management scheme that operated efficiently. ACR 2 would toss all of that out the window. The flawed scheme suggested by ACR 2 would do the opposite of what the Board must do when managing a fishery — insuring the conservation and development of the fishery — by replacing the very boats that endured costs associated with quota reductions with new boats with no history in the scallop fishery.

ACR 2 is also misleading by statement and omission. For example, ACR 2 indicates the adoption of 7 management requirements, each of which can be addressed briefly. Point 1 of these “requirements” (80-foot vessel length limit), implies that vessels less than 80 feet long might use smaller dredges. That assertion is both pointless and misleading. It is misleading because it is a vessel’s horsepower and thrust that dictate how big a dredge a vessel can tow, not a vessel’s dimensions. It is pointless because a smaller dredge will have less contact on the bottom than a larger dredge. Smaller dredges will have to be in contact with the bottom longer to catch the same amount of scallops as a larger dredge (e.g., a six-foot wide dredge will typically need to be towed twice as much to catch the same as a 12-foot wide dredge).

Point 2 is misleading because a smaller 10-foot dredge will not change the amount of bycatch over a 15-foot dredge. ADF&G observer data since 1993 (paid for by existing or historically-operating scallop vessels) confirms this. A larger number of smaller dredges being towed incorrectly in the wrong areas by inexperienced skippers could result in a much higher bycatch.

Point 3 would exclude observer coverage on vessels with dredges six feet wide or less. The Board adopts management measures that affect the conservation of a fishery in a positive manner. This point 3 puts conservation in reverse and will decrease the data available for ADF&G's management. Those vessels without observer coverage would be immune to crab bycatch caps, making caps a meaningless management tool.

Point 4 present the Board with a red herring. Vessels Monitoring Systems (VMS) are already required by managers; existing scallopers use them. If the authors of ACR 2 has stories "replete of large vessels" entering areas illegally, why haven't there been prosecutions under the existing management measures that require the use of VMS and onboard observers?

Point 5 would require preseason registration. ACR 8 would do that, which the Board should consider in lieu of ACR 2.

Point 6 catch reporting is another red herring because catch reporting is not a problem with onboard observers. Onboard reporting, at whatever frequency ADF&G determines necessary, has been conducted since 1993.

Point 7 is nonsensical as fishing cannot occur in port. Moreover, even if this cryptic "point" means that a scallop vessel must return to port before moving to another area, then that would force boats into port instead of allowing them to continue on into federal waters or other open areas as traditionally done. That is a wasteful measure without a conservation or development basis.

3. ACR 2 Does Not Correct An Error In A Regulation

There is no error in any regulation that would allow the Board to accept ACR 2 at its October Work Session. The Board violates 5 AAC 39.999 if it considers ACR 2 on the basis that there is an error in a regulation that the ACR addresses.

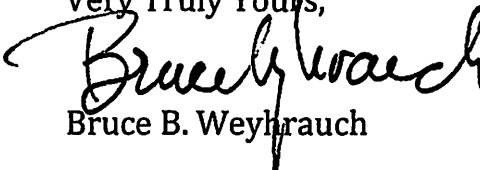
4. **ACR 2 Does Not Have A Scallop Fishery Conservation Purpose Or Reason**

ACR 2 does not have a scallop fishery conservation purpose. On the contrary, ACR would negatively affect scallop conservation. The Board would violate 5 AAC 39.999 if schedules ACR 2 because it does not have a conservation purpose or reason.

5. **The Board Cannot Accept ACR 2 Because It Is Predominantly Allocative Without Compelling New Information**

Finally, ACR 2 disingenuously and coyly asserts that it is "not allocative at this time." ACR 2 primarily seeks to allocate scallops away from existing users and those who own and have used vessels greater than 80 feet. 5 AAC 39.999(a)(2) prohibits the Board from accepting ACR 2 because it is predominantly allocative in nature and is devoid of any compelling new information.

We ask the Board to schedule ACR 8 and reject ACR 2. Thank you for your service to the public.

Very Truly Yours,

Bruce B. Weyhrauch

Enclosures

C: Diana L. Stram, Ph.D., Scallop Plan Coordinator/Fishery Analyst
North Pacific Fishery Management Council (with enclosures)
Eric Olson, Chairman, North Pacific Fishery Management Council (with enclosures)
Governor Sean Parnell (with enclosures)

North Pacific Fishery Management Council

Eric A. Olson, Chairman
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February 25, 2013

Senator Cathy Giessel
Chair Senate Resources Committee
State Capitol Room 427
Juneau, AK 99801-1182

Sent by email: Senator.Cathy.Giessel@akleg.gov

Dear Senator Giessel;

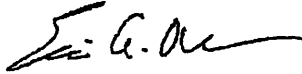
The North Pacific Fishery Management Council (Council) supports the State of Alaska extending the current limited entry program for the Weathervane scallop fishery in state waters. The Council delegated authority to the State of Alaska to manage all aspects of the scallop fishery in federal waters off Alaska, except limited access, which remained a federal responsibility. The Fishery Management Plan for the Scallop Fishery off Alaska (FMP) established a license limitation program (LLP) in federal waters, effective January 16, 2001. The Alaska Legislature, as you know, also established a four-year vessel moratorium in 1997 that was first extended an additional three years until June 10, 2004, and then replaced with a vessel-based limited entry program that was scheduled to expire in 2008. At that time the legislature extended that expiration until the end of 2013. The Council is currently concerned that if this program is allowed to expire, the potential exists for an open-access fishery in State waters that is inconsistent with management measures to limit effort in federal waters. 1

Conservation concerns with crab bycatch and the overharvest of scallops in the early 1990s prompted the Council and the Alaska Board of Fisheries (BOF) to work cooperatively to reduce scallop fishing effort in the overcapitalized Weathervane scallop fishery. In several areas of the state, Kodiak and Yakutat for example, scallop beds are bisected by the 3-mile boundary line separating state from federal waters. In these areas, the majority (80% or more) of the scallop harvest is taken from the federal waters portion of the scallop beds. Guideline harvest ranges established by the Alaska Department of Fish and Game (ADF&G) are applied to the entire registration area, and are not apportioned to either state waters or federal waters. If the state waters portion of the fishery reverted to open access, additional vessels with unrestricted fishing capacity could target scallops in state waters. Disproportionate harvest of the scallop beds could lead to stock conservation concerns; including that portion of the stock in federal waters. Two additional concerns result from a bifurcated management regime. First, regulatory enforcement along the 3-mile line would be problematic. Second, Tanner and red king crab bycatch would likely increase as a result of increased fishing effort within a restricted portion of the scallop bed. Weathervane scallop stocks in Alaska are small. Concerns with overcapitalization, and the resulting stock conservation and crab bycatch concerns have largely been addressed through complementary federal and state limited entry/access programs. The Council encourages the Alaska Legislature to extend the Weathervane Scallop limited entry program in state waters to coordinate with the federal program implemented by this Council.

If you need any additional information relative to this issue, please feel free to contact the Council's Executive Director, Chris Oliver.

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric A. Olson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Eric A. Olson, Chair
North Pacific Fishery Management Council

Cc: Ben Brown, Commissioner CFEC

ADF&G SCALLOP FISHERY MANAGEMENT IN THE ABSENCE OF THE STATE WATERS VESSEL-LIMITED-ENTRY PROGRAM

Prepared by ADF&G – May 3, 2007

The Alaska Department of Fish and Game (department) supported the vessel-based limited entry program for the state waters scallop fishery. The department supports extending this program for an additional 5 years as proposed in House Bill 16. If this limited entry system is not extended, the scallop fishery in state waters will revert to an open entry situation while the fishery in federal waters (outside three miles) will remain under the federal license limitation program (LLP).

If the scallop fishery was open entry in state waters, the department would need to decide how best to manage the fishery. This would depend on assessment of what the existing scallop fleet would likely do and whether new participants would be attracted into the state-waters fishery. How would these scenarios affect the existing management program?

Over the last five seasons, 2002-03 through 2006-07 seasons, 71% of the statewide weathervane scallop harvest has been taken from federal waters, and 29% from state waters. Just considering management areas with scallop beds that overlay the state/federal boundary (Yakutat, Prince William Sound, Shelikof District of Kodiak), over the last five seasons, 39% of the scallop harvest was taken in the state-waters portion of these registration areas. This breakdown is based on catch by statistical area as reported on fish tickets and it is not known how accurately it reflects actual scallop distribution between state and federal waters.

Under the federal LLP, vessels are allowed to fish in federal waters and by the state vessel-based limited entry program, to fish in state waters. Of the nine vessels under the federal LLP, six formed a fishing cooperative. All vessels fishing scallops in Alaska, except Cook Inlet, are required to have 100% onboard observer coverage. So long as this observer coverage is required, the risk of exceeding the overall scallop harvest level or crab bycatch limit in a registration area is small. Data collected by observers are key to successful inseason management.

The department establishes annual scallop guideline harvest ranges (GHR) and crab bycatch limits (CBL) by registration area. In some registration areas, harvest levels are apportioned by smaller geographical areas such as statistical areas or portions of statistical areas within the registration area. In most registration areas, the department does not presently have the ability to establish scallop GHRs or CBLs based on a proportion of the scallop or crab resource occurring in state waters, because video scallop stock assessment methods at present are only experimental and in the case of crabs, they are highly mobile and can easily move between state and federal waters. However, in the Prince William Sound and Cook Inlet Registration Areas a biennial scallop dredge survey is conducted.

Scallop GHRs are established annually for each registration area based on observer-collected data and in the case of the Prince William Sound and Cook Inlet Registration Areas, augmented by scallop dredge surveys. Observer-collected data is from an entire scallop bed. Vessels commonly fish across the three mile boundary making it difficult to distinguish what portion of data was from state waters and what portion was from federal waters. However, the Board of Fisheries could structure the fishery

for future years that would allow fishing in state waters or federal waters, but not simultaneously. Observer-collected data would then clearly be from state or federal waters.

Enforcement issues with fishing over the line would be a concern. Adequate enforcement would be an additional cost to the State's Fish and Wildlife Protection Division. This would be complicated by two factors. First is the fact that some vessels would be allowed to fish in both state and federal waters, while other vessels would be allowed to fish only in state waters. Second is the fact that the line between state and federal jurisdiction is not a simple easily identified line, such as is normally used in state regulations. Vessel movements could be tracked if vessels were required to have a VMS system. However, regulations requiring VMS would have to be passed by the Alaska Board of Fisheries. In the past, the department has opposed VMS in state-waters fisheries due to costs and the state does not have access to the VMS data.

In the absence of a limited entry program in state waters, a conservation concern could arise because numerous vessels with unrestricted fishing capacity could target state waters. Therefore, disproportionate harvest or localized depletion could occur in the state-waters portion of registration areas unless the state established state-waters specific harvest levels, or did not open state waters.

The quantity of scallops allowed to be harvested from state waters would influence the number of new participants into the fishery. The department does not envision that the harvest levels established in state waters to be large enough to attract vessels from outside Alaska into this fishery as occurred during the last boom period of the early 1990s when there was open access in federal and state waters. There are, however, licensed scallop vessels that do not regularly participate in the fishery. Additionally, there may be other vessels in Alaska that fished for scallops before limited entry, that may attempt to participate in the fishery. The initial expense of gearing up for scallop dredging combined with the observer requirements and allowable harvest may limit interest in an open access state-waters fishery. Ultimately, vessel effort would likely depend on price, competition, available alternatives, and the proportion of the GHR that is assigned to state waters.

The biggest challenge facing the department will be having information to establish harvest levels for only state waters, if that is needed.

A likely scenario is that vessels that are currently licensed in the federal fishery would initially target state waters and harvest that quota. Once the state-waters portion of a scallop bed closed, vessels would then move to the federal waters where participation is limited.

To summarize, department staff would likely assess vessel effort in state waters before making a final determination on management strategy. The department would likely ask the Board of Fisheries for new regulations to help manage a state-waters fishery exclusive from the federal fishery. Although staff does not currently have the ability to establish state-waters harvest levels, if effort in state waters was minimal, harvest would be closely tracked to ensure localized depletion did not occur. Alternatively, if registration information indicated a large influx of effort, the state would likely not open the fishery in those areas.

STATE OF ALASKA

SARAH PALIN, GOVERNOR

DEPARTMENT OF FISH AND GAME DIVISION OF COMMERCIAL FISHERIES

P.O. BOX 115526
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July 7, 2007

The Honorable Paul Seaton
Alaska House of Representatives
345 W. Sterling Hwy
Ste 102-B
Homer, AK 99603

Dear Representative Seaton:

During legislative discussions regarding House Bill (HB) 16, you requested the department review scallop management suggestions made by the public and provide you with comments about those suggestions. This letter provides those comments as well as the department's plans for management of scallops during 2007 and beyond, assuming HB 16 does not pass.

Federal waters are currently managed by the state under delegation from the federal government. The state has put substantial effort into developing a detailed management plan that provides for a sustainable fishery. Integrated management of both state and federal waters is the best way to assure conservation and management of scallop stocks and properly account for crab bycatch. Therefore, any changes to scallop management that affect federal waters should be developed in concert with federal officials in order to ensure that the state retains management of those waters.

Of the scallop beds that are open to commercial fishing, the three-mile boundary divides only those beds in the Shelikof District of the Kodiak Registration Area, the Yakutat Registration Area, and the Prince William Sound Registration Area. In these beds, tows may occur entirely in either state or federal waters, or in a mixture of state and federal waters, therefore it is difficult to assign harvest to state or federal waters. Other scallop beds open to commercial fishing (in Kamishak Bay, for example) occur entirely outside state waters. Extensive areas of state waters are closed to scallop fishing to protect crab and crab habitat. Many of these areas have been closed to scallop fishing for nearly 35 years.

Most of the suggestions sent to you would have to be considered by the Alaska Board of Fisheries (board) based on proposals submitted either by the Alaska Department of Fish and Game (department) or the public. Before listening to the broad public discussion that comes through the proposal process, the department cannot say for sure what its position on any given proposal would

be. We have, however, attempted to discuss our initial thoughts and some of the issues that would have to be resolved before these suggestions were implemented by the board.

DISCUSSION OF PUBLIC SUGGESTIONS

1. **Amend processing regulations to exempt shucking scallops.** This suggestion was likely the result of the Department of Environmental Conservation (Environmental Conservation) imposing public health regulations aboard one of the vessels. The department follows the processing definition contained in 5 AAC 39.975(29), which does not include shucking scallops. Under this regulation, processing means completion of cooking, canning, smoking, salting, drying, or freezing. This definition is meant to ensure accurate documentation of fish landings. Scallops are managed based on shucked-meat weight as reported on fish tickets. Environmental Conservation has a definition for processing seafood as it relates to sanitary inspections, and the Department of Revenue (Revenue) has a definition of processing as it relates to taxation. Both Environmental Conservation and Revenue consider shucking scallops as processing. You could contact Manuel Soares of Environmental Conservation at (907) 269-7640 or Tim Cottongim of Revenue at (907) 465-3695 regarding exempting scallop shucking from their processing regulations.
2. **Open access to scallop fishery.** This suggestion specifically referenced allowing access to the fishery for all vessels that hold small vessel crab permits. If HB 16 does not pass, the scallop fishery will be open to entry by any person who wishes to fish. No permit limitation system will exist. Under open access, any individual could obtain an appropriate scallop interim-use permit for the fishery and conduct a fishing operation, including those vessels that continue to be authorized under the federal limited access program. The Commercial Fisheries Entry Commission (CFEC) indicates that skippers using vessels 80' or less in overall length would need to obtain a W2BB interim-use permit, and skippers using vessels over 80' in overall length would need to obtain a W2AB interim-use permit, in order to participate in the scallop fishery. It is also important to understand that CFEC would have to issue a permit to any vessel that applied, regardless of size. While this may provide new opportunity for smaller vessels, it also provides opportunity for large and efficient vessels. To the extent that participation, effort, and efficiency would increase within state waters under open access, management and enforcement could become more difficult, time-consuming, and expensive. To the extent that the vessels operating in federal waters would be different from the vessels operating in state waters, more resources could be needed to try to enforce the state and federal boundary.
3. **Reduce gear size.** One suggestion was to allow only one 12-foot dredge or smaller in state waters. Some comments suggested that a 10-foot dredge was the minimum economically viable size and one participant said he needed a minimum of two 10-foot dredges. Currently, all vessels in statewide scallop fisheries except Cook Inlet are limited to two scallop dredges, each not more than 15 feet wide, with the exception of two vessels that are limited to a maximum of two 10-foot dredges in federal waters. In the Cook Inlet Registration Area, vessels are limited to one six-foot dredge. For those beds that occur in both state and federal waters, having different gear requirements inside and outside of state waters would increase the difficulty of enforcing gear requirements and would increase the cost of participation if vessel operators need to maintain different size dredges for fishing.

inside and outside of state waters. The board would have to consider whether the fishery would be economically viable for some existing scallop vessels if gear size is substantially reduced.

4. **Trip limits.** Suggestions included a 1,000 pound trip limit per calendar day or twice per week on all trips for small vessel operations, a 1,000 pound possession limit for small scallop boats, and a 15,000 pound trip limit for boats with federal licenses. Setting different trip limits for different size boats (especially given the differential suggested) would constitute allocation within a fishery, which would require legislation to accomplish. The board would have to consider the economic effects of various sizes of trip limits and how they could be enforced. Issues with implementing trip limits as a management tool might include difficulty in distinguishing scallops caught outside three miles from scallops caught inside three miles, since trip limits could either be different or non-existent outside three miles. Enforcing a limit in state waters would likely require regulations preventing boats from fishing both inside and outside three miles during the same trip. This might be accomplished through different seasons or area registration requirements. The board would have to consider trip limits in the context of maintaining an economically viable fishery, which would include observer costs as well as other expenses such as crew, fuel, and food. Adding pounds to trip limits (as suggested in point seven below) to pay for observers would not change the overall revenue from the fishery since the total allowable harvest per bed is also limited.
5. **Require VMS on all scallop vessels fishing in state waters.** The state is currently not set up to utilize VMS data. Establishing VMS in state fisheries would require additional funding, especially if vessels are allowed to tow across the three mile boundary. It is not clear that data on vessel location could be correlated to catch inside or outside three miles, or be used to determine whether the vessel was fishing or not while in a given location. A vessel engaged in fishing would be indistinguishable from a vessel merely motoring along at fishing speed. It appears that direct observation by an airplane or an onboard observer would still be required in order to substantiate location of fishing.
6. **Require digital cameras.** Under this suggestion, video monitoring would replace observers. Video monitoring is an unproven technology to replace observers for the scallop fishery. It is not used in any federal groundfish fishery or state fishery in Alaska, but apparently is used in some groundfish and shellfish fisheries in Canada. In the scallop fishery, many tows contain thick mud and silt that obscures scallops, crabs, and other bycatch from view when the dredge contents are dumped on deck. Observers sort through the mud by hand or use the deck hose to remove the majority of mud before sampling. Because of this problem, it is unlikely that cameras would capture images of all crabs and other bycatch. Cameras would not be an effective substitute for the sampling carried out by scallop observers, whose primary purpose is to collect biological data including samples for determining scallop size and age and bycatch of crabs. Cameras may, however, provide useful data for those areas where observers are not currently required, such as Kamishak Bay. Assuming the cameras captured images of all crabs caught, the tapes would have to be subsampled and the numbers of crabs estimated. Research would need to be done to determine the accuracy of such methods. Maintenance, reliability, and cost of the cameras would also be issues the board would have to consider.

7. **Reduce observer coverage.** Suggestions ranged from requiring only 10 percent observer coverage funded by adding extra pounds to each trip limit up to requiring only 33% observer coverage. Under the Alaska Scallop Fishery Management Plan (5 AAC 38.076(e)(4)), the department currently requires full observer coverage for all scallop fisheries in the state, except in Cook Inlet. This coverage helps ensure guideline harvest levels and crab bycatch limits are not exceeded, and fishery based data is collected. Reducing this coverage to 10% would jeopardize management of the fishery and likely require more conservative management measures to help ensure scallop stocks remain viable. The department does not support reducing observer coverage until a proven substitute is developed.
8. **Stop training observers for regulatory compliance and have them deal solely with biology.** The primary purpose of observers is to collect biological information that includes data to enforce crab bycatch caps. Observers need to be aware of the fishery regulations and other requirements, such as crab bycatch limits in order to adequately do their job and to improve regulatory compliance. Sending observers out without training in this aspect of fishery management is not wise. Some of the public suggestions discussed above (such as trip limits, reduced gear size, and limiting where boats may fish during a single trip) actually increase the need for observers and the need for them to deal with enforcement and management issues.

Some of these suggestions, such as trip limits and gear size limitation, are highly allocative. The board may also receive other highly allocative proposals to slow the pace of the fishery, such as exclusive area registration or vessel size limits. The department would be neutral on the allocative aspects of such proposals, but could take a position or comment on any conservation or management issues associated with those proposals.

SCALLOP MANAGEMENT DURING 2007 AND AFTER

The 2007/08 statewide scallop fishery opened on July 1. Department staff will track harvest and monitor the fishery in those scallop beds that occur in both state and federal waters. This season's reported state-waters statistical area harvest will be compared to prior years' reported state-waters statistical area harvest.

In those scallop beds that occur both in state and federal waters, department staff will be working with vessel operators to gather additional tow-location information this season to help analyze harvest from tows that cross the state/federal boundary to assess reported state-waters statistical area harvest data.

The department will be submitting an agenda change request to the board for their consideration in October 2007. If accepted, the agenda change request will allow the board to discuss the scallop fishery during the 2007/08 proposal cycle to address management measures for an open-access state-waters scallop fishery beginning January 2009 when the current limited entry program expires. Developing a state-waters scallop fishery independent from the state-managed federal waters scallop fishery is likely to result in additional state research and management program funding needs.

Depending upon the level of effort in a new open-access state-waters scallop fishery, the board may want to consider three options.

1. **Close state waters.** This option would be necessary if the level of effort in state waters was too great to permit inseason management, and there was a risk of scallop over harvest or exceeding crab bycatch caps. Implementation of suggestions such as numbers six, seven, or eight above that reduce, eliminate, or limit activities of onboard observers may make this option more likely.

2. **Status quo.** If vessel effort and harvest patterns are similar to existing patterns of harvest and effort, there may be no need to implement additional management measures.

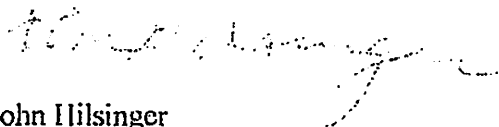
3. **Stand alone state fishery.** This option would be necessary if effort in the state-waters portion of state/federal scallop beds was sufficient to increase the historic harvest proportion in state waters. The department would manage state-waters separately from the federal waters portion of the same bed. Separate biomass assessments, harvest targets, and crab bycatch limits would have to be established for state waters. It is likely that management and research costs will be higher under this option. While the department believes the current management system is adequately conservative to protect scallops, this new option introduces additional uncertainties that may require alteration of that system. Development of stock assessment technology is ongoing and only two out of nine scallop beds statewide are currently managed using biomass-based resource assessment. This program may need to be expanded. Under this option, vessels that are currently able to fish both state and federal waters of the same scallop bed should be required to harvest from one portion of the bed at a time for enforcement reasons. Management and enforcement measures that might be needed under this option include:

1. Full observer coverage for state waters. Rather than reducing or eliminating observer coverage, the department believes it will be necessary to continue requiring observers.
2. Daily catch reporting.
3. Vessel monitoring system (VMS) coverage. Although ADF&G has not previously supported VMS coverage in other state-waters fisheries, such a program may be effective at identifying problem areas that need additional enforcement attention.
4. Separate scallop quotas and crab bycatch limits for state waters.
5. Separate seasons, or separate registration, for state and federal waters. These are two methods to help ensure vessels do not fish both state and federal waters in the same trip.
6. Preseason registration to determine vessel effort.
7. Dredge size limitations.
8. Enforcement of the boundary between state and federal waters. This will likely be challenging because the boundary is not a straight line. Vessels will need to be aware of their exact location to avoid crossing the boundary when gear is in the water. Increased enforcement vessel presence may also be required.

The department is also concerned that if many vessels participate in the open access fishery there may be unnecessary habitat damage by vessels prospecting in state waters areas that have few scallops (for example, the state waters adjacent to the Kamishak Bay scallop bed in Cook Inlet). The department also anticipates there may be proposals to open scallop beds in state waters that are currently closed to scallop fishing for the purpose of protecting crab stocks and habitat. Such proposals would be quite controversial.

Hopefully, this answers some of the questions about the future of scallop management in the absence of IIB 16. If you, or your staff, have additional questions, please feel free to contact me at 907-267-2324, or by e-mail.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Hilsinger".

John Hilsinger
Director
Commercial Fisheries Division

North Pacific Fishery Management Council

Eric A. Olson, Chairman
Chris Oliver, Executive Director



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February 25, 2013

Senator Cathy Giessel
Chair Senate Resources Committee
State Capitol Room 427
Juneau, AK 99801-1182

Sent by email: Senator.Cathy.Giessel@akleg.gov

Dear Senator Giessel;

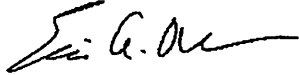
The North Pacific Fishery Management Council (Council) supports the State of Alaska extending the current limited entry program for the Weathervane scallop fishery in state waters. The Council delegated authority to the State of Alaska to manage all aspects of the scallop fishery in federal waters off Alaska, except limited access, which remained a federal responsibility. The Fishery Management Plan for the Scallop Fishery off Alaska (FMP) established a license limitation program (LLP) in federal waters, effective January 16, 2001. The Alaska Legislature, as you know, also established a four-year vessel moratorium in 1997 that was first extended an additional three years until June 10, 2004, and then replaced with a vessel-based limited entry program that was scheduled to expire in 2008. At that time the legislature extended that expiration until the end of 2013. The Council is currently concerned that if this program is allowed to expire, the potential exists for an open-access fishery in State waters that is inconsistent with management measures to limit effort in federal waters.

Conservation concerns with crab bycatch and the overharvest of scallops in the early 1990s prompted the Council and the Alaska Board of Fisheries (BOF) to work cooperatively to reduce scallop fishing effort in the overcapitalized Weathervane scallop fishery. In several areas of the state, Kodiak and Yakutat for example, scallop beds are bisected by the 3-mile boundary line separating state from federal waters. In these areas, the majority (80% or more) of the scallop harvest is taken from the federal waters portion of the scallop beds. Guideline harvest ranges established by the Alaska Department of Fish and Game (ADF&G) are applied to the entire registration area, and are not apportioned to either state waters or federal waters. If the state waters portion of the fishery reverted to open access, additional vessels with unrestricted fishing capacity could target scallops in state waters. Disproportionate harvest of the scallop beds could lead to stock conservation concerns; including that portion of the stock in federal waters. Two additional concerns result from a bifurcated management regime. First, regulatory enforcement along the 3-mile line would be problematic. Second, Tanner and red king crab bycatch would likely increase as a result of increased fishing effort within a restricted portion of the scallop bed. Weathervane scallop stocks in Alaska are small. Concerns with overcapitalization, and the resulting stock conservation and crab bycatch concerns have largely been addressed through complementary federal and state limited entry/access programs. The Council encourages the Alaska Legislature to extend the Weathervane Scallop limited entry program in state waters to coordinate with the federal program implemented by this Council.

If you need any additional information relative to this issue, please feel free to contact the Council's Executive Director, Chris Oliver.

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric A. Olson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Eric A. Olson, Chair
North Pacific Fishery Management Council

Cc: Ben Brown, Commissioner CFEC

North Pacific Fishery Management Council

Eric A. Olson, Chairman
Chris Oliver, Executive Director



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February 27, 2008

House Fisheries Special Committee
Rep. Paul Seaton, Chairman
State Capitol, Room 102
Juneau, AK 99801-1182

Dear Representative Seaton;

This letter serves as a follow up to concerns expressed by the North Pacific Fishery Management Council (Council) in April of 2007. The Council supports the State of Alaska extending the current limited entry program for the Weathervane scallop fishery in state waters. The Council delegated authority to the State of Alaska to manage all aspects of the scallop fishery in federal waters off Alaska, except limited access, which remained a federal responsibility. The Fishery Management Plan for the Scallop Fishery off Alaska (FMP) established a license limitation program (LLP) in federal waters, effective January 16, 2001. The Alaska Legislature, as you know, also established a four-year vessel moratorium in 1997 that was later extended an additional three years until June 10, 2004. The moratorium was replaced with a vessel-based limited entry program that is scheduled to expire in 2008. Conservation concerns with crab bycatch and the overharvest of scallops in the early 1990s prompted the Council and the Alaska Board of Fisheries (BOF) to work cooperatively to reduce scallop fishing effort in the overcapitalized Weathervane scallop fishery.

In several areas of the state, Kodiak and Yakutat for example, scallop beds are bisected by the 3-mile boundary line separating state from federal waters. In these areas, the majority (80% or more) of the scallop harvest is taken from the federal waters portion of the scallop beds. Guideline harvest ranges established by the Alaska Department of Fish and Game (ADF&G) are applied to the entire registration area, and are not apportioned to either state waters or federal waters. If the state waters portion of the fishery reverted to open access, additional vessels with unrestricted fishing capacity could target scallops in state waters. Disproportionate harvest of the scallop beds could lead to stock conservation concerns; including that portion of the stock in federal waters. Two additional concerns result from a bifurcated management regime. First, regulatory enforcement along the 3-mile line would be problematic. Second, Tanner and red king crab bycatch would likely increase as a result of increased fishing effort within a restricted portion of the scallop bed.

Weathervane scallop stocks in Alaska are small. Concerns with overcapitalization, and the resulting stock conservation and crab bycatch concerns have largely been addressed through complementary federal and state limited entry/access programs. The Council encourages the Alaska Legislature to extend the Weathervane Scallop limited entry program in state waters to coordinate with the federal program implemented by this Council.

If you need any additional information relative to this issue, please feel free to contact the Council's Executive Director, Chris Oliver.

Thank you for considering these comments.

Sincerely,

Eric A. Olson, Chair
North Pacific Fishery Management Council

North Pacific Fishery Management Council

Stephanie Madsen, Chair
Chris Oliver, Executive Director



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Diana Stram,

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April 3, 2007

House Fisheries Special Committee
Rep. Paul Seaton, Chairman
State Capitol, Room 102
Juneau, AK 99801-1182

Dear Representative Seaton;

The North Pacific Fishery Management Council (Council) supports the State of Alaska extending the current limited entry program for the Weathervane scallop fishery in state waters. The Council delegated authority to the State of Alaska to manage all aspects of the scallop fishery in federal waters off Alaska, except limited access, which remained a federal responsibility. The Fishery Management Plan for the Scallop Fishery off Alaska (FMP) established a license limitation program (LLP) in federal waters, effective January 16, 2001. The Alaska Legislature, as you know, also established a four-year vessel moratorium in 1997 that was later extended an additional three years until June 10, 2004. The moratorium was replaced with a vessel-based limited entry program that is scheduled to expire in 2008. Conservation concerns with crab bycatch and the overharvest of scallops in the early 1990s prompted the Council and the Alaska Board of Fisheries (BOF) to work cooperatively to reduce scallop fishing effort in the overcapitalized Weathervane scallop fishery.

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If you need any additional information relative to this issue, please feel free to contact the Council's Executive Director, Chris Oliver.

Thank you for considering these comments.

Sincerely,

Stephanie D. Madsen

Stephanie D. Madsen, Chair
North Pacific Fishery Management Council