

PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: C-6(a) BSAI CRAB, ROFR

	NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1	Steve Minor + John Fawc	NPCA.
2	Frank Kelly	City of WIA Alaska
3	Heather McCarty / Mateo Paz-Jordan	CBSTFA / City of St. Paul
4	Edward Poulsen	Alaska Bering Sea Crabbers
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

- Action 1, Alternative Two should be **selected** as the preferred alternative.
- Action 2 should be **modified** to include a third alternative that specifies that the ROFR follows the PQS.
- Action 3 is based on hypotheses that are not supported by behavior under the current program, and a more rigorous analysis will show that most of the imagined scenarios are not likely to happen. Finally, Dr. Fina's analysis correctly concludes that the cost of administration exceeds the incremental protections that the measure would currently provide.

We ask that the Council be diligent in its efforts to avoid unintended harm to other communities and stakeholders by too quickly responding to the narrow objectives of a single community.

If the Council wishes to continue an analysis of Action 3, we request that it be **modified** so that a third alternative that specifically keeps the PQS and the physical plant as the "package" be included.

We have heard from King Cove that separating the PQS from the plant is no big deal because the plant in their community is a multi-species operation; however, the plants (and proposed plants) in St. Paul, St. George, Atka and Adak are dependent on the PQS crab and to separate the assets could destroy the economic viability of the plant, as well as associated fisheries that depend on it.

- Action 4 should be **rejected** for the following reasons:
 - The action has not been developed in response to any significant problem, and it proposes actions far beyond the ROFR program.
 - It gives complete control of the PQS and IPQ, and all related management decisions to the local community rather than the private sector, essentially expropriating the asset without compensation.
 - It establishes the basis for a monopolistic relationship under which the local municipality and major vendors can extract unfair taxes and other revenues because operations cannot even be moved to another facility within municipal boundaries without permission, according to the proposer.
 - The action jeopardizes the carefully balanced Emergency Relief program.
 - There has been a lack of sufficient public discussion and process.
 - There is insufficient analysis.

Additional information will be added as the project progresses.

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CITY OF UNALASKA
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UNALASKA, ALASKA 99685-0610
(907) 581-1251 FAX (907) 581-1417



February 5, 2011

Eric Olson, Chairman
North Pacific Fishery Management Council
605 4th Avenue Suite306
Anchorage, Alaska 99501

Subject C-6(a) BSAI Crab Final action Right of First Refusal (ROFR) modifications

Dear Chairman Olson,

On behalf of the city of Unalaska I submit the following comment on C-6 (a) BSAI crab final action on Right of First Refusal modifications.

The City of Unalaska supports the following actions.

ACTION 1: Increase a right holding entities' time to exercise the right of first refusal and perform as required.

Unalaska supports Alternative 2: changing the period for exercising the rights of first refusal from 60 days to 90 days we supported this at the crab committee and this gives ECCO community entities extra time to see if they want to exercise the right. The second amendment would extend the period for performing under the contract from 120 days to 150 days after receiving the contract. This time may be needed to acquire financing and negotiate for the purchase.

ACTION 2: Increase community protections by removing the ROFR lapse provision.

Unalaska supports Alternative 2 under this action which requires parties to the rights of first refusal contracts to remove the provision that rights lapse, if the IPQ is used outside the community for a period of three consecutive years. By making the RORF permanent a permanent link will be created between the PQS and the place where the processing occurred we strongly support this. Unalaska would like new language added to Alternative 2 stating that if the PQS leaves the originating community that the ROFR should pass to the new community and should remain permanent with the new PQS holder.

ACTION 3: Apply the right to only subject PQS or PQS and assets in the subject community of the entity holding the right.

At this time we still have concerns with this action, previously Unalaska stated position was to support Alternative 2 apply the right to the PQS only, we understand industry concerns with Alternative 2 and in Unalaska case, it may be doubtful that the large multi-species plants in Unalaska would want to sell its PQS out of Unalaska. Dr. Fina action memo lays out many of the issues in this action that still concerns us, if a company wanted to sell or transfer its PQS the additional cost in acquiring the assets which in Unalaska case would be substantial due to large processing assets based in Unalaska. Could Unalaska come up with the capital to purchase both PQS and the assets? We don't know, on top of that, we would face the time and efforts in contractual arrangements, hiring of attorneys, and appraisers, would be costly. At this time we would support moving Action 3 as a trailing amendment or to a crab work group for further work

ACTION 4: Require consent of the community benefiting (or formerly benefiting) from the right to use the IPQ outside of the community.

We support the AP recommendation that this action should be moved to a trailing amendment or a crab work group for further work. We understand the concern industry has with Alternative 2 in this action, and support that more work needs to be done on this action.

In conclusion; Unalaska supports final action on Actions 1 Alternative 2, Action 2 Alternative 2 with language added that the ROFR moves with the PQS holder. On Actions 3 and 4 should be moved to a trailing amendment or to a crab work group for further work.

Thank you for the consideration of our comments on agenda item C-6(a) BSAI Crab-Rights of First Refusal modifications.

Sincerely



Frank Kelty,
City of Unalaska
Resource Analyst

CC: Shirley Marquardt, Mayor
Unalaska City Council Members
Chris Hladick, City Manager

PUBLIC TESTIMONY SIGN-UP SHEET

Application
Deadline

Agenda Item: C-6(b) BSAI CRAB IFQ/IPQ

NAME (PLEASE PRINT)		TESTIFYING ON BEHALF OF:
1	Edward Pulsen	Alaska Bering Sea Crabbers
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