


MEMORANDUM

TO: Council, SSC, and AP Members

FROM: Chris Oliver   
Executive Director

ESTIMATED TIME 10 HOURS
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DATE: June 1, 2004

SUBJECT: Crab Rationalization

**ACTION REQUIRED**

Final Action on BSAI Crab Rationalization Environmental Impact Statement

**BACKGROUND**

In June 2002, in response to concern from participants and a Congressional directive, the Council completed an analysis of rationalization alternatives for the BSAI crab fisheries. At that meeting, the Council adopted for analysis in an Environmental Impact Statement a suite of alternatives, including a preliminary preferred alternative, to rationalize the Bering Sea and Aleutian Islands (BSAI) crab fisheries. At its meetings in October 2002, December 2002, February 2003, April 2003, and June 2003, the Council developed a series of trailing amendments for incorporation into that preliminary preferred alternative and refined and revised the other alternatives for EIS analysis. Council and NOAA Fisheries staff completed a preliminary draft of the EIS, which was released for public comment after Council initial review at its February 2004 meeting. NOAA Fisheries received 16 public comments on the draft during the 45-day public comment period from March 19, 2004 to May 3, 2004. NOAA Fisheries and Council staff completed a Draft Comment Analysis Report that contains copies of all comments received and responses to those comments.

The EIS examines three rationalization alternatives and the status quo. Because of unique problems in these fisheries, recognized by the Council and implicitly acknowledged in the Congressional directive, the preferred alternative is a management program that includes provisions that were beyond the scope of the Council's general authority under the Magnuson Stevens Act at the time the preliminary preferred alternative was identified. Since that time, the Council provided two reports advising Congress of its preliminary preferred alternative. In response to those reports, Congress included in its Omnibus Appropriations bill for fiscal 2004 (HR 2673) a provision directing the Secretary of Commerce to approve and implement the Council's preliminary preferred alternative. A copy of the language from the bill and the associated conference report are attached to this memo (Item C-1(a)).

Council action at this meeting

Although Congress mandated the Secretary to approve the Program, Congress provided the Council with discretion to approve amendments to the Program prior to January 1, 2005. Given this discretion, the Council may consider subsequent amendments to the Program at its June 2004 meeting. In considering amendments, the Council should consider public comments received on the DEIS to determine whether

amendment of the Program is warranted. Because Congress mandated Secretarial approval of the Program, the potential Council action at the June 2004 meeting is not whether to identify the Program as the preferred alternative for the Final EIS, but whether amendment of the legislated Program should be made in light of the analysis in the DEIS and comments received.

The scope of permissible subsequent amendments adopted at the June meeting is dependent on whether the MSA, as amended by the Consolidated Appropriations Act, authorizes the changes and whether the DEIS analysis can support those changes. A firm list of provisions that may be amended cannot be enumerated because the totality of those amendments will determine whether the analysis and the MSA amendment can support those changes. Consequently, decisions concerning the authority to amend must be made on a case-by-case basis. Practical considerations also exist in that any changes either must be minor refinements that can be implemented by regulation or are FMP amendments that can be approved by the Secretary subsequent to approval of the Program and before January 1, 2005. A more detailed discussion of the status of the Program, Council authority to amend the program, and suggested changes to the arbitration program and the provisions affecting cooperatives are contained in the letter from the Regional Administrator to the Council (Item C-1(b)). Also attached (Item C-1(c)) is a letter from NOAA General Counsel that accompanied the legal opinion that forms the basis for the recommended changes in the arbitration program, along with the suggested 'mark-up' of the Council motion to make necessary changes.

**H.R.2673**

**1. Consolidated Appropriations Act, 2004 (Enrolled as Agreed to or Passed by Both House and Senate)**

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**DEPARTMENT OF COMMERCE AND RELATED AGENCIES**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**OPERATIONS AND ADMINISTRATION**

**(RESCISSION)**

Of the appropriations made available for travel and tourism by section 210 of Public Law 108-7, \$40,000,000 are rescinded.

**National Oceanic and Atmospheric Administration**

**COASTAL AND OCEAN ACTIVITIES**

**(RESCISSION)**

Of the appropriations made available for coastal and ocean activities by Public Law 106-553, \$2,500,000 are rescinded.

**TITLE VIII--ALASKAN FISHERIES**

**SEC. 801. BERING SEA AND ALEUTIAN ISLANDS CRAB RATIONALIZATION.** Section 313 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as amended, is further amended by adding at the end thereof the following:

**(j) BERING SEA AND ALEUTIAN ISLANDS CRAB RATIONALIZATION-**

(1) By not later than January 1, 2005, the Secretary shall approve and hereafter implement by regulation the Voluntary Three-Pie Cooperative Program for crab fisheries of the Bering Sea and Aleutian Islands approved by the North Pacific Fishery Management Council between June 2002 and April 2003, and all trailing amendments including those reported to Congress on May 6, 2003. This section shall not preclude the Secretary from approving by January 1, 2005, and implementing any subsequent program amendments approved by the Council.

(2) Notwithstanding any other provision of this Act, in carrying out paragraph (1) the Secretary shall approve all parts of the Program referred to in such paragraph. Further, no part of such Program may be implemented if, as approved by the North Pacific Fishery Management Council, individual fishing quotas, processing quotas, community development quota allocation, voluntary cooperatives, binding arbitration, regional landing and processing requirements, community protections, economic data collection, or the loan program for crab fishing vessel captains and crew members, is invalidated subject to a judicial determination not subject to judicial appeal. If the Secretary determines that a processor has leveraged its

Individual Processor Quota shares to acquire a harvesters open-delivery 'B shares', the processor's Individual Processor Quota shares shall be forfeited.

`(3) Subsequent to implementation pursuant to paragraph (1), the Council may submit and the Secretary may implement changes to or repeal of conservation and management measures, including measures authorized in this section, for crab fisheries of the Bering Sea and Aleutian Islands in accordance with applicable law, including this Act as amended by this subsection, to achieve on a continuing basis the purposes identified by the Council.

`(4) The loan program referred to in paragraph (2) shall be carried out pursuant to the authority of sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f, 1279g).

`(5) For purposes of implementing this section \$1,000,000 shall be made available each year until fully implemented from funds otherwise made available to the National Marine Fisheries Service for Alaska fisheries activities.

`(6) Nothing in this Act shall constitute a waiver, either express or implied, of the antitrust laws of the United States. The Secretary, in consultation with the Department of Justice and the Federal Trade Commission, shall develop and implement a mandatory information collection and review process to provide any and all information necessary for the Department of Justice and the Federal Trade Commission to determine whether any illegal acts of anti-competition, anti-trust, or price collusion have occurred among persons receiving individual processing quotas under the Program. The Secretary may revoke any individual processing quota held by any person found to have violated a provision of the antitrust laws of the United States.

`(7) An individual processing quota issued under the Program shall be considered a permit for the purposes of sections 307, 308, and 309, and may be revoked or limited at any time in accordance with this Act. Issuance of an individual processing quota under the program shall not confer any right of compensation to the holder of such individual processing quota if it is revoked or limited and shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is purchased from an individual fishing quota holder.

`(8) The restriction on the collection of economic data in section 303 shall not apply with respect to any fish processor who is eligible for, or who has received, individual processing quota under the Program. The restriction on the disclosure of information in section 402(b)(1) shall not apply when the information is used to determine eligibility for or compliance with an individual processing quota program.

`(9) The provisions of sections 308, 310, and 311 shall apply to the processing facilities and fish products of any person holding individual processing quota, and the provisions of subparagraphs (D), (E), and (L) of section 307(l) shall apply to any facility owned or controlled by a person holding individual processing quota.'

**SEC. 802. GULF OF ALASKA ROCKFISH DEMONSTRATION PROGRAM.** The Secretary of Commerce, in consultation with the North Pacific Fishery Management Council, shall establish a pilot program that recognizes the historic participation of fishing vessels (1996 to 2002, best 5 of 7 years) and historic participation of fish processors (1996 to 2000, best 4 of 5 years) for pacific ocean perch, northern rockfish, and pelagic shelf rockfish harvested in Central Gulf of Alaska. Such a pilot program shall: (1) provide for a set-aside of up to 5 percent for the total allowable catch of such

fisheries for catcher vessels not eligible to participate in the pilot program, which shall be delivered to shore-based fish processors not eligible to participate in the pilot program; and (2) establish catch limits for non-rockfish species and non-target rockfish species currently harvested with pacific ocean perch, northern rockfish, and pelagic shelf rockfish, which shall be based on historical harvesting of such bycatch species. The pilot program will sunset when a Gulf of Alaska Groundfish comprehensive rationalization plan is authorized by the Council and implemented by the Secretary, or 2 years from date of implementation, whichever is earlier.

**SEC. 803. ALEUTIAN ISLANDS FISHERIES DEVELOPMENT.** (a) **ALEUTIAN ISLANDS POLLOCK ALLOCATION-** Effective January 1, 2004 and thereafter, the directed pollock fishery in the Aleutian Islands Subarea [AI] of the BSAI (as defined in 50 CFR 679.2) shall be allocated to the Aleut Corporation (incorporated pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)). Except with the permission of the Aleut Corporation or its authorized agent, the fishing or processing of any part of such allocation shall be prohibited by section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857), subject to the penalties and sanctions under section 308 of such Act (16 U.S.C. 1858), and subject to the forfeiture of any fish harvested or processed.

(b) **ELIGIBLE VESSELS-** Only vessels that are 60 feet or less in length overall and have a valid fishery endorsement, or vessels that are eligible to harvest pollock under section 208 of title II of division C of Public Law 105-277, shall be eligible to form partnerships with the Aleut Corporation (or its authorized agents) to harvest the allocation under subsection (a). During the years 2004 through 2008, up to 25 percent of such allocation may be harvested by vessels 60 feet or less in length overall. During the years 2009 through 2013, up to 50 percent of such allocation may be harvested by vessels 60 feet or less in length overall. After the year 2012, 50 percent of such allocation shall be harvested by vessels 60 feet or less in length overall, and 50 percent shall be harvested by vessels eligible under such section of Public Law 105-277.

(c) **GROUND FISH OPTIMUM YIELD LIMITATION-** The optimum yield for groundfish in the Bering Sea and Aleutian Islands Management Area shall not exceed 2 million metric tons. For the purposes of implementing subsections (a) and (b) without adversely affecting current fishery participants, the allocation under subsection (a) may be in addition to such optimum yield during the years 2004 through 2008 upon recommendation by the North Pacific Council and approval by the Secretary of Commerce (if consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)).

(d) **MANAGEMENT AND ALLOCATION-** For the purposes of this section, the North Pacific Fishery Management Council shall recommend and the Secretary shall approve an allocation under subsection (a) to the Aleut Corporation for the purposes of economic development in Adak, Alaska pursuant to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

**SEC. 804.** A Council or the Secretary may not consider or establish any program to allocate or issue an individual processing quota or processor share in any fishery of the United States other than the crab fisheries of the Bering Sea and Aleutian Islands.

This division may be cited as the 'Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004'.

**SENATOR STEVENS**  
**BERING SEA/ALEUTIAN ISLANDS CRAB RATIONALIZATION**  
**STATEMENT**

\_\_\_\_\_THE BERING SEA/ALEUTIAN ISLANDS CRAB RATIONALIZATION PLAN ACCOMPLISHES TWO PRIMARY OBJECTIVES OF IMMEDIATE CONCERN: (1) CONSERVATION AND MANAGEMENT OF THE CRAB RESOURCE AND (2) ENDING THE DEADLY AND INEFFICIENT RACE FOR FISH. ALL THE PRESS ATTENTION AND MISINFORMATION ON PROCESSOR QUOTA SHARE HAS EFFECTIVELY TWISTED A FISHERY MANAGEMENT PLAN FOR ONE FISHERY IN THE BERING SEA INTO A NATIONAL DEBATE ON THE REGIONAL COUNCIL PROCESS AND U.S. FISHERY POLICY.

I FEEL AS THOUGH I MUST REMIND MY COLLEAGUES THAT THE RATIONALE BEHIND THE MAGNUSON-STEVENSON ACT WAS TO ALLOW THE VARIOUS REGIONS TO CRAFT THEIR OWN UNIQUE FISHERY MANAGEMENT PLANS TO ANSWER THE CONSERVATION AND MANAGEMENT GOALS OF THEIR LOCALITIES. THE CRAB RATIONALIZATION PLAN IS NO DIFFERENT IN THIS REGARD. THE NORTH PACIFIC COUNCIL RECOGNIZED ALL COMPONENTS OF THE CRAB FISHERY AS A BALANCED, CONNECTED SYSTEM, RATHER THAN COMPETING PARTS. THE ONLY DIFFERENCE WITH THE CRAB PLAN IS A PROCEDURAL ONE: CONGRESS SPECIFICALLY DIRECTED THE NORTH PACIFIC COUNCIL TO DEVELOP A PLAN THAT BALANCED HARVESTERS, PROCESSORS AND COMMUNITIES, AND NOW CONGRESS MUST IMPLEMENT THE COUNCIL'S PROPOSAL.

THE NORTH PACIFIC COUNCIL VOTED UNANIMOUSLY (11-0) TO RECOMMEND THIS VOLUNTARY THREE-PIE COOPERATIVE THAT RECOGNIZES INVESTMENTS MADE BY HARVESTERS, PROCESSORS AND COMMUNITIES. IT IS A PRODUCT OF EXTENSIVE ANALYSIS WITH NUMEROUS OPPORTUNITIES FOR PUBLIC COMMENT, HUNDREDS OF HOURS OF PUBLIC TESTIMONY AND AN OPEN AND TRANSPARENT PUBLIC DEBATE BY THE COUNCIL. THE ALASKA COMMUNITIES THAT ARE DEPENDENT ON THE CRAB RESOURCE BEING PROCESSED IN THEIR PLANTS ALL SUPPORT THE PLAN. THE VAST MAJORITY OF OPPOSITION HAS COME FROM A VOCAL MINORITY THAT WANT TO RECEIVE A BETTER DEAL AND ENVIRONMENTAL GROUPS THAT DO NOT WANT ANY FORM OF RATIONALIZATION AND WOULD LIKE TO LOCK UP MARINE RESOURCES. THE STATE OF

THE BERING SEA CRAB FISHERIES ARE POOR AND THE CRAB PLAN DEVELOPED THROUGH THE REGIONAL COUNCIL PROCESS NEEDS TO BE IMPLEMENTED NOW.

OPONENTS OF THE CRAB RATIONALIZATION PLAN RAISE CONCERNS ABOUT ANTI-COMPETITIVE EFFECTS AND POTENTIAL ANTI-TRUST VIOLATIONS. THE CRAB PLAN IS NOT EXEMPT FROM ANTI-TRUST LAWS. IN FACT THE PROVISION SPECIFICALLY STATES THE SECRETARY MAY REVOKE ANY PROCESSOR QUOTA SHARE HELD BY A PERSON FOUND TO HAVE VIOLATED ANTI-TRUST LAWS. THE PLAN CONTEMPLATES NO PRIVATE, ANTI-COMPETITIVE ACTION AND WILL BE "ACTIVELY SUPERVISED" BY THE COUNCIL AND THE STATE OF ALASKA. DESPITE THE FACT THE CRAB PLAN IS NOT EXEMPT FROM ANTI-TRUST LAWS AND WILL BE REVIEWED BY THE COUNCIL, WHICH CAN MAKE CHANGES AS NEEDED, AND THERE WILL BE A MANDATORY INFORMATION COLLECTION AND REVIEW PROCESS DEVELOPED BY THE SECRETARY OF COMMERCE AND THE DEPARTMENT OF JUSTICE TO DETERMINE WHETHER ANY ILLEGAL OR ANTI-COMPETITIVE ACTS HAVE OCCURRED, OPONENTS STILL POINT TO AN OPINION LETTER BY THE DEPARTMENT OF JUSTICE THAT THEORIZES ABOUT "POTENTIAL" ANTI-COMPETITIVE ABUSES. NO WHERE IN THE DOJ'S OPINION LETTER DOES IT STATE THAT INDIVIDUAL PROCESSOR QUOTA SHARES VIOLATE ANTI-TRUST LAWS. THE DOJ OPINION LETTER RECOMMENDS THAT IQS NOT BE USED BECAUSE THEY ARE ECONOMICALLY INEFFICIENT. HOWEVER, THE DOJ ADMITS IT "DID NOT CONSIDER FACTORS OUTSIDE THE PURVIEW OF ANTI-TRUST LAWS SUCH AS THE SOCIAL GOAL OF PROTECTING JOBS IN HISTORIC FISHING VILLAGES OR BALANCING THE REGULATORY EFFECTS EVENLY AMONG HARVESTERS AND PROCESSORS."

THIS IS WHERE THE DOJ LETTER AND MOST OPONENTS TO THE CRAB PLAN MISS THE POINT ENTIRELY. THE MAGNUSON-STEVENS ACT REQUIRES THE REGIONAL COUNCILS TO CONSIDER JUST THAT: "PROTECTING JOBS IN HISTORIC FISHING VILLAGES". THIS CONSIDERATION REQUIRED BY LAW WILL ALWAYS BE ECONOMICALLY INEFFICIENT. PURSUANT TO NATIONAL STANDARD 8 UNDER THE MAGNUSON-STEVENS ACT, "CONSERVATION AND MANAGEMENT MEASURES SHALL TAKE INTO ACCOUNT THE IMPORTANCE OF FISHERY

RESOURCES TO FISHING COMMUNITIES IN ORDER TO (A) PROVIDE FOR THE SUSTAINED PARTICIPATION OF SUCH COMMUNITIES, AND (B) TO THE EXTENT PRACTICABLE, MINIMIZE ADVERSE ECONOMIC IMPACTS ON SUCH COMMUNITIES.” (SECTION 301(A)(8) OF THE MAGNUSON-STEVENSON ACT) THE NORTH PACIFIC COUNCIL’S CRAB PLAN IS COMPLETELY CONSISTENT WITH THE GOALS OF THE MAGNUSON-STEVENSON ACT TO PROVIDE FOR THE SUSTAINED PARTICIPATION OF REMOTE COASTAL COMMUNITIES IN THE BERING SEA IN THE CRAB FISHERY AND MINIMIZE ADVERSE ECONOMIC IMPACTS ON THESE COMMUNITIES.

NEXT OPPONENTS ARGUE THAT THE CRAB PLAN IS PRECEDENT SETTING AND WILL SPREAD TO OTHER REGIONAL COUNCILS. IT IS A FISHERY MANAGEMENT PLAN FOR ONLY ONE FISHERY IN THE BERING SEA. IN FACT THE PROVISION SPECIFICALLY PROVIDES THAT “A COUNCIL OR THE SECRETARY MAY NOT CONSIDER OR ESTABLISH ANY PROGRAM TO ALLOCATE OR ISSUE AN INDIVIDUAL PROCESSING QUOTA OR PROCESSOR SHARE IN ANY FISHERY OF THE UNITED STATES OTHER THAN THE CRAB FISHERIES OF THE BERING SEA AND ALEUTIAN ISLANDS.”

THE CRAB PLAN IS NOT PRECEDENT SETTING, IT IS AN EXTENSION OF THE EFFICIENCIES AND SUCCESSES ACHIEVED UNDER THE AMERICAN FISHERIES ACT (AFA). HOWEVER, WHERE THE AFA HAS A CLOSED CLASS OF PROCESSORS THAT CAN PARTICIPATE IN THE BERING SEA POLLOCK FISHERY, THE CRAB PLAN PROVIDES AN OPEN CLASS OF PROCESSORS AND ALLOWS FOR NEW ENTRANTS IN THE PROCESSING SECTOR.

OPPONENTS OF THE CRAB PLAN HAVE ARGUED THAT PROCESSOR QUOTA SHARE IS NOT NEEDED TO MAKE THE FISHERY SAFER OR TO PROVIDE FOR PROTECTIONS OF THE COMMUNITIES. I SUGGEST THESE INDIVIDUALS VISIT THE PRIBILOF ISLANDS THAT ARE 800 MILES WEST OF ANCHORAGE, LOCATED IN THE MIDDLE OF THE BERING SEA, OR DUTCH HARBOR, IN THE MIDDLE OF JANUARY WHEN THE CRAB FISHERY IS IN FULL SWING. THESE COMMUNITIES ARE DEPENDENT ON THE CRAB RESOURCE AND HAVE MADE SUBSTANTIAL INVESTMENTS TO PROCESS RAPIDLY THE PRODUCT DURING THE MAD RACE FOR FISH IN THE CURRENT DERBY-STYLE FISHERY. THEY HAVE BECOME DEPENDENT ON THE CRAB RESOURCE CROSSING THEIR



DOCKS.

THE CRAB FISHERY IS A UNIQUE ONE IN THAT THERE IS A VERY HIGH DOLLAR VALUE FOR A SMALL AMOUNT OF RESOURCE THAT CAN BE PROCESSED QUICKLY. IF THE CRAB PLAN ONLY PROVIDED FOR HARVESTER-ONLY QUOTA SHARE IT WOULD ULTIMATELY RESULT IN DE FACTO PROCESSING QUOTA FOR THE EXCLUSIVE GROUP OF BOAT OWNERS THAT CONTROL THE HARVESTING RIGHTS TO THE RESOURCE. CURRENTLY IN THE BERING SEA CRAB FISHERY, THERE IS A SURPLUS OF CATCHER-PROCESSOR VESSELS AND FLOATING CRAB PROCESSORS THAT CAN BE LEASED OR BOUGHT CHEAPLY. THIS MOBILE PROCESSING CAPACITY IN COMBINATION WITH A HARVESTER-ONLY QUOTA SHARE WOULD ENABLE FISHERMEN TO FORM COOPERATIVES AND VERTICALLY INTEGRATE SUCH THAT NONE OF THE CRAB RESOURCE WOULD EVER HAVE TO COME SHORE-SIDE. SUBSTANTIAL INVESTMENTS MADE BY SHORE BASED PROCESSORS WOULD BE LOST AND COMMUNITIES SUCH AS UNALASKA, ADAK, SAINT PAUL, SAINT GEORGE, AKUTAN AND KING COVE WOULD LOSE OUT ON PROCESSING JOBS, TAXES AND ASSOCIATED REVENUES. THE NORTH PACIFIC COUNCIL UNDERSTOOD THIS AND DEVELOPED A PLAN THAT RECOGNIZED THE COMMITMENTS MADE BY ALL SECTORS OF THIS FISHERY AND TIED THE RESOURCE TO THE COMMUNITIES THAT HAVE HISTORICALLY PROCESSED THE CRAB.

SAFETY WILL ALSO BE ACHIEVED BY THIS CRAB PLAN AND THIS POINT IS IRREFUTABLE. THE REALITY IS IF WE DO NOT PASS THE CRAB PLAN IN ITS ENTIRETY NOW IT WILL BE MANY MORE YEARS, POSSIBLY EVEN 10 YEARS, BEFORE THE COUNCIL COULD DEVELOP ANOTHER RATIONALIZATION PROGRAM AND FULLY IMPLEMENT IT. THE NORTH PACIFIC COUNCIL IS DEVELOPING OTHER COMPREHENSIVE RATIONALIZATION PROGRAMS FOR THE GULF OF ALASKA GROUND FISH FISHERIES AND LIKELY WILL TURN TO BERING SEA NONPOLLOCK GROUND FISH FISHERIES AFTER THAT. THE COUNCIL CANNOT SIMPLY STOP WORK ON THESE OTHER PROGRAMS AND ADDRESS CRAB RATIONALIZATION AGAIN. IT WOULD BE EXTREMELY UNFAIR TO THOSE OTHER FISHERIES AND WOULD RESULT IN THOSE PROGRAMS HAVING TO BE COMPLETELY REDONE BECAUSE DATA AND FACTORS WILL INEVITABLY CHANGE CAUSING COUNCIL RECOMMENDATIONS AND CONSIDERATIONS TO BE VASTLY DIFFERENT. IF THE CRAB

PLAN DOES NOT MOVE FORWARD IN ITS ENTIRETY THE DEADLY RACE FOR FISH WILL CONTINUE.

IN CLOSING I BELIEVE SOME HARSH REALITIES ABOUT THE BERING SEA CRAB FISHERY WILL ILLUSTRATE WHY WE MUST IMPLEMENT THIS PROVISION IMMEDIATELY. THE BERING SEA/ALEUTIAN ISLANDS CRAB FISHERY IS RATED THE MOST DANGEROUS OCCUPATION IN THE U.S. FROM 1990 TO 2001, THERE WERE 61 FATALITIES AND 25 VESSELS WERE LOST; AND IN THE RECENT OCTOBER 2003 RED KING CRAB FISHERY, BOATS WERE LOST AND A PERSON KILLED. THIS PAST OCTOBER CRAB FISHERY WAS ONE OF THE WORST WEATHER-WISE EVER, WITH NEARLY CONSTANT GALE FORCE WINDS AND HUGE OCEAN SWELLS. UNDER THE CRAB PLAN FISHERMEN COULD HAVE CHOSEN TO WAIT UNTIL THE WEATHER CLEARED.

CONDITIONS ARE EVEN MORE EXTREME DURING THE WINTER CRAB FISHERY IN THE BERING SEA WHEN IT IS ALMOST ALWAYS DARK, EXTREMELY COLD AND THE SEAS SEND FREEZING OCEAN SPRAY THAT ICE DOWN THE CRAB VESSELS. THE DERBY-STYLE FISHERY REQUIRES DECKHANDS TO WORK ALL DAY AND ALL NIGHT, OUTSIDE ON ICY DECKS, IN ROLLING 10 TO 20 FOOT SEAS, RETRIEVING 700-POUND STEEL POTS, SORTING CRAB AND THEN DROPPING THE POTS IN NEW PLACES.

OBVIOUSLY, THIS IS VERY DANGEROUS, BUT IT IS ALSO VERY INEFFICIENT AND DAMAGING TO THE RESOURCE. THE BOATS ARE RACING TO HARVEST THE CRAB BEFORE THE GUIDELINE HARVEST LEVELS ARE REACHED WHICH REQUIRES THEM TO PULL THEIR POTS EARLY NOT ALLOWING THEM TO "SOAK" LONGER PERMITTING YOUNGER CRABS TO ESCAPE. THE RESULT IS THE YOUNGER CRABS ARE UNNECESSARILY KILLED CAUSING THE STOCKS TO SUFFER.

IF WE DO NOT IMPLEMENT THIS PROVISION LIVES WILL CONTINUE TO BE LOST AND THE RESOURCE AND THE ENVIRONMENT WILL SUFFER. THE OPPOSITION OF A VOCAL FEW THAT BELIEVE THEY DESERVE A BETTER DEAL AND ENVIRONMENTAL GROUPS THAT WANT TO TURN THE WATERS IN THE NORTH PACIFIC IN TO VAST MARINE RESERVES OR "NO TAKE ZONES" ARE BEHIND THE OPPOSITION TO CRAB RATIONALIZATION. THEIR ATTACKS ARE SHAMEFUL, SELF RIGHTEOUS AND DISINGENUOUS. WE HAVE AN OBLIGATION TO PROTECT THE CRAB RESOURCE

IN THE BERING SEA AND PREVENT ANY FURTHER LOSS OF LIFE IN THIS FISHERY. THIS IS  
EXACTLY WHAT CRAB RATIONALIZATION WILL ACHIEVE AND TO ARGUE ANYTHING ELSE IS  
JUST NOT TRUE.

PASSAGE OF THE FY2004 CONSOLIDATED APPROPRIATIONS CONFERENCE REPORT  
REGARDING PROVISIONS RELATED TO ALASKAN FISHERIES

Mr. STEVENS. Mr. President, three years ago Congress directed the North Pacific Fishery Management Council to analyze the management of the Bering Sea Crab fisheries and determine whether rationalization was necessary. The North Pacific Council completed its study and recommended a rationalization program that recognized the historical participation in the fishery of remote Alaska fishing communities, harvesters, and processors. The "Three-pie Voluntary Cooperative Program" developed by the North Pacific Council protects the resource and ends the dangerous race for fish. Section 801 of Title VIII-Alaskan Fisheries of the FY2004 Consolidated Appropriations conference report directs the Secretary to implement the North Pacific Council's crab rationalization program in its entirety.

Section 801 amends section 313 of the Magnuson-Stevens Fishery Conservation and Management Act by adding a new subsection 313(j). Paragraph 313(j)(1) directs the Secretary to approve and implement the North Pacific Council's rationalization program for the Bering Sea/Aleutian Islands crab fisheries, including all trailing amendments. It also clarifies that the Secretary may approve and implement additional trailing amendments approved by the North Pacific Council. The Secretary must implement all parts of the crab rationalization program that were reported to Congress between June 2002 and April 2003, and all trailing amendments including those reported on May 6, 2003, no later than January 1, 2005. Any further amendments approved by the Council should be corrective in nature or address unforeseen problems with the overall functionality of the crab rationalization program. Primary elements of the Voluntary Three-pie Cooperative crab program that made three separate allocations, one to the harvest sector, one to the processing sector, and one to defined regions, should not change as this was the basis of understanding of how the crab fisheries would be rationalized in the Bering Sea and Aleutian Islands. It is imperative that the deadly and inefficient race for crab in the harsh winters months in the Bering Sea ends. Congress expects the Secretary to meet the statutory deadline of implementation of the rationalization program in time for the 2005 crab fisheries. Congress does not expect the Council to revisit particulars of the crab rationalization program that were part of the initial report to Congress in June of 2002, such as individual harvest shares, processing shares, the 90/10 split of "Class A" and "Class B" shares, regional share designations, voluntary harvester cooperatives, and community development quota allocations, to name a few.

Paragraph 313(j)(2) directs the Secretary to approve all parts of the North Pacific Council's crab program, including harvester quota, processor quota, and community protections. It also includes a non-severability clause that prevents a court from overruling only certain parts of the program. If any part of the program is found to violate the law, the entire program fails and the Bering Sea/Aleutian Islands crab

fisheries will operate under their current open-access management scheme. It also prevents processors from improperly seeking crab deliveries harvested under a harvester's open-delivery quota.

Paragraph 313(j)(3) authorizes the North Pacific Council to recommend to the Secretary any necessary changes after implementation of the crab program to continue to meet conservation and management goals set out in the program for the Bering Sea/Aleutian Islands crab fisheries.

Paragraph 313(j)(4) specifies that the loan program defined under the crab rationalization program for captains and crew be authorized pursuant to relevant sections of Title XI of the Merchant Marine Act as amended for fisheries financing and capacity reduction and for direct loan obligations for fisheries financing and capacity reduction. The loan program for crab fishing vessel captains and crew members is to be a low interest loan program similar to the loan program under the halibut and sablefish IFQ program.

Paragraph 313(j)(5) authorizes \$1,000,000 each year from funds available in the National Marine Fisheries Service account for Alaska fisheries activities to implement the program.

Paragraph 313(j)(6) specifies that the antitrust laws of the United States apply to the crab program. It requires the Secretary of Commerce to work with Department of Justice and the Federal Trade Commission to develop and implement a mandatory information collection and review process to monitor the crab program and ensure no anticompetitive acts occur among persons receiving individual processing quota. If any person receiving individual processor quota is found to have violated a provision of the antitrust laws the Secretary may revoke their processor quota share.

Paragraph 313(j)(7) requires individual processor quota share under the crab program to be considered a permit and subject to sections 307 (Prohibited Acts) and 308 and 309 (penalties and criminal offenses) of the Magnuson-Stevens Fishery Conservation and Management Act. It specifies that, like individual fishing quota, issuance of individual processor quota share does not confer any compensation right if it is revoked or limited, and does not create title or other interest in or to any fish before purchase from a harvester.

Paragraph 313(j)(8) specifies that the restriction on the collection of economic data in section 303(d)(7) of the Magnuson-Stevens Act will not apply for any processor that receives individual processing quota under the crab program. In addition, the restriction on the confidentiality of information in section 402(b)(1) will not apply when the information is used to determine eligibility or verify history for individual processing quota. This is consistent with the exception to the confidentiality of information requirement under the Magnuson-Stevens Act for verifying catch under an individual fishing quota program.

Paragraph 313(j)(9) specifies that sections 308 (civil penalties and permit sanctions), 310 (civil forfeitures), and 311 (enforcement) of the Magnuson-Stevens Act will apply to the processing facilities and

fish products of any person holding individual processing quota. In addition, to ensure compliance with the crab program it may be necessary for the Secretary to inspect a processor's facilities, therefore facilities owned or controlled by a person holding individual processing quota will be subject to the prohibited acts of section 307(1) subparagraphs (D), (E) and (L) of the Magnuson-Stevens Act.

The North Pacific Council is recognized for developing novel and innovative approaches to conservation and management of the abundant fisheries in the North Pacific. The "Three-pie Voluntary Cooperative Program" for rationalizing the Bering Sea and Aleutian Islands crab fisheries is another example of that creativity. It is the product of three years of public meetings and discussion by industry sectors, citizens and affected communities, two years of discussion and development by the North Pacific Council and its Advisory Panel, and nearly two years of extensive and thorough analysis by Council staff, with technical assistance from the National Marine Fisheries Service, Alaska Department of Fish and Game, and independent economists and fisheries consultants.

The Council meticulously constructed the crab rationalization program to achieve bold conservation and management goals for the resource; but also considered the very unique reality of a high value, capital intensive, high risk fishery that is prosecuted entirely in the distant waters of the Bering Sea and Aleutian Islands. The Council has done a great job crafting the Three-pie Voluntary Cooperative crab rationalization program and it is expected to implement the program in its entirety, including all trailing amendments, as reported to Congress in June of 2002. The Council should not revisit the particulars of the crab program, but should continue to work with the Commerce Department to ensure that the crab program is implemented in its entirety in time for the 2005 winter crab fisheries.

The Magnuson-Stevens Act requires fishery management plans and amendments to provide for the sustained participation of communities in the fisheries it has historically depended on for employment and economic opportunity. Small, isolated communities like St. Paul and St. George located on the Pribilof Islands, and Adak on the Aleutian chain have become dependent on the crab resource crossing their docks. This plan slows down the pace of the fishery, achieves efficiencies in harvesting the resource, manages and conserves the resource better, and helps decapitalize the fishery.

While there will inevitably be a degree of economic dislocation in the communities dependent on the revenues. The crab rationalization program addresses these concerns by tying the crab resource to the communities that historically processed the crab. Processor quota share is a form of community protection which maintains historical processing capacity in the communities. Processor quota share should remain in those unique, isolated communities like St. Paul, St. George, King Cove and Adak; communities completely dependent on the crab fishery, that do not benefit from multi-species processing and other economic

opportunities. The North Pacific Council determined that for the crab fisheries, processor quota share was a necessary safeguard to protect the investments made by the processing sector and more importantly, to maintain the economic benefits in the communities that have historically depended on the resource.

Section 802 of Title VIII-Alaskan Fisheries directs the Secretary in consultation with the North Pacific Fishery Management Council to establish a pilot fisheries management program that recognizes the historic participation of fishing vessels and fish processors in the central Gulf of Alaska rockfish fishery. The provision delineates the years and types of rockfish that should be considered for a pilot rationalization program to allow for increased use and value in the fishery. The pilot rockfish program will expire when the North Pacific Council authorizes a comprehensive rationalization program for Gulf of Alaska Groundfish and implemented by the Secretary, or two years from the date of implementation, whichever is earlier. The pilot program contemplates new entrants into this fishery and provides a set-aside of up to five percent of the total allowable catch of such fishery for catcher vessels not eligible to participate in the program. In addition, the five percent that is available for new entrants must come into Kodiak, Alaska for processing and can be processed by processors that have not historically participated in the fishery. The North Pacific Council will establish catch limits for nonrockfish species and non-target rockfish species currently harvested along with pacific ocean perch, northern rockfish, and pelagic shelf rockfish, which should be based on historical harvesting of such bycatch species. The Gulf of Alaska rockfish pilot program should also recognize the historic fishing and processing participation of catcher-processors that have historically participated in this fishery, and should utilize the same years and species of fish considered under the provision.

The intent of the pilot program is to consider the historic participation of all of those that have been involved in the fishery. The Gulf of Alaska rockfish pilot program does not authorize individual processing quota share for processors in this fishery. The "historic participation of fish processors" under this pilot program should be considered pursuant to the cooperative model under the American Fisheries Act, or any other manner the North Pacific Council determines is appropriate. This provision in no way authorizes individual processor quota share for the comprehensive Gulf of Alaska groundfish rationalization program that the North Pacific Council is currently developing. This pilot program is intended to allow for better conservation and management of the central Gulf of Alaska rockfish and extend the work year for processing jobs in Kodiak.

Section 803 of Title VIII-Alaskan Fisheries directs the Aleutian Islands pollock allocation to the Aleut Corporation for economic development in Adak, Alaska. If the North Pacific Council opens the Aleutian pollock fishery, the allocation of pollock for economic development in Adak will be restricted by

the prohibited acts contemplated under section 307 of the Magnuson-Stevens Fishery Conservation and Management Act and subject to the penalties and sanctions under section 308 of the Act, including the forfeiture of any fish harvested or processed. Two classes of vessels may harvest this pollock allocation: vessels that are 60 feet or less in length overall and have a valid fishery endorsement can harvest the Aleutian pollock allocation and deliver it to Adak for processing; and vessels eligible to harvest pollock under section 208 of Title II of Division C of Public Law 105-277 are permitted to form partnerships with the Aleut Corporation to harvest the Aleutian Islands pollock allocation for economic development in Adak. Section 803 does not waive the requirements of the Magnuson-Stevens Act, Endangered Species Act, National Environmental Policy Act or any other federal laws. The North Pacific Council and NMFS should be cautious in implementing section 803(a) to ensure that any reopening of a directed Aleutian Islands pollock fishery is accomplished in full compliance with all applicable law, and without disrupting 2004 groundfish fisheries which have already commenced.

In an effort to gradually establish a small boat fleet in Adak, subsection (b) of section 803 provides that during the years 2004 through 2008, up to 25 percent of the Aleutian allocation may be harvested by vessels 60 feet or less in length overall. During the years 2009 through 2013, up to 50 percent of such allocation may be harvested by vessels 60 feet or less in length overall. After the year 2012, 50 percent of such allocation shall be harvested by vessels 60 feet or less in length overall, and 50 percent shall be harvested by vessels eligible under section 208 of Title II of Division C of Public Law 105-277. Establishing a small boat fleet will be critical for the economic diversification of Adak and the revenues generated from the use of the Aleutian Islands pollock allocation will allow for greater investment opportunities in this community. For purposes of implementing this section, section 206 of the American Fisheries Act (AFA) is redefined so that the allocations in section 206(b) of the AFA should only apply to the Bering Sea portion of the directed pollock fishery.

Subsection (c) of section 803 codifies one of the longest standing conservation and management measures of the North Pacific Fishery Management Council, the 2 million metric ton cap for groundfish in the Bering Sea. The optimum yield for groundfish in the Bering Sea and Aleutians Islands Management Area shall not exceed 2 million metric tons. Upon the recommendation of the North Pacific Council and approval of the Secretary of Commerce, and only if consistent with the conservation and management goals and requirements of the Magnuson-Stevens Fishery Conservation and Management Act, the allocation of Aleutian pollock for economic development in Adak, may be in addition to the 2 million metric ton optimum yield. This treatment of the Aleutian Islands pollock allocation would only be during the 2004 through the 2008 fishing years, but only if harvests in excess of the cap do not result in overfishing and then only to the



extent necessary to accommodate a directed pollock fishery in the Aleutian Islands and should not adversely affect the current participants in the Bering Sea pollock fishery in the near term. Eventually this pollock allocation will come under the combined optimum yield for all groundfish in the Bering Sea and Aleutian Islands 2 million metric ton cap by taking proportional reductions in the total allowable catches for each of the existing groundfish fisheries as necessary to accommodate the establishment of the Aleutian Island pollock fishery.

Subsection (d) of section 803 allows the North Pacific Fishery Management Council to recommend and the Secretary to approve an allocation of Aleutian Islands pollock to the Aleut Corporation for the purposes of economic development in Adak pursuant to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The North Pacific Council should consider pollock allocations given to the various groups that participate in the Community Development Quota program to recommend a reasonable amount of the Aleutian Islands pollock to the Aleut Corporation for purposes of economic development in Adak and in no case should this amount exceed 40,000 metric tons.

Nothing in this section requires the North Pacific Council to open the Aleutian Islands pollock fishery. The Council should not take any action in regards to this fishery which would require a new consultation under the current biological opinion or Endangered Species Act covering Steller sea lions.

Section 804 of Title VIII—Alaskan Fisheries prohibits any Regional Fishery Management Council or the Secretary from approving any fishery management plan or plan amendments to allocate or issue individual processing quota or processor share in any fishery of the United States other than the crab fisheries of the Bering Sea and Aleutian Islands.



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
*National Marine Fisheries Service*  
 P.O. Box 21668  
 Juneau, Alaska 99802-1668

June 2, 2004

Ms. Stephanie Madsen, Chair  
 North Pacific Fishery Management Council  
 605 West 4<sup>th</sup> Street, Suite 306  
 Anchorage, Alaska 99501-2252

Dear Madam Chair:

In January, 2004, the U.S. Congress amended the Magnuson-Stevens Fishery Conservation and Management Act (the MSA) through the Consolidated Appropriations Act of 2004 (Pub. L. No. 108-199, section 801(j)(1)), by adding subparagraph (j)(1). This subparagraph requires the Secretary of Commerce (Secretary) to approve, by January 1, 2005, the Voluntary Three-pic Cooperative Program (Program) as it was approved by the Council between June 2002, and April 2003, including all trailing amendments reported to Congress on May 6, 2003. The Secretary will approve the Program, as legislated, as Amendment 18 to the Fishery Management Plan for Bering Sea /Aleutian Islands King and Tanner Crabs (BSAI crab FMP). The Program is Alternative 2 of the DEIS.

Although Congress mandated the Secretary to approve the Program, the MSA also states that the Secretary is not precluded from approving the Program by January 1, 2005, and implementing thereafter any subsequent program amendments adopted by the Council. The Council and Secretary clearly have broad authority to amend the Program. Although floor statements and statements in the Congressional Record suggest that the Council should exercise restraint in amending the Program, the statements are advisory and do not limit the Council's authority under the MSA.

Given this discretion, at its June 2004, meeting, the Council may consider subsequent amendments to the Program. The Council "action" at this June meeting should be defined as whether the legislated Program should be amended. The Council's action should not be defined as whether to identify the Program as the preferred alternative for the Final EIS because the Program already has been legislated. Any amendments, however, must be consistent with the MSA, as amended by the Consolidated Appropriations Act, and other applicable law. Notwithstanding the broad authority to amend the Program granted by the legislation, the authority to manage the crab fisheries is defined substantively by the MSA. As a result, any amendments to the Program must be limited to management measures authorized under the MSA.

Amendments the Council adopts at the June meeting, for Secretarial approval before January 1, 2005, must be adequately analyzed in the DEIS. In considering amendments, the Council should



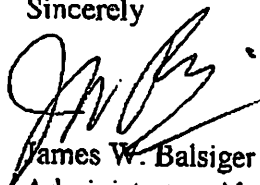
consider the public comments received on the DEIS to determine whether amendment of the Program is warranted. We cannot provide a complete list of amendments that could be approved because their approvability will depend on whether the MSA authorizes them and whether they have been adequately analyzed in the DEIS. Decisions regarding the authority of the Council to amend must be made on a case-by-case basis.

At this meeting, we recommend the Council consider two amendments to the Program to address specific issues that may be problematic or difficult to implement. The first amendment is to the binding arbitration component of the Program. Please refer to the binding arbitration materials, dated May 25, 2004, that Lisa Lindeman, Alaska Region Counsel, provided to the Council. Second, we also wish to bring to your attention a specific aspect of the Council's motion regarding the management of groundfish sideboards by cooperatives. We recommend that the Council approve an amendment to the Program that removes specific sideboard language. Removal will eliminate the requirement that cooperatives manage the Pacific cod sideboard fishing activity of their members. Thus, cooperatives will rely directly on NMFS to manage sideboard fishing. Please see the attachment to this letter for a full discussion of this sideboard issue. These two amendments are consistent with the Magnuson-Stevens Act and within the scope of the analysis in the DEIS.

In terms of process, we will compile any amendments adopted by the Council at its June 2004 meeting into Amendment 19 for Secretarial approval subsequent to Amendment 18, but before January 1, 2005. Amendment 19 will be implemented simultaneously with Amendment 18 through one notice and comment rulemaking. The preferred alternative in the Final EIS will include the program elements in Amendment 19 so that the preferred alternative in the Final EIS accurately reflects the program that is implemented.

The Council may also recommend to the Secretary amendments to the Program that are not analyzed in the DEIS. These subsequent amendments, however, will require separate analysis and rulemaking. Completion of any requisite analysis and rulemaking process would be unlikely prior to January 1, 2005. Therefore, these subsequent amendments would be implemented after the implementation of the Program. Section 313(j)(3) of the MSA provides that subsequent to implementation of the Program, the Council may submit and the Secretary may implement changes to or repeal of any measure "to achieve on a continuing basis the purposes identified by the Council."

Sincerely



James W. Balsiger  
Administrator, Alaska Region

Attachment

## Attachment

A specific aspect of the Council's motion regarding the management of groundfish sideboards by cooperatives may be problematic and difficult to implement. Item 1.8.5 from the Council's motion contains the following language:

*Require that crab co-ops limit their members to their aggregate cod catch in both federal and state waters to the sideboarded amount (provided such a limitation is within the Council's authority). Staff is requested to examine how this integrates with the existing coop structure in the preferred alternative and identification of enforcement options available to the coop which will ensure compliance with parallel fishery limitations.*

After considerable analysis and discussion, this measure would likely be impossible to implement and enforce for several reasons, as discussed below.

The first obstacle is that crab cooperatives are organized around quota share (QS) holders but the sideboard applies to vessels and LLP licenses. Under the rules of the crab rationalization program, a person does not need to own a vessel or LLP license to hold QS or participate in a cooperative. Likewise, a vessel fishing crab on behalf of a cooperative need not be owned by a member of the cooperative as long as some member of the cooperative is on board when fishing occurs. This means that a single vessel could be fishing simultaneously for several cooperatives, or even for several cooperatives and several individual IFQ holders over the course of a crab season. Therefore, no way exists for a specific cooperative to identify or manage a specific group of crab vessels to which a sideboard would apply. This is in contrast to the AFA pollock cooperatives where membership in the cooperative is based on vessel ownership. In the AFA pollock cooperatives, the members of the cooperative are the vessel owners. Therefore, expecting them to manage their activity in other fisheries is more reasonable.

The second obstacle is that the fishing seasons for crab and Pacific cod do not coincide. The crab season will run from July 1 to June 30 and crab cooperatives will be given one-year fishing permits that will be valid for this time period. However, the Pacific cod season runs on the calendar year from January 1 to December 31. This means that a crab cooperative will be in effect for the last half of one cod season and the first half of the subsequent season. Even if cooperatives did have the wherewithal to manage Pacific cod sideboard fishing by specific vessels, they would be unable to do so because each year's crab season will end before the end of the Pacific cod season in the GOA. Because crab cooperative membership will be entirely voluntary and QS holders may choose to join any cooperative, the composition of each cooperative may vary greatly from year to year. This will make it difficult or impossible to expect a cooperative in one year to be responsible for the activity of fishermen in prior or future years. By contrast, in the AFA pollock fishery, the pollock fishing season and annual cooperative permits coincide with the fishing seasons for other groundfish species. In addition, because each AFA catcher vessel is only qualified to join a single cooperative little movement of vessels occurs among cooperatives from year to year.

The third obstacle to requiring cooperatives to enforce vessel-specific sideboards for Gulf of Alaska (GOA) Pacific cod has to do with State confidentiality restrictions on the use of fish ticket data. Because cooperatives may have as few as four members, and only a subset of crab vessels will be subject to the Pacific cod sideboard, many cooperatives will likely have three or fewer members that are subject to the sideboard. In these instances, State confidentiality restrictions will prevent NMFS from informing the cooperative of the aggregate sideboard amount to which it is supposed to restrict its members. Without this information, a cooperative will not be able to manage the sideboard fishing activity. Note that this problem did not arise with the AFA catcher vessel cooperatives because all of the AFA catcher vessel cooperatives had four or more members and NMFS was able to produce public tables showing the sideboard amounts attributed to each cooperative without violating State data confidentiality restrictions.

We have attempted to develop management measures to work around these problems, but have been unable to come up with a viable and enforceable way to require crab cooperatives to manage the Pacific cod sideboard fishing activities of their members. Rather than expect crab cooperatives to manage sideboard fishing activity, we believe the only viable way to enforce the groundfish sideboards in the GOA is through fleet-wide sideboard directed fishing closures managed by NMFS for Federal waters and the parallel fishery in State waters. The sideboard regulations we are developing take this approach. Therefore, we recommend that the Council approve an amendment to the Program that removes this language in Item 1.8.5, and thus eliminate the requirement that cooperatives manage the Pacific cod sideboard fishing activity of their members and rely instead on NMFS to manage directly sideboard fishing.



AGENDA C-1(c)  
JUNE 2004  
**UNITED STATES DEPARTMENT OF CC**  
**National Oceanic and Atmospheric Administration**  
Office of General Counsel  
P.O. Box 21109  
Juneau, Alaska 99802-1109

May 25, 2004

Chris Oliver  
Executive Director  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Street, Suite 306  
Anchorage, Alaska 99501-2252

Dear Chris,

In April, NOAA contracted with Arnold & Porter, LLP, to obtain expert legal services in the areas of antitrust and arbitration law. I am enclosing the final legal opinion we received from Arnold & Porter analyzing whether the arbitration system of the Crab Rationalization Program as legislated by section 801(j)(1) of the Consolidated Appropriations Act of 2004, Pub. L. No. 108-199, could be implemented consistent with the antitrust laws. The opinion recommends several changes to the arbitration system to ensure compliance with the antitrust laws.

I also am enclosing a markup of the arbitration system provisions of the Council's Motion showing what changes need to be approved by the Council to bring the system into compliance with the antitrust laws.

Please distribute the enclosed to Council members for their review prior to the June meeting.

Sincerely,

A handwritten signature in cursive script that reads "Lisa L. Lindeman".

Lisa L. Lindeman  
Alaska Regional Counsel

Enclosures

cc: Jane Chalmers  
Jim Balsiger



Binding Arbitration System (from February 2003 motion)  
SUGGESTED AMENDMENTS TO MAKE ARBITRATION SYSTEM CONSISTENT WITH  
ANTITRUST LAWS – BASED ON ANTITRUST COUNSEL LEGAL OPINION

May 25, 2004

The Council adopts the following elements for a system of binding arbitration to resolve failed price negotiations.

1. The Standard for Arbitration

The primary role of the arbitrator shall be to establish a price that preserves the historical division of revenues in the fisheries while considering relevant factors including the following:

- a. Current ex vessel prices (including prices for Class A, Class B, and Class C shares recognizing the different nature of the different share classes)
- b. Consumer and wholesale product prices for the processing sector and the participants in the arbitration (recognizing the impact of sales to affiliates on wholesale pricing)
- c. Innovations and developments of the different sectors and the participants in the arbitration (including new product forms)
- d. Efficiency and productivity of the different sectors (recognizing the limitations on efficiency and productivity arising out of the management program structure)
- e. Quality (including quality standards of markets served by the fishery and recognizing the influence of harvest strategies on the quality of landings)
- f. The interest of maintaining financially healthy and stable harvesting and processing sectors
- g. Safety
- h. Timing and location of deliveries
- i. Reasonable underages to avoid penalties for overharvesting quota and reasonable deadloss

10. Market Report

An independent market analyst selected by the mutual agreement of the sectors will present to both sectors and all designated arbitrators an analysis of the market for products of that fishery.

11. Selection of the Arbitrator(s) and Market Analyst

The market analyst and arbitrator(s) will be selected by mutual agreement of the PQS holders and the QS holders. PQS holders collectively must agree and QS holders collectively must agree. Processors may participate collectively in the selection process. The details of the selection will be decided at a later time.

12. Shares subject to binding arbitration

This binding arbitration system shall address price disputes between holders of delivery restricted IFQ (including Class A IFQ and Class C IFQ when subject to delivery restrictions) and holders of IPQ. Binding arbitration does not apply to the negotiation of price for deliveries under the class B IFQ and Class C IFQ when not subject to delivery restrictions. C share holders, however, may elect to participate in the arbitration process prior to delivery restrictions taking effect.

13. Shares of processor affiliates

Participation of processor affiliates in binding arbitration as IFQ holders will be determined by any applicable rules governing anti-trust. Any parties eligible for collective bargaining under the Fishermen's Cooperative Marketing Act of 1934 (FCMA) will be eligible to participate **collectively as a member of that FCMA co-op** in binding arbitration. No antitrust exemption should be made to enable processor affiliated IFQ holders to participate in arbitration.

14. Payment of the arbitration and market analysis

The payment for the market analysis and the arbitrators will be shared by the two sectors. Cost shall be shared by all participants in all fisheries.

For shared costs, the payment of those costs shall be advanced by IPQ holders. The IPQ holders will collect the IFQ holders' portion of the shared costs by adding a pro rated surcharge to all deliveries of Class A crab.

15. Quality dispute resolution

In cases where the fisherman and the processor cannot come to agreement on quality and thus price for crab, two mechanisms are suggested for resolving the price dispute-after the processor has processed the crab (to avoid waste from dumping the load at sea): (1) In cases where fishermen and processors have agreed to a formula based price, the two parties would take their normal shares of the price, after the disputed load is sold. (2) This type of dispute would most likely apply in cases where fishermen desire to stay with fixed dockside prices and there is disagreement on quality and therefore price. These cases could be referred to an independent quality specialist firm. The two parties in dispute would decide which firm to hire.

16. Data used in arbitration

Under any arbitration structure, the arbitrator must have access to comprehensive product information from the fishery (including first wholesale prices and any information necessary to verify those prices).

~~Processors may participate in common discussions concerning historical prices in the fisheries. (Reasons: Insufficient limitation. Poses serious antitrust risks. Delete. See pages 30-31 of the legal opinion.)~~

Subject to limitations of antitrust laws and the need for proprietary confidentiality, all parties to an arbitration proceeding shall have access ~~only to all~~ information provided to the arbitrator(s) or panel for that arbitration ~~directly by the parties to in that arbitration. proceeding-~~ Access to information by a harvester participating in an arbitration will be limited to information submitted by itself and the processor. All participants to an arbitration shall sign a confidentiality agreement stating they will not disclose any information received from the arbitrator.

(Reasons: The current provision presents serious antitrust concerns. The provision implies that all parties involved in an arbitration could have access to competitively sensitive information submitted to an arbitrator by every harvester and processor during all prior arbitration sessions. Since parties will be providing arbitrators with pricing and cost information, this could give parties in subsequent arbitrations access to their competitors' current cost structure and pricing information. Also, risk of antitrust liability if cooperative or members of a cooperative share sensitive competitive information or attempt to collaborate with non-member harvesters on any issues related to price or costs. See legal opinion, pages 26-30).



Data collected in the data collection program may be used to verify the accuracy of data provided to the arbitrator(s) in an arbitration proceeding. Any data verification will be undertaken only if the confidentiality protections of the data collection program will not be compromised.

17. Enforcement of the Arbitration Decision

The decision of the arbitrator will be enforced by civil damages

18. Oversight and administration of the Binding Arbitration system.

Oversight and administration of the binding arbitration should be conducted in a manner similar to the AFA cooperative administration and oversight. System reporting requirements and administrative rules should be developed in conjunction with the Council and NOAA Fisheries after selection of the preferred program.

The structure for the system of Binding Arbitration system shall be as described below:

LAST BEST OFFER BINDING ARBITRATION

GENERAL

The Last Best Offer Model provides a mechanism to resolve failed price and delivery negotiations efficiently in a short period before the opening of the season. The Model includes the following specific characteristics:

1. Processor-by-processor. Processors will participate individually and not collectively, except in the choice of the market analyst and the arbitrator/arbitration panel.
  2. Processor-affiliated shares. Participation of processor-affiliated shares will be limited by the current rules governing antitrust matters.
  3. Arbitration standard. The standard for the arbitrator is the historic division of revenues between harvesters and processors in the aggregate (across the entire sectors), based on arm's-length first wholesale prices and ex-vessel prices (Option 4 under "Standard for Arbitration" in the staff analysis). The arbitrator shall consider several factors including those specified in the staff analysis, such as current ex vessel prices for both A, B and C Shares, innovations, efficiency, safety, delivery location and timing, etc.
  4. Opt-in. An IFQ holder may opt in to any contract resulting from a completed arbitration for an IPQ holder with available IPQ by giving notice to the IPQ holder of the intent to opt in, specifying the amount of IFQ shares involved, and acceptance of all terms of the contract. Once exercised, an Opt-in is binding on both the IPQ holder and the IFQ holder.
  5. Performance Disputes. Performance and enforcement disputes (e.g. quality, delivery time, etc.) initially will be settled through normal commercial contract dispute remedies. If those procedures are unsuccessful, the dispute will be submitted for arbitration before the arbitrator(s). If those procedures are unsuccessful and in cases where time is of the essence, the dispute will be submitted for arbitration before the arbitrator(s). The costs of arbitration shall be paid from the fees collected, although the arbitrator(s) will have the right to assign fees to any party for frivolous or strategic complaints.
- Lengthy Season Approach. For a lengthy season, an IPQ holder and an IFQ holder (or group of IFQ holders) may agree to revise the entire time schedule below and could agree to arbitration(s) during the season. That approach may also be arbitrated pre-season if the holders cannot agree.

PROCESS

1. Negotiations and Voluntary Share Matching.

At any time prior to the season opening date, any IFQ holders may negotiate with any IPQ holder on price and delivery terms for that season (price/price formula; time of delivery; place of delivery, etc.). If agreement is reached, a binding contract will result for those IFQ and IPQ shares. IPQ holders will always act individually

and never collectively, except in the choice of the market analyst (which may occur at any time pre-season) and the arbitrator/arbitration panel for which all IFQ and IPQ holders will consult and agree.

2. Required Share-Matching and Arbitration.

Beginning at the 25-day pre-season point, IFQ holders may match up IFQ shares not already subject to contracts with any IPQ shares not under contract, either ~~as collective groups of IFQ holders collectively as part of an FCMA cooperative~~ or as individual IFQ holders (the offered IFQ Shares must be a substantial amount of the IFQ Holder(s)' uncontracted shares). The IPQ holder must accept all proposed matches up to its non-contracted IPQ share amount. All IFQ holders "matched" with an IPQ holder will jointly choose an arbitrator with that IPQ holder. The matched share holders are committed to the arbitration once the arbitrator is chosen (if the parties wish, the arbitrator may initially act as a mediator to reach an agreement quickly). Arbitration must begin no later than 15 days before the season opening date.

3. Data.

The Arbitrator will gather relevant data independently and from the parties to determine the historical distribution of first wholesale crab product revenues (at FOB point of production in Alaska) between harvesters and processors in the aggregate (across the entire sectors). For a vertically integrated IPQ holder (and in other situations in which a back-calculation is needed), the arbitrator will work with that IPQ holder and the IFQ holders to determine a method for back-calculating an accurate first wholesale price for that processor. The Arbitrator will receive a pre-season market report from the market analyst, and may gather additional data on the market and on completed arbitrations. The Arbitrator will also receive and consider all data submitted by the IFQ holders and the IPQ holder. The Arbitrator will not have subpoena power.

4. Arbitration Decisions.

Arbitration will be based on a "last best offer" system, with the Arbitrator choosing one of the last best offers made by the parties. The Arbitrator will work with the IPQ and IFQ holders to determine the matters that must be included in the offer (e.g. price, delivery time & place, etc.) and will set the date on which "last best offers" must be submitted. The last best offers may also include a price over a specified time period, a method for smoothing prices over a season, and an advance price paid at the time of delivery.

If several groups or individual IFQ Holders have "matched" with that IPQ Holder, each of them may make a last best offer. Prior to submission of the last-best offers, the Arbitrator may meet with parties, schedule joint meetings, or take any actions aimed at reaching agreement. The Arbitrator will notify the IPQ holder and the IFQ holders of the Arbitration Decision no later than 10 days before the season opening date. The Arbitration Decision may be on a formula or ex-vessel price basis. The Arbitration Decision will result in a contract for the IPQ holder and the IFQ holders who participated in arbitration with that IPQ holder.

5. Post-Arbitration Opt-In.

Any IFQ holder with shares not under contract may opt in to any contract resulting from an Arbitration Decision for an IPQ holder with IPQ that is not under contract, on all of the same contract conditions (price, time of delivery, etc.). If there is a dispute regarding whether the "opt in" offer is consistent with the contract, that dispute may be decided by the arbitrator who will decide only whether the Opt-in is consistent with the contract.

6. Formula and Prices.

~~Throughout the year, the market analyst will survey the crab product market and publish periodically a composite price. That price will be a single price per species, based on the weighted average of the arm's length transactions in products from that species.~~

**(Reason: Periodic price announcements present a serious antitrust risk. There appears to be no procompetitive purpose for the periodic publication of prices in the crab product market or any need for such publication occasioned by the crab rationalization program. To the extent this information is necessary for the arbitrations, the arbitrator will have it. The reporting of periodic price information could**

provide a way of matching up prices with individual market participants. The more frequent the periodic price updates, the smaller will be the number of harvesters and processors and [distributors or customers] generating the composite price being reported. This will make aggregation less effective and if market participants know or can learn which particular processors and harvesters completed their negotiations or arbitrations in a given survey period, then it may be hard to ensure price anonymity. The announcement of recent prices and the lack of anonymity could make it easier for processors to arrive at agreements to set prices and for processors to enforce the agreements.)

7. Non-Binding Price Arbitration (from the April 2003 motion)

There will be a single annual fleet-wide arbitration to establish a non-binding formula under which a fraction of the weighted average first wholesale prices for the crab products from each fishery may be used to set an ex-vessel price. The formula is to be based on the historical distribution of first wholesale revenues between fishermen and processors, taking into consideration the size of the harvest in each year. The formula shall also include identification of various factors such as product form, delivery time and delivery location. The non-binding arbitration shall be based upon the Standard for Arbitration set out in the February 2003 Council motion, Item 1 including a. through i. As a part of this process, the arbitrator will review all of the arbitration decisions for the previous season and select the highest arbitrated prices for a minimum of at least 7% of the market share of the PQS. This provision allows for the aggregation of up to 3 arbitration findings that collectively equal a minimum of 7 percent of the PQS, to be considered for the highest price for purposes of this provision. If arbitration findings are aggregated with two or more entities, then the lesser of the arbitrated prices of the aggregated entities included to attain the 7 percent minimum market share of PQS shall be considered for purposes of developing the benchmark price. The arbitrator in the non-binding arbitration shall not be an arbitrator in the last best offer binding arbitration(s). This formula shall inform price negotiations between the parties, as well as the Last Best Offer arbitration in the event of failed price negotiations.

8. **Public Disclosure of Arbitration Results**

The result of each arbitration will be announced as it occurs to the processors and harvesters in that arbitration and non-vertically integrated harvesters that have not committed to a processor.

(Add this in per opinion at pages 32-35.)

MARIA CANTWELL  
WASHINGTON



**United States Senate**  
WASHINGTON, DC 20510-4705

RECEIVED  
MAY 19 2004

April 26, 2004

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MAY  
N.P.F.M.C.

The Honorable James R. Walpole  
General Counsel  
National Oceanic and Atmospheric Administration  
United States Department of Commerce  
Washington, D.C. 20230

Dear Mr. Walpole:

In a letter dated January 9, 2003, your office asked the U.S. Department of Justice's Antitrust Division (DOJ) to identify any potential antitrust issues associated with the price arbitration systems that were then under consideration by the North Pacific Fishery Management Council (the "Council") as part of its Bering Sea and Aleutian Islands crab rationalization plan (BSAI crab plan). In a response letter dated August 27, 2003, Assistant Attorney General Pate urged NOAA to oppose individual processor quotas (IPQs) as an element of the BSAI crab plan because of their anticompetitive effect on the processing market. The DOJ also highlighted several antitrust violations that could potentially occur under the BSAI crab plan's binding arbitration program.

On January 23, 2004, the Consolidated Appropriations Act of 2004 (Pub. L. No. 108-199) amended Section 313 of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1862, with a provision instructing the Secretary of Commerce to approve and begin implementation of the BSAI crab rationalization plan by January 1, 2005. In the bill, Congress expressly stated its intent not to waive the antitrust laws of the United States. Congress also created a mandatory information collection and review process to assist the DOJ and the Federal Trade Commission in identifying any illegal acts of anti-competition, anti-trust, or price collusion occurring among holders of individual processing quotas. As a final antitrust protection measure, Congress granted the Secretary of Commerce the authority to revoke individual processing quota from any person found to have violated the antitrust laws.

In order to provide for the efficient implementation of this law, I am writing to request your assistance in providing clear guidance to participants in the market to avoid uncertainty, protracted litigation, and associated harms to the crab industry and the crab fishery. As noted in testimony this year before the Senate Commerce Committee, the plan contains many new elements in its design, and I fear that participating processors and harvesters may too easily raise concerns about the antitrust laws unless the industry is given clear guidelines on how to proceed through the price negotiation process. In its August 27, 2003 letter, DOJ flagged certain potential antitrust concerns relating to horizontal agreements on price, participation in fishermen's cooperatives, and the information exchange aspects of the Council's proposed binding arbitration process. These warnings may have increased awareness of potential antitrust

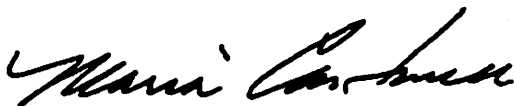
pitfalls, but I do not think they are specific enough to provide the type of guidelines crab harvesters and processors need for business certainty as this new program is implemented.

Because of this concern, I am urging your office to request more specific and in-depth guidelines from the Department of Justice on behalf of the Council and the crab plan participants so that they will have every opportunity to participate in the market in full compliance with the law. I recommend that the scope of your request go beyond the binding arbitration program to include any aspect of the plan that could potentially result in illegal acts of anti-competition, anti-trust, or price collusion. It is my understanding that much of antitrust law is based on rule of reason as opposed to per se, bright-line rules. Nevertheless, I encourage you to ask the DOJ to be as specific and concrete in their guidelines as possible.

Congress and the Council created the crab rationalization plan to end the dangerous and inefficient race for fish and to provide economic stability for harvesters, processors, and fishing communities. Many from my state participate in and benefit from the BSAI crab fisheries, and I am committed to making the BSAI crab plan work fairly for everyone involved. Protracted court battles that are costly, time consuming, and detrimental to the economic health of the BSAI crab industry must be avoided.

The Council released a Draft Environmental Impact Statement for the Bering Sea Aleutian Islands King and Tanner Crab Fisheries last month and will be accepting public comment through May 3, 2004. Congress has not precluded the Council and the Secretary of Commerce from approving program amendments to the BSAI crab plan if they are adopted by January 1, 2005. With this in mind, I urge you to work with the Council and the DOJ to ensure that the final crab plan provides the fishery participants with the level of economic fairness and stability intended by Congress and the North Pacific Fishery Management Council.

Sincerely,



Maria Cantwell  
United States Senator

cc:

Mr. J. Bruce McDonald  
Executive Director  
North Pacific Fishery Management Council  
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April 30, 2004

Agenda C-1

**RECEIVED**  
MAY 17 2004  
N.P.F.M.C.

James W. Balsiger  
Administrator  
Alaska Region  
National Marine Fisheries Service  
P.O. Box 21668  
Juneau, AK 99802-1668

Dear Sir:

The Alaska Crab Coalition ("ACC"), a trade association whose members own vessels that operate in the crab fisheries of the Bering Sea and Aleutian Islands Area ("BSAI"), provides these comments on the Draft Environmental Impact Statement for Bering Sea and Aleutian Islands Crab Fisheries ("DEIS"). The ACC has carefully reviewed the DEIS and has concluded that it complies with the National Environmental Policy Act (42 USC 4331, et seq.) and provides an analysis that fully complies with applicable federal laws and executive orders, including those listed at page 1-22 of the DEIS.

The ACC agrees with the assertion at page 1-25 of the DEIS that the preferred alternative analyzed in the DEIS is exactly the program referred to in section 313(j) of the Magnuson-Stevens Fishery Conservation and Management Act ("MSA"), as amended by Title VIII, section 801, of H.R. 2673, the Omnibus Consolidated Appropriations Act, 2004, P.L. 108-199 ("Consolidated Appropriations Act"). Therefore, as further asserted by the DEIS at page 1-25, the preferred alternative complies with the requirements of the MSA. The ACC notes that its representatives were closely involved in the development of the program at the North Pacific Fishery Management Council ("Council"), and in the preparation of section 801 during the course of the legislative process.

While the ACC believes that the DEIS is legally sufficient, the document would have benefited from inclusion, in Appendix 2 and 3, of the entire statement by Senator Ted Stevens on the subject of the BSAI crab rationalization plan and section 801 upon Senate consideration and passage of H.R. 2673. The omission is not a fatal or even substantial flaw in the DEIS, because the statement, which is found in the Congressional Record, January 22, 2004, at S150-S153, stands of record on its own as legislative history to section 801. However, for convenience of future reference and for the sake of completeness, the full statement should be included in the final environmental impact

statement that will be developed from the DEIS and related public comments and further analysis.

The ACC particularly takes note of the observation, in Senator Stevens' full statement, that "a harvester-only quota share [system] ... would ultimately result in a de facto processing quota for the exclusive group of boat owners that control the harvesting rights to the resource." The ACC notes that this situation would have eventuated from the inevitable vertical integration of crab operations at sea by harvesting quota holders, to the detriment of the historical processor participants and at considerable cost to certain coastal communities that have depended on deliveries of crab for processing. The ACC did not seek a system that would have had such consequences, but rather, sought an outcome that would achieve, as the program ultimately provided, a fair and reasonable balance among the harvesters, processors, and communities. The ACC believes that it would be useful to include this explanation in the final environmental impact statement.

Having suggested these points for inclusion in the final environmental impact statement, the ACC would like to highlight some of the more important points addressed in the DEIS regarding conservation and resource benefits to be derived from implementation of the crab rationalization plan and revisions to current management strategies. The information in this section has been provided by the Alaska Department of Fish and Game ("ADF & G") and NOAA Fisheries.

- **Bycatch reduction of female and undersize male crabs through liberalization of pot limits as a result of increased soak times and reduced pot lifts:** "A race to fish can lead to excessive gear on the grounds, gear conflicts, and lost gear. To minimize these problems, limits on gear have been implemented by the current FMP. In a rationalized fishery the number of vessels on the grounds at any one time would likely be reduced. If vessel participation decreases through formation of cooperatives, leasing arrangements, or with exits from the fishery with the sale of QS, the BOF may decide to increase the number of pots allowed to be fished by each vessel or even consider rescinding pot limits entirely." (Page 2-55).

"Changes in gear limits can have both biological and economic implications and serve to protect the resource health as well. As gear limits and seasons are relaxed, actual pot soak times should increase, as the need to pull a pot in a short period of time is no longer necessary. This increase in soak time would allow the crab to sort on-bottom, diminishing the number of undersized crab brought to the surface. As result of the increase in soak time, and fishing in potentially less severe weather, handling and bycatch mortalities should decrease." (Page 2-55).

Further the EIS notes in the bycatch discussion on the three pie program, Alternative 2 that: "In general bycatch should decrease under Alternative 2 due to changes in fishing practices and increased monitoring. A decrease in bycatch of female and sublegal male crabs of the target species would reduce the total fishery mortality. To reduce discards of non-target crab, State regulations could

be considered to provide for multispecies retention for quota share holders or voluntary cooperative members." (Page 4-89).

"Alternative 2 would slow the individual fisherman's harvest pace and better allow the pots to sort on the bottom. This in turn results in (a) longer pot soak times to sort out unwanted catch on the bottom; (b) less crowding in areas of high crab productivity; and (c) ability to avoid marginal grounds where unwanted bycatch is often found, and (d) improve handling of crab on deck. The State would consider expanding the harvest season within the biological seasons to improve harvest of target species and reduce bycatch. With the slowing down of the fishery comes the opportunity to let the pots soak longer on the bottom, which results in more selective catches of legal males and greater escape of sublegal males and females. Longer seasons and relaxed pot limits would allow required crab pot escape mechanisms to more effectively sort on the bottom. Given this opportunity, it is assumed the fishermen would soak pots longer to maximize the retained catch per pot pull and reduce bycatch. Fishermen want to avoid bycatch because, besides being wasteful, bycatch, means sorting on deck, which takes time away from pulling pots. Research has shown that longer soak times result in more sorting by the gear's escape mechanisms. With more soaking time, the more time the smaller female crab have to escape from the pot. The same holds true for sublegal male crab. However, if pots soak too long, then mortality may actually increase to predation by octopi and amphipods. Fishermen will need to determine optimal soak time long enough to allow females and sublegal males to escape but not so long that the crabs in the pot suffer from predation." (Page 89).

In practice, fishermen would not let their pots soak too long, as this would cause a loss in revenue and efficiency in the operations.

"Formation of voluntary cooperatives can further reduce these impacts as members fish cooperatively and help fellow members stay away from areas of high bycatch. Increased season lengths, if adopted by the BOF would allow fishermen the opportunity and time necessary to search for fishing grounds with lower concentrations of bycatch. This is possible because most stocks tend to segregate geographically by size and sex. Female and small male crab could be better avoided. Additionally, fishermen could exchange instantaneous information about catch rate and mix of harvest. If one member of the cooperative experiences high catches of females and sublegal males, the rest of the vessels in the cooperative would be alerted to avoid the area of high bycatch. Additionally, state managers monitoring a slower paced fishery, would be in a better position to issue timely in-season area closures to move fishermen out of areas of high bycatch." (Page 4-89).

"Handling mortality of bycatch is expected to decrease as handling practices improve with longer fishing seasons and the end of derby fisheries. Old-shell crab, which may be an important reproductive component in the population,



females, and sublegal males could be sorted quickly and returned unharmed.” (Pages 4-89, 4-90).

- **Use of TACs will eliminate potential for overharvests experienced under current GHL harvest management:** “Under an IFQ program, each fisherman has a certain amount that they are allowed to catch and retain. This prevents harvest above the GHL, with proper catch accounting and penalties for overages, because each fisherman is constrained to harvest their IFQ. It additionally proposes a change to the FMP that allows the State to move from GHL to TAC management. As noted in Section 4.1.1, TAC management may also provide a more enforceable tool that assures the season’s allowable catch could not be exceeded. The State’s actions would include adoption of TAC accounting of both live and dead crab and review regulations on retention of landed crab. (Page 4-87).

“Under status quo, each fishery has a minimum GHL for fishery opening to maintain the ability to manage the fishery inseason. If the calculated GHL is below the minimum GHL, then the fishery is not opened. The minimum GHL prevents a large number of vessels from greatly exceeding a small fishery’s GHL before managers can close the fishery. Under Alternative 2, a minimum GHL may not be necessary because the harvest amount would not exceed the quota allocation. Additionally, fishermen may transfer quota so that only a small number of vessels harvest the TAC. Removing the minimum GHL would result in allowing fishing to continue at lower stock sizes than under status quo.” (Page 4-87).

- **Measures to address highgrading:** “Highgrading is the discarding of legal male crabs that do not meet quality specifications, such as shell condition and size. Highgrading may occur under a rationalized fishery if the incentives exist for fishermen to discard a portion of legal males and continue to fish for higher quality crab. Highgrading can have negative consequences to stock health. Highgrading is a resource concern because it may alter the composition of the stock by removing only the largest, cleanest crab. (Page 4-87)... State management tools to address this would include reviewing the observer program to consider whether the current coverage level is adequate to assess fishery changes, reviewing current harvest strategies adopted by the BOF, and a review of harvest patterns if there is a need to impose gear changes such as setting maximum and minimum escape mechanisms within pots. (Page 4-87)... Other options the BOF may take to address highgrading might include adopting a minimum/maximum mesh size escape panel, ring and tunnel entrance openings to prevent highgrading on the bottom and still allow female and sub-legal crab to escape, time-area closures, increased observer requirements or, less desirable, mandatory retention of all legal animals up to individual or cooperative-pooled quota share limits. Full retention may not be enforceable, and could be counter-productive by lowering long-term fishery value and by increasing deadloss in the

tank due to the spread of disease through retention of legal crabs in poor condition." (Page 4-88).

- **Rationalization addresses high harvest effort relative to total allowable catch:** "The relevant issue includes the number of vessels participating, the number of pots fished, and how the crabs are handled. Harvest methods also include the extent to which fishermen comply with regulations. Concern over harvest methods is focused on the impacts on the crab resource that cause additional mortality on legal male crab and on sublegal or female crab. There are three indicators of impacts: the handling of crab, the amount of harvest effort, and the manageability of fisheries.

"Safe and timely handling of the crab brought on board indicates how rational the fishery operation is and how much stewardship is embraced by the harvesters and crew. As noted above, the preferred alternative slows the pace of fishermen, allows pots to sort crab in the water and allows fishermen to pick better weather conditions; all of which promotes better handling. The preferred alternative should also increase stewardship with the provision of captain shares. When a quota holder is on board during a fishery operation, the long-term gains of a healthy resource are thought to have a more meaningful impact on the day-to-day operations than short-term returns to individuals not directly participating. Expanding fishing seasons within the biological period would provide fishermen a wider selection of better weather days, potentially reducing handling mortality.

"High harvest effort is an indicator of an overcapitalized, over capacity fleet. The problem portrays itself by an excessive number of vessels and gear being deployed in relation to the available harvest limit. Harvest effort above the amount needed to efficiently harvest the GHL can result in crab harvests exceeding the GHL or excessively conservative management measures to protect stocks that lead to under harvest, increased bycatch, and increased habitat impacts. While current pot limits have generally resolved the pot loss problem and some wasteful fishing practices, the full benefit of the current harvest strategies cannot be achieved under derby fisheries where fishermen do not allow pots to soak long enough to sort unwanted crab on the bottom. Alternative 2 would directly address the problem of high harvest effort by reducing capacity through IFQ buyouts and allowing vessels to combine and fish quota from other vessel owners.

"ADF&Gs ability to properly manage crab fisheries is a further indicator of changes in harvest methods. Under current derby fisheries, over or under harvest can occur. Harvest strategies that promote stock health or stock rebuilding are hampered by competitive fishing activity. The implementation of a rationalization program and the accompanying complementary Board regulations should greatly improve the manageability of the fishery and allow fishermen to focus on product quality and lower operational costs." (Page 4-91).

It is noteworthy that the Alaska Board of Fisheries in conjunction with ADF&G has established a BSAI Crab Implementation Task Force that has already held two meetings to review regulations regarding fishing seasons, pot limits, gear restrictions, observer coverage and other management measures. The BOF, at its scheduled March 2005 meeting, will take actions to revise seasons, pot limits, gear restrictions and observer coverage, as necessary, to promote conservation and management for simultaneous implementation with the preferred alternative in August 2005.

- **Analysis of the potential adverse effects of the preferred alternative on essential fish habitat and the managed species conclude the preferred alternative should provide significant benefits to habitat:** "Crab is fished exclusively by pot gear in the BSAI. The extent to which pot gear impacts the benthic habitat is not well known. Although pot gear likely affects habitat during the setting and retrieval of pots, little research quantifying the impacts has been conducted to date. The EFH EIS analyzes the pot gear for its impacts on benthic habitat. The analysis includes a description of gear and fishery operation, habitat type where fishery occurs, and the existing measures to mitigate adverse effects of these fisheries. The analysis also looks at the total area impacted by pot gear and the area impacted as a portion of the total Bering Sea shelf. As shown in Table 4.4-1, the total area impacted by pot gear is less than 0.5 percent of the total area of the Bering Sea. This preliminary analysis does not indicate that the deployment or retrieval of pot gear irreparably alters the benthic environment. Through continued research, a better understanding of the effects on pot gear on the benthic habitat on a finer scale will be understood." (Page 4-126).

"It is anticipated that programs of individual quotas and voluntary cooperatives will lead to reduced vessel effort and a more orderly fishery over an extended harvest period. Compared to the current fast pace, competitive derby fishery, the preferred alternative should provide these significant benefits to habitat:

1. reduced effort and crowding on marginal grounds;
2. temporal redistribution of effort to maximize harvest of target species and minimizes bycatch;
3. reduced gear loss from fishing marginal ground or from fishing in concentrated areas, impacting habitat by less ghost fishing of lost gear; and
4. increased selectivity of gear for target and non-target species alike-multispecies retention, which in turn, reduces bycatch mortality of handled and returned crab.

"Additionally, the State intends to conduct an evaluation of research on possible closed areas to protect crab spawning, settling, rearing and mating habitat, and to review the crab observer program to ascertain its value in assessing habitat impacts." (Pages 4-127-128).

- **NOAA Fisheries concludes that none of the alternatives under consideration reduces quality and/or quantity of Essential Fish Habitat:** “This conclusion is based on the analysis presented above and the existing mitigation measures in place in the BSAI crab fisheries. Pot gear, and the action of setting and retrieving pots, does affect EFH, as discussed above. Fish, crab, and other benthic species are captured and removed from the ecosystem, some discarded animals die, and an indeterminable number of benthic species die from ghost fishing. Pot gear damages or captures other benthic species and may cause habitat degradation. However, based on the information available, NOAA Fisheries does not conclude that these effects reduce quality and/or quantity of EFH.” (Page 4-131).

The analysis also notes that extensive measures to mitigate the effects of the crab fisheries on EFH have been implemented under status quo management: gear restrictions, harvest strategies, fishing seasons, limited access and size and sex restrictions. (Page 4-131).

- **The analysis predicts insignificant effects of all the alternatives on the BSAI ecosystem:**
  1. **Effects on predator-prey relationships will be insignificant:** “The effects of removal of crab species on predator-prey relationships has not been a concern in the status quo regime because of the small amount of crab biomass removed from the system and the fact that crab are not prey for marine mammals and seabirds. Additionally, it is expected that the rationalization program alternatives would result in decreased temporal/spatial concentration of the BSAI crab fisheries and may decrease any effects of the fisheries on predator prey relationships. For these reasons, the effects of the alternatives on predator-prey relationships are determined to be insignificant.” (Page 4-134).
  2. **Effects on energy flow and balance will be insignificant:** “Combined evidence regarding the level of discards relative to natural sources of detritus and no evidence of changes in scavenger populations that are related to discard trends suggest that all of the alternatives would have insignificant ecosystem impacts through energy removal and redirection. Under the alternative rationalization programs, discards are predicted to decrease as fishing practices change. The extent of this decrease cannot be predicted with accuracy because the exact changes to fishing practices cannot be predicted with any certainty. Likewise, offal production may decrease as processing practices improve recovery rates. This decrease is likely to be minimal, and the effects of this decrease would not be measurable. (Page 4-135).
  3. **Effects on biological diversity will be insignificant:** “No fishing induced extinctions of crab or other marine species have been documented in the

last 30 years or so. However, king crab populations in and near Kodiak have crashed and not returned to past levels of abundance despite eliminating fishing. No fishing-induced changes in functional (trophic) diversity under the current management regime have been detected (NMFS 2001a). Thus, functional diversity was considered to be an insignificant effect on the environment. There is a concern that because crab fisheries only remove the largest males, that the fisheries may alter the genetic diversity of the stock. Research is ongoing on this subject, however, given the information available to date, this is hypothetical. Genetic diversity changes due to removal of larger crab that have not been quantitatively assessed, but because research on more heavily fished areas indicates impacts are minimal, all of the alternatives were judged to have a insignificant impact on biological diversity." (Page 4-137).

- **Comments on observers on catcher processors:** The EIS, Chapter 4, page 19, Observers makes reference to "sorting of sublegal crab down the processing chute can occur during hours when catches go unobserved (an observer is sleeping, eating, or resting, etc.), coverage should be increased under any rationalization program. Though managers believe this occurs under the current, pre-rationalization fisheries, other enforcement issues are currently a priority."

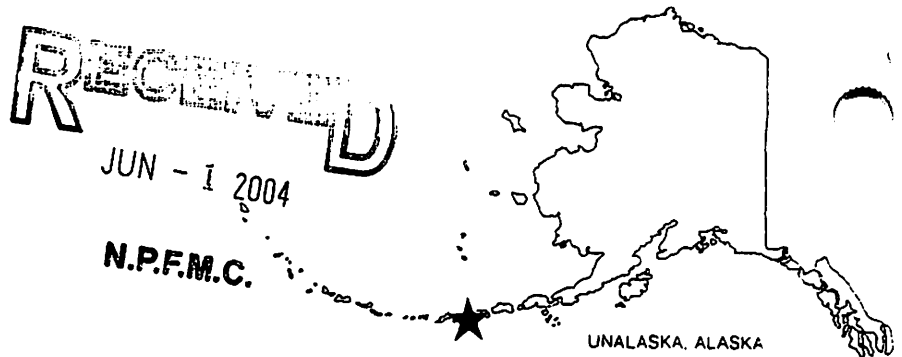
The ACC, after over a decade of experience with enforcement issues related to the 100% catcher processor observer program, is unaware of managers expressing concerns about processing of undersize crab. This is certainly not an issue with the snow crab fishery where the minimum legal size limit of 3.1 inches is substantially below the industry market size standard of 4.0 inches. ADFG also has had the opportunity over the years to make comparisons of delivery records and individual box weights, vessel to vessel, that will show discrepancies indicating systematic cheating on sublegal crab sorting. ACC has not heard any department complaints about such actions at routine Board of Fisheries triennial review periods of the catcher processor observer program.

ACC is also aware that catcher processor owners are already having discussions with NMFS Enforcement and ADF&G about enforcement and observer issues related to the rationalization issues. An industry meeting with NMFS and ADFG on these issues is scheduled for May 4<sup>th</sup>. In lieu of adding a costly second observer, options being discussed include the use of secure and certified weighing scales integrated into a secure chute that will prevent pre-sorting of undersize crab, and/or the use of standardized Product Recovery Rates (PRRs), currently in use in the sablefish freezer boat monitoring program. Discussions also include a requirement for weighing of all boxed product at the time of offloading. Some combination of the options being discussed should serve to prevent the burdensome requirement for a second observer on these vessels.

Arni Thomson, Executive Director  
Alaska Crab Coalition



CITY OF UNALASKA  
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May 20, 2004

Stephanie Madsen, Chair  
North Pacific Fishery Management Council  
605 W 4<sup>th</sup> Avenue Suite 306  
Anchorage, Alaska 99501

**Subject: C-1 BSAI Crab Rationalization Environmental Impact Statement (EIS)**

Dear Ms. Madsen:

On behalf of the City of Unalaska, I am writing to you today in support of the North Pacific Fishery Management Council's adoption of the final preferred alternative included in the BSAI Crab Rationalization Draft Environmental Impact Statement (EIS) and to urge approval of the draft EIS document.

The City of Unalaska believes that the Council's preferred alternative that is supported by the draft EIS will address many of the problems facing crab-dependant communities like Unalaska, as well as the crab industry in the Bering Sea/Aleutian Islands. The issues in BSAI crab fisheries identified in the Council's problem statement include excess harvesting and processing capacity; resource conservation and management problems; bycatch and its associated mortalities, including landing dead loss; lack of economic stability for harvesters, processors, and fishery-dependant communities; and high levels of occupational loss of life and injury in these fisheries. We feel that the draft BSAI Crab EIS and the preferred alternative lay out the road map that leads to the end of the race for crab, thereby creating a safer fishery. In addition, it lays the groundwork for economic stability for all sectors, improved quality and increased product development, and the improvement in resource management of the crab fisheries, with reductions in bycatch, handling mortalities, and unloading dead loss.

The BSAI rationalization plan and the preferred alternative included in the draft BSAI Crab EIS have been developed in a very open and transparent process. Harvesters, processors, community representatives, and members of the public spent two years discussing the issues. Those two years were followed by another two years of intense analysis and development of the plan by the North Pacific Council, the National Marine Fisheries Service, and the Council's industry advisory and scientific panels, with assistance from ADFG staff and independent economists.

Page Two

Letter to Ms. Stephanie Madsen, Chair NPFMC

May 20<sup>th</sup> 2004

The plan was finally adopted by a unanimous North Pacific Council vote of 11-0 in June of 2002.

The draft EIS points out that the community of Unalaska will face both positives and negatives under the preferred alternative. Unalaska will receive little or no benefit from the North/South designation and the regionalization of deliveries, which was basically designed for the benefit of Pribilof Island communities and could impact Unalaska by the loss of potential crab deliveries due to regionalization being in place. Unalaska also is impacted negatively by the changes made to the Western Aleutian Brown King Crab fishery which now designates 50% of the Western Aleutian Brown King Crab to be processed in the western area, and with the allocation of 10% of the Western Aleutian Brown King Crab harvest to the community of Adak, an allocation that is based on the unused portion of the harvest in the western region during the qualifying years will certainly impact Unalaska. The increase in crab allocation to the CDQ groups will have little benefit to Unalaska since we are not a CDQ community, and may reduce crab landings to Unalaska.

The draft EIS document also points out the positives in the plan, such as Unalaska's position as the major crab processing center, and our having the majority of the region's support sector businesses for the Bering Sea crab fleet located in Unalaska, thereby keeping this community in a favorable position under the preferred alternative, even with the potential impacts listed above. We would concur with the analysis included in the Bering Sea /Aleutian Island draft EIS in which the preferred alternative was careful to recognize a community's historic dependence on crab processing. We also concur with the requirement that processors receive 90% of their processing history and that it stays in the community within the region, thus assuring a community access to the resource.

The City of Unalaska believes that the preferred alternative included in the draft EIS recognizes the investment of all participants in the Bering Sea/Aleutian Islands Crab fisheries, including harvesters, processors, and communities. In Unalaska, we expect to see the same benefits in a rationalized BSAI crab fishery that we have in the rationalized Bering Sea Pollock fishery under the American Fisheries Act. Such benefits include increased economic stability for all sectors, longer fishing seasons that will benefit both employment and support sector businesses in the community, improved resource management, new product development, and increased safety in the most dangerous fishery in the nation.

The community protection measures, as well as the various reviews that are scheduled for the rationalization plan by the Council, confirm our continued support of

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Letter to Ms. Stephanie Madsen, Chair NPFMC  
May 20<sup>th</sup> 2004

the preferred alternative. The City of Unalaska encourages the North Pacific Fishery Management Council to adopt the preferred alternative and approve the BSAI Crab Rationalization Draft Environmental Impact Statement (EIS).

The crab rationalization plan will improve safety in the most dangerous fishery in the nation, stops the race for fish, improves management of the crab resource, increases economic stability in a crab industry that was struggling, and will enhance economic activity for Unalaska and other crab-dependant Southwest Alaska communities that depend on the fisheries resources of the Bering Sea for our livelihood. As this issue comes to a close after five years of work by the Council, the AP, the SSC, Council staff, NMFS staff, ADFG staff, and various contractors, the City of Unalaska would like to thank you all for your efforts.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frank Kelty', with a long horizontal line extending to the right.

Frank Kelty  
Resource Analyst  
City of Unalaska

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



**M/V Baranof - M/V Courageous**

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Stephanie Madsen, Chairwoman  
NPFMC  
605 West 4th Avenue, Suite 306  
Anchorage, AK 99501  
June, 2004

RE: Agenda Item C-1

Proposed Catch Measurement for C/P Sector under Crab Rationalization.

Dear Mrs. Madsen

As part of the implementation and regulation writing for the Crab Rationalization Program the Council, NMFS and ADF&G must decide how to measure the catch of the offshore sector. The offshore sector will account for 7% to 8% of the total crab harvest under the rationalized system. There are two ways to measure catch at sea. One is to weigh catch on a scale the other to weigh production on a scale and apply a product recovery rate (pr) to the total weight of production. There are years of recovery data available from the shoreside sector, sources not affiliated with the offshore fleet. Assuming recovery rates are similar across the industry (which the data will show they are) and that they fall within a narrow percentage range (which the data will confirm) then catch measurement using prs should be accurate to within 1% or less. Assuming that there will be some error in the scale operation, miss-calibration, human error, scale malfunction etc. then it is possible and plausible that both methods would be accurate to within a similar plus or minus range.

Proposed Requirements

The scale regulations being proposed by NMFS will be onerous to the industry in terms of cost and may well cause waste and safety issues where pr based accounting will be simple, inexpensive and possibly just as accurate. Currently the Sablefish and Halibut IFQ offshore sector is using exactly this same pr based accounting with perfectly good results. The crab fleet operates under some of the most difficult and dangerous conditions in the world, in winter months, and currently exist in very difficult economic times. A high tech solution may not be the best solution in this case.

NMFS has asked for input from the C/P sector on at sea catch measurement. NMFS has informed industry that live catch weight measurement is their preferred method, this requires the use of hopper scales to weigh catch as it is transferred to the process deck from the fishing deck and offload scales to measure offload.

The regulations as proposed are similar to the regulations under which the AFA groundfish fleets operate and similar to regulations proposed for the H & G fleets under IRIU.

The regulations will require: hoppers scales, an observer sampling station and offload scales. This requirement runs us into three problems, waste, cost and safety.

Crab and fish are different. Crab are very fragile and any extra handling or time on deck in cold temperatures will result in both dead loss and limbs falling off. The scale will cause delay in the transfer of crab from the deck to the butchering station because the crab must go through the scale. The scale will be preset for a certain poundage and will be fed by a conveyor which the scale will turn on and off. When the preset poundage is reached the scale will turn off the conveyor. Crab left on the conveyor will be exposed to the elements and could freeze. Additionally, the scale could involve an extra dumping step from the conveyor into the scale hopper and then into the butchering hopper. This extra handling will result in some wastage with legs falling off in cold temperatures.

Another major problem with this requirement is that, due to the nature of the at sea crab operation, in some cases there is not enough room inside for the scales to be placed. If there is not room inside the scales would have to be installed outside.

These total weight measurement regulations originally came into being as part of AFA implementation. Factory trawlers have large factories, below decks, whereas crabbers have large amounts of open deck space dedicated to hauling, moving and storing crab pots and a very small amount of space for the factory. It would be very difficult and potentially not possible for some to get the scale inside. It is important to remember that the proposed regulation will also require an observer sampling station which is space dedicated to the observers to take weights and measurements. This requirement will be an additional tax on available space which would be needed if scales are required.

If it is not possible to get the scales inside they will have to go outside under some kind of protective cover to keep spray and ice from impacting the weighing operation. In this case we will run into wastage and safety problems associated with extra handling of the crab on deck.

As mentioned above this could lead to dead loss and limb loss due to prolonged exposure to cold either on conveyor systems controlled by the scales or due to backup waiting for scales to clear and sometimes needing to be recalibrated (In heavy weather scales sometimes need to be recalibrated several times in a normal work shift and reportedly recalibration sometimes must be repeated several times in a single instance to be effective). The additional handling requirements on deck could potentially lead to safety issues for the crew.

#### PRRs as an Alternative

What we are asking for is a trial period of prr measurement, as an alternative, before scale requirements are mandatory, during which time some vessels will no doubt employ scales and some will employ prr measurement. We will know a lot more after a year or two of operation. Industry will not have spent large amounts of money prematurely, we will know if scales are working, we will know if scales will result in waste and safety concerns and we will have more prr data from the offshore and onshore sector.

All of this experience will better inform policy makers who will be able to make better decisions. We may learn that a prr based system is a preferable system for the small and medium sized offshore sector for a variety of reasons.

We know now that a ppr based system works perfectly well in the Sablefish and Halibut IFQ fishery, probably accurate to within 1% or less, which may be more accurate than live weight scale measurement.

It is important to note that there is a precedent from the council on exempting small vessels from exactly these kinds of scale requirements. Under IRIU, amendment 79 vessels under 125 feet are exempted not only from flow scale and hopper scale requirements but from retention standards as well. This exemption was allowed to mitigate problems with retrofitting smaller at sea factory ships with scales, lack of space and high cost were the prime causes cited in that council action. Crab C/Ps are asking the council for similar consideration and if we are not entitled to equal treatment the council needs to be clear why there should be a different standard applied.

Thank you for your consideration of this important issue.



Douglas Wells  
Romanzof Fishing Company LLC  
Akulurak LLC  
M/Vs Baranof and Courageous

FROM : SERVANTAIR Beauty

FAX NO. : 9074874405

May. 31 2004 06:48PM P2

May 28, 2004

North Pacific Management Council

TO WHOM IT MAY CONCERN:

I am writing to express my opinion and my Husbands opinion on your despicable handling of the Bering Sea crab rationalization program. We can understand that boat owners and captains should receive their IFQ's; however, we are at a loss understanding why you would disenfranchise all crewmembers in favor of crab processors, which I and my husband believe is clearly against anti-trust laws. Further, you're decisions discriminate against members of a joint venture in business whose job it is to bring the product aboard. Unless I'm mistaken most, if not all crewmembers, and skippers fish for a percentage of the catch. On their settlements, they have been charged for fuel, bait, food, and gear loss. In other words each boat is a business in and of itself. Crewmembers are not paid an hourly wage or a have health benefits package, nor can they get unemployment insurance and unless they set up an SEP or other retirement vehicle, they have no retirement. Mike has fished 20 years in the Bering Sea, most of that time aboard the "Arctic Lady" and his participation in the business can be well documented. He has risked his life and he and I have lost many friends. I do not see processors out there risking their lives bringing the product aboard. Mike and I for see a bleak future for us in an industry that we have been a part of for 20 years. Processors will be able to fix prices and processors will eventually swallow up the crab fleet..

Please reconsider the consequences of your actions!!!!!!

Sincerely,

*Michael Bouray*  
*Karla J. Bouray*  
Karla Bouray  
Michael Bouray

Pacific Northwest Crab Industry Advisory Committee

c/o Waterfront Associates, LLC  
PO Box 969  
Edmonds, Washington 98020  
Phone 360.440.4737  
Fax 425.640.7267  
Email [steve@wafro.com](mailto:steve@wafro.com)

Date: May 18, 2004

To: North Pacific Fishery Management Council Members  
State of Alaska, Board of Fisheries, including Crab Task Force Members  
Crab Industry Participants

Fr: Steve Minor, Chairman, PNCIAC

Re: PNCIAC Minutes, May 12 Meeting

RECEIVED  
MAY 20 2004  
N.P.F.M.C.

To all concerned:

Attached please find the minutes from the most recent PNCIAC meeting, held in Seattle on May 12<sup>th</sup>. This was our first meeting since the NPFMC made it's PNCIAC appointments; and PNCIAC immediately went to work on the Crab Rationalization implementation issues currently being addressed by the BOF Crab Task Force; including proposed seasons and Bering Sea pot limits. The minutes reflect those discussions and resulting actions.

This was a productive first meeting for the new members, as well as the returning members. I think we all understand that the efficient implementation of the Crab Rationalization program will be our first priority for the coming year; and it is my goal to work towards consensus on those issues in a timely manner. Where consensus is not possible, we will try to provide constructive feedback to the regulatory process.

PNCIAC members voted unanimously to appoint Kevin Kaldestad to the BOF Crab Task Force seat reserved for PNCIAC. You may choose to congratulate or commiserate with Kevin; I think he will do an admirable job throughout the implementation process.

PNCIAC members also appointed Rob Rogers of Icicle Seafoods as Vice-Chair; while Ami Thomson will continue as Secretary.

If you have any questions, please contact me at either 360.440.4737 or [steve@wafro.com](mailto:steve@wafro.com).

Best Regards.

MINUTES OF THE PACIFIC NORTHWEST CRAB INDUSTRY ADVISORY COMMITTEE  
MEETING OF MAY 12, 2004

May 12, 2004

Call to Order: 0920

Committee Present: Gary Painter, Chair; Garry Loncon, Kevin Kaldestad, Lance Farr, Clyde Sterling, Rob Rogers, Steve Minor, Keith Colburn, Phil Hanson, Arni Thomson, Secretary.  
Absent: Gary Stewart, Vic Scheibert, Tom Suryan.

Proxies: Tom Suryan to Lance Farr; Gary Stewart and Vic Schiebert to Gary Painter.

Agency staff: Dr. Gary Stauffer, NMFS; Robert Otto via teleconference Kodiak; Diana Stram, NPFMC, Dr. Jack Turnock, NMFS.

Public Present Walt Casto, Mark Casto, Anders Rogers, Brent Paine, Paul Duffy, Louis Laferriere, Doug Wells, Ken Tippett, Gordy Kristjanson, Ed Poulsen, Rick Shelford, Tom Casey, Pat Dwyer, Eric Pedersen, Margaret Hall, Curt Peterson, Paul Soper and Kris Norosz by teleconference from Petersburg.

**ELECTION OF OFFICERS:**

Chairman, Gary Painter opened the meeting with a statement for the committee. Alaska manages the crab fisheries, and that's been a pretty good deal for all of us. Alaska has numerous advisory groups. PNCIAC is the only advisory group independent of Alaska. What you have chosen to do removes that independence. This is wrong for the industry. What is about to happen, I am not going to block it, but I am not going to participate in it. Therefore I resign as Chair and turn the election proceedings over to the Vice Chair, Rob Rogers.

Rob Rogers calls for nominations for the Chair.

Lance Farr nominates Steve Minor, and Kevin Kaldestad seconds the nomination.

Steve Minor is elected with eight supporting votes and four abstentions.

Affirmative votes: Lance Farr, Kevin Kaldestad, Clyde Sterling, Rob Rogers, Garry Loncon, Tom Suryan (by proxy), Steve Minor.

Abstentions: Keith Colburn, Gary Painter, with proxies also from Vic Schiebert and Gary Stewart.

Tom Casey then asks if the new Chair, Steve Minor is the General Manager of the Alaskan CDQ Group for St. Paul Island and if so, then PNCIAC is now controlled by an Alaskan CDQ Group and it is no longer independent of Alaska.

Steve Minor then responds that he is not the General Manager of a CDQ Group, he is a consultant for the CDQ Group and General Manager of a subsidiary, for-profit holding company that manages six Bering Sea crab boats and Pollock vessels.

Rob Rogers is elected as Vice Chair of PNCIAC. Kevin Kaldestad nominated Rob.

## UPDATE ON THE BERING SEA CRAB RESEARCH FOUNDATION:

Dr. Gary Stauffer, Dr. Bob Otto discussion leaders.

A memorandum of understanding has been signed between industry representatives and the NMFS. A non-profit foundation has been established to raise funds for cooperative research projects. The Board of Directors is comprised of Terry Cosgrove, President, Gary Painter, Mark Maring, and Brent Paine, with the expectation that others will be added soon.

Dr. Stauffer is trying to get NMFS to contribute \$100,000 to survey effort this summer. Gary is confident NMFS will contribute this year. The objective is to augment the BS crab survey, a third boat to operate in the N. Bering Sea opilio grounds, a 30 day charter, 5 additional stations per day, to determine if the crabs have migrated outside the normal survey area. Goal is to increase confidence levels, not find the mother lode. NMFS developing a new stock assessment model for crab (based on Pollock assessment model). Stock assessment will not be restricted to biomass estimates, it will include all sources of mortality. No flexibility in choice of bottom types in choice of sediment types.

The question is asked if there is need for a time series of data before it can be incorporated into the survey analysis to determine the GHM? Stauffer notes that still remains a question, however, a time series won't be necessary under Turnock's new model.

Under Turnock model in future, absolute numbers will not be so important as trends in population dynamics. Model will estimate biomass and all sources of estimated mortalities and can also include CPUE data from the fishery.

This discussion ties in with the Crab Plan Team agenda for May 18 and 19 in Anchorage—stock assessment and catch data discussions.

Diana Stram from the NPFMC notes that the CPT evaluation of the stock assessment model for BSAI crab species, although under consideration, it is not certain that the NMFS proposed new model will be adopted for use by the CPT. To adopt it and incorporate it into the normal TAC setting process of the NPFMC would change the role of ADFG in the process and this will require a formal FMP amendment, which is a lengthy process.

In regards to the topic of the NMFS survey, Stauffer led a discussion about a recent discovery by NMFS groundfish personnel that as the net is towed in depths greater than 35-50 fathoms, the wingspread increases, which causes the net to lift off the bottom, which causes the CPUE to decrease. When Stauffer read the staff memo, he recognized that this could lead to errors in Opilio assessment, which could be as much as 50-90% off. Staff is working now to assess the extent of the problem. Gary noted that CPUE decreases as wing spread increases, which increases with increasing depth and this decreases bottom contact.

Garry Loncon makes a motion: PNCIAC strongly supports the efforts of the NMFS to improve bottom contact of survey net in the crab survey. **ADOPTED UNANIMOUS.**

#### DISCUSSION OF BUYBACK RESULTS:

Reference Gary Painter's PNCIAC memo on the buyback results and his BBRKC example for boat owners' to calculate the buyback effect for their individual QS by using a multiplier of 1.1972. (ATTACHMENT: NMFS Buyback percentage estimate with Painter example of BBRKC 1.1972 multiplier for individual vessel benefits calculation).

Ed Poulsen is asked to provide comments in reference to the brief analysis he has done of the buyback results. Ed suggests that industry take a holistic approach to the buyback results. He notes that snow crab is expensive, but BBRKC is a great deal. NMFS office did a good job of the results I would suggest an independent review. (ATTACHMENT: Edward Poulsen's preliminary analysis of Buyback results).

Margaret Hall notes that CRAB Group is working on sponsoring a workshop and talking with Bryce Morgan about a presentation and suggests that PNCIAC contact Gordon Blue to coordinate on this.

Kaldestad makes a motion (seconded by Painter) that PNCIAC act to sponsor a workshop on buyback results and to coordinate with CRAB Group. ADOPTED UNANIMOUS

NOTE: On the following day, May 13<sup>th</sup>, the CRAB Group announced a workshop for May 20<sup>th</sup> at Leif Erikson Hall from 1:00 to 3:00 pm. CPAs Bryce Morgan and Greg White will make presentations. The public is invited. This announcement precluded the opportunity for co-sponsorship with PNCIAC.

#### AFA SIDEBOARDS AND CRAB BUYBACK:

Brent Paine leads a discussion on this.

There is an AFA sideboard issue pertaining to buyback results whereby the buyback legislation (Consolidated Appropriations Act, 2001, Public Law 106-554, Section 144) allows for an adjustment of the BBRKC red king crab cap such that AFA boats that participate in the BBRKC fishery can also benefit from the increase in QS from the buyback. Brent Paine on behalf of UCB requests that the AFA BBRKC cap percent be increased proportionate to the post-buyback license holders aggregate increase in BBRKC QS. The present AFA cap of 10.19% to be increased by the 1.19 multiplier, or whatever multiplier the NPFMC deems appropriate.

G Painter makes a motion to endorse the UCB request that the NPFMC analyze buyback results to determine the proportionate increase in BBRKC percentage of GHL for AFA boats in time for fall 2004 BBRKC season. ADOPTED UNANIMOUS.

NOTE: The Chair contacted Mark Fina (NPFMC staff) and was advised that UCB should initiate this action with a request prior to the June meeting.

#### PRIBILOF ISLANDS COLLABORATIVE:

Kris Norosz leads this discussion.

Brent Paine, adds in some history about the precedent of Florida Keys with WWF and Nature Conservancy and all user groups in that area adopting some kind of protectionist measure. Brent feels that WWF and NC is going to ultimately come up with a proposal for a no fishing zone around the Pribilofs. The process started 20 months ago. A decision will require



consensus by all stakeholders. Freezer longliners, pelagic trawl groups, bottom trawl groups are planning to join the collaboration.

The collaboration does not have NPFMC sanction at this point. However, the crab industry has a lot at stake, joining the collaborative will require contributions to finance the process. The next collaborative meeting is in St Paul, on Aug, 18,19, 20, then Nov 3-5, in Anchorage. The steering committee is looking for a representative from the crab industry to participate in the Collaborative. Committee members have the recommendation under consideration. It was suggested that industry consider finding a representative that resides in the Anchorage area, this could reduce industry costs for a representative to the collaborative.

**CRAB PLAN TEAM MEETING ANNOUNCEMENT:** May 18-19, Anchorage, AK  
At the Coast International Hotel (adjacent the Ted Stevens Airport). The CPT has begun its work on revising the overfishing definition and revising the stock assessment model that will eventually result in possible reduced exploitation rates.

Recess till 1330.

PNCIAC the set up a subcommittee to track changes in stock assessment models, etc. to report to the Chair. Painter, Loncon, Wells, Casey, Poulsen.

**UPDATE ON BSAI CRAB IMPLEMENTATION TASK FORCE:**

For these discussions the chair announced that the committee would be working off the report provided by the ACC and Arni Thomson who is a member of the Task Force. The report is provided as an ATTACHMENT.

After discussions, PNCIAC recommended that the CPT be asked to review the current harvest strategy for bairdi and to consider revising to be a single stock management, as it was through the 1990s. Bob Otto noted that he could not recall what the rationale was changing bairdi to two stock management and he could not recall when the CPT reviewed it and changed it to two stock management.

**APPOINTMENT OF PNCIAC MEMBER TO BOF CRAB IMPLEMENTATION TASK FORCE:**

Kevin Kaldestad was nominated for the appointment and with the concurrence of the committee members, the chair appointed Kevin Kaldestad as the PNCIAC representative to the Board of Fisheries Crab Implementation Task Force.

**SEASONS:**

Committee members express interest and support for making BBRKC quota available as soon as possible, but they otherwise concur with the season opening dates. They wished their recommendation to be made known to the Task Force.

At the request of Lance Farr, PNCIAC concurred on recommending the CPT look at extending the BBRKC biological season to February first.

**BAIRDI FISHERY:**

An explanation was provided about the complexities of the two stock management program and the dilemma of the NPFMC having to revisit the bairdi allocation to split it into two separate allocations. PNCIAC expressed concern about the need to simplify the management of the bairdi fishery.

**POT LIMITS:**

Several on the committee raised the question of what is the rationale for pot limits?

G Loncon: For efficiency and conservation need to do away with pot limits. Recommends consideration of stacking pot limits as an incentive for larger pot limits in cooperatives.

L Farr: I agree there is no need for pot limits, but we hear in Alaska there are going to be pot limits. I would recommend stacking of pot limits for vessels in cooperatives, at a multiplier of 1.5 to 1, or 2 to 1, for individuals, versus members in cooperatives. Tying pot limits to QS does not seem to be fair.

K Kaldestad: I agree, I am opposed to pot limits, but we need to do something.

AK Boat Co. proposal, discussion, and support for it. Hanson notes add the allowance to haul gear back and forth to grounds.

P Soper notes that proposal will improve quality of product, reduces bycatch.

K Colburn: Keith noted that he is opposed to pot limits, that they defeat the purpose of rationalization and the benefits that longer soak times will contribute to conservation. I can support a limited provision for operating another vessel's gear, in order to minimize "rail dumping" of crabs, that will otherwise be discarded, and when gear is endangered by fast moving ice.

R Moore, also notes the ability to haul another vessel's gear will reduce dumping crab at the rail.

A discussion occurs about opening up gear hauling of anyone's gear---with permission, but no conclusions are made.

PNCIAC endorses AK Boat Co. proposal, amending according to Phil Hanson amendment, includes stacking gear on board and hauling to and from fishing grounds.

UNANIMOUS.

E Poulsen: Presents his proposal, no pot limits, and recommends if there is to be a pot limit then vessels should have 600.

G Loncon: Motion, 250 pot flat limit. UNANIMOUS opposition.

Motion, 500 pot flat limit. UNANIMOUS opposition.

G Loncon, Clyde Sterling, second, motion:

Abolish existing pot limits in Bering Sea crab fisheries for vessels in cooperatives, Bering Sea fisheries only, including Pribilofs and St Matthews. Aleutians brown crab fisheries excluded.  
ADOPTED UNANIMOUS

G Loncon: Motion

If there are going to be pot limits in the Bering Sea crab fisheries, PNCIAC supports more pots rather than less, with no less than 600 pots for individual vessels and vessels in cooperatives, for conservation and efficiency purposes to achieve the intended goals of rationalization.  
ADOPTED UNANIMOUS.

**CATCHER PROCESSOR MONITORING: Proposals**

Catcher processor representatives present presented their concerns to the committee about proposed new requirements for mandatory hopper scales to weigh live sorted crab; or use of standardized product recovery rates (PRRs), and two observers and measured offloading. Representatives were in accordance with being able to choose either the hopper scales or PRRs and measured offloading, but they concurred they all felt the requirement for a second observer was onerous, unnecessary and very expensive.

After discussion and general concurrence with their concerns, PNCIAC adopted the following motions.

A motion adopted for the BOF Task Force:

Remove the mandatory requirement for taking an observer to Seattle, based on the assumption that VMS will be required, as will measured offloading. In addition, it is also requested that the BOF abolish the requirement to remove all gear from a vessel prior to departure from Dutch Harbor with a load of crab. ADOPTED UNANIMOUS

Motion adopted to request the NPFMC to analyze the two product monitoring options and vessels could choose either option to use:

1. One observer, use of PRRs and measured offloading, notice of landing, mandatory VMS requirement.
2. One observer, hopper scales and measured offloading, notice of landing, mandatory VMS requirement. ADOPTED UNANIMOUS

P Soper: I represent Trident's Bountiful, and we support efforts to reduce observer costs. On scales, opposed to scales, support PRRs. PRRs can be reviewed and revised over time.

Committee adjourned at 1505.

Respectfully submitted,  
Steve Minor  
Chairman  
Pacific Northwest Crab Industry Advisory Committee

Tele: 360 440 4737  
 Fax: 425 640 7267  
[steve@wafro.com](mailto:steve@wafro.com)

ADDRESS: Waterfront Associates, LLC; P.O. Box 969; Edmonds, WA 98020

ATTACHMENT, From NMFS Buyback Results

<b>QS POUNDAGE ALLOCATIONS UNDER PROPOSED CRAB IFQ PROGRAM</b>		
<b>AREA/SPECIES FISHERY</b>	<b>ESTIMATED % THAT ACCEPTED BIDDERS WON'T RECEIVE IF REFERENDUM SUCCEEDS</b>	<b>ESTIMATED % OF INCREASES THAT FEWER POST-BUYBACK LICENSE HOLDERS MAY RECEIVE IF REFERENDUM SUCCEEDS</b>
<i>Aleutian Island Brown<sup>1</sup></i>	<i>9.94%</i>	<i>11.04%</i>
<i>Adak Red</i>	<i>0</i>	<i>0</i>
<i>Bristol Bay Red</i>	<i>16.47%</i>	<i>19.72%</i>
<i>Bering Sea Opilio</i>	<i>14.76%</i>	<i>17.32%</i>
<i>Bering Sea Bairdi</i>	<i>13.08%</i>	<i>15.05%</i>
<i>Pribilof Red and Blue</i>	<i>25.97%</i>	<i>35.08%</i>
<i>St. Matthew Blue</i>	<i>18.59%</i>	<i>22.84%</i>

**PAINTER BBRKC EXAMPLE:**

Total Per Cent	100
Per cent bought out in the Buyback	16.47
Fleet ownership remaining (100-83.53%)	83.53

How much more do I get if I remain in industry?

What per cent of 83.53 does the fleet receive to get to 100%

Divide 100% by 83.53% to determine the multiple	1.1972
The additional amount the fleet receives	

<sup>1</sup>This fishery category combines two fishery categories (i.e, Adak Browns and Dutch Browns) listed separately in "Table 1" to the NPFMC staff guidance.

ATTACHMENT: EDWARD POULSEN PRELIMINARY ANALYSIS OF NMFS  
CRAB BUYBACK RESULTS, May 10, 2004;

The NMFS has done a great job of presenting the results in a timely manner and in understandable format. Like most vessel owners I have talked to, I was pleasantly surprised by the results, and if the information provided is accurate, then the buyback referendum is an easy decision for most vessel owners.

Some of the vessel owners I have talked to since the analysis was published on Friday, have been scratching their heads regarding the results. It seems we are buying out highliners which we were simply not expecting, due to anticipation of grossly inflated bids. Also, it is obvious from the results that some highliners in the Pribilof king crab fisheries have been bought out. It is now up to industry to conduct a detailed analysis of what the results really mean to the industry and then as others are suggesting, present the information at an open industry workshop. I have broken the results out looking at what percent of catch history the average vessel that was accepted into the buyback has- the results follow:

<u>Fishery</u>	<u>Percent of QS for the average successful bidder</u>
BBRKC	.60%
Opilio	.53%
Bairdi	.47%
Pribilof kings	1.73%
St. Matthew	.89%
AGKC	3.31%

I believe we need to look at the buyback results in a holistic manner. Yes, opilio/bairdi at an average of 16 per cent of history combined, is relatively expensive versus the market right now, at \$4.1 million per percentage point of history, and represents two thirds of the loan principle at \$67 million. However, Bristol Bay red king crab is very cheap at \$1 million per point and \$20 million for 20 per cent points. It's an all or nothing deal so it's probably better to look at the complete package and what it does for a vessel owner's portfolio.

Based on the information I have on the current market for QS, if the 28 bidders who were successful had tried to sell there quota on the market, they would receive approximately \$82 million based on current market prices. The \$82 million is putting a zero value on Bairdi, St. Matthews, and Pribilofs, since these fisheries are closed (from my understanding, this is consistent with how the major brokers are valuing QS). So basically, the steel is valued at \$18 million for 28 vessels, about \$640,000 per vessel and we are getting a bonus of Bairdi, St. Matthew and Pribilof history redistributed to the remaining vessel owners. So in my mind, the buyback seems to be pretty consistent with current market values from a holistic level.

In summary, I'm pretty enthusiastic about the results, but I'm also a bit skeptical of some of the results. I would feel much more comfortable if there was an

independent analysis and interpretation of the results, by someone with approved access to the NPFMC crab data base to be presented at a buyback workshop.  
Edward Poulsen ([edpoulsen@comcast.net](mailto:edpoulsen@comcast.net)) .

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ATTACHMENT:

**REPORT ON BOARD OF FISHERIES CRAB IMPLEMENTATION TASK  
FORCE MEETING, APRIL 26<sup>TH</sup> AND 27<sup>TH</sup>  
AND COUNCIL IMPLEMENTATION ISSUES**

May 11, 2004

**Introduction:** Board of Fisheries members Art Nelson (Anchorage), John Jensen (Petersburg), and Melvin Morris (Kodiak) are the lead members of the BOF industry task force. They are reviewing issues and seeking individual and collective recommendations from the Task Force members. Recommendations are sometimes varied and at other times there is consensus among the task force members. Meetings are open to the public.

**Task Force Recommendations:** The topics below, TACs, AFA sideboards and CDQ regulations, will likely be acted upon by the BOF at its October 8<sup>th</sup> and 9<sup>th</sup> 2004, Work Session in Anchorage, along with mandating VMS. Most other issues will not be dealt with until the March 2005 BOF meeting in Anchorage.

- GHLS will be converted to fixed TACs (Total Allowable Catch) and they are to be defined similar or identical to NMFS groundfish TACs. The crab survey analysis combined with the TAC setting process and NMFS need for time to prepare QS calculations for quota holders will extend the time frame for starting fall fisheries. ADFG clarified that this essentially means they cannot be ready for fishery openings of the surveyed stocks until October 15<sup>th</sup>. Because Aleutians golden king crab is not a surveyed stock, this does not necessarily apply to that fishery, which has a startup date of August 15<sup>th</sup>. Task Force members concurred with ADFG on the need to convert the GHLS to TACs.
- Task force members also concurred on the need to repeal the AFA sideboard requirement for managing AFA Pollock boats in the Bristol Bay king crab fishery. AFA boats will be monitored like all other vessels in the fishery under rationalization. Processor sideboards will also be removed, most likely at the time of implementation of the program, not before.
- CDQ regulations allowing for pre season and post season CDQ fisheries will be repealed and CDQ fisheries will be held concurrent with the general fisheries. New regulations for the Western Aleutians golden king crab and Petrel Bank red king crab CDQ fisheries will be developed.

## **NOAA Fisheries comments on developing regulations:**

- Phil Smith, Director of NMFS RAM Division clarified to the Task Force that he is developing an implementation plan that he calls the “Crab Year” that would begin July 1 and end June 30<sup>th</sup>, with these components:
  1. QS holders (vessel owner and captain QS holders and processors) must file with NMFS once a year, in July. This will be a program requisite.
  2. Harvesters must identify if they have an affiliation of 10% or greater with a processor, which determines whether or not they will receive B shares. Harvesters will file a simple affidavit stating that if there is an affiliation, that the processor does not control deliveries of crab.
  3. At the same time harvesters must submit a cooperative entities registration, and this can only be done once a year. Harvesters will not be able to drop in and out of cooperatives because this requires recalculating QS for cooperatives.
  4. Fees must be submitted and current (submitted by processors) for the prior year, in order for processor QS holders to reapply for the following year.
  5. Data collections forms must be completed by this time and submitted to the NMFS.
  6. By August 1, or so, the BSAI crab survey will be complete, initiating the TAC setting process.
  7. By October 1, TACs should be available for surveyed stocks and NMFS begins preparation of QS allocations, with posting on electronic bulletin board prior to October 15<sup>th</sup>.
- Senior NMFS officials have provided assurances to industry representatives that implementation of the program and development of regulations is on schedule and adequate funds have been provided by the Congress for agency implementation costs, including outsourcing of Department of Justice issues involving development of the arbitration program. Progress meetings between NMFS staff and Senator Stevens staff take place every two weeks, and additional funds to cover implementation costs, if needed, have been assured.

## **Task Force recommendations on season dates:**

- Virtually all the industry task force members and ADFG, BOF and the NMFS support moving to the maximum biological seasons possible within the constraints of the Crab Plan Team’s established biological seasons and the NMFS and ADFG “Crab Year.” In the case of the Bering Sea king crab seasons, in particular and Petrel Bank red king crab, several members of the industry would have preferred to open these fisheries at the beginning of the biological season in September. However, because the agencies will not be prepared to set TACs and distribute individual QS allocations until October 15<sup>th</sup>, the Task Force members reluctantly accepted the October 15<sup>th</sup> startup date for Petrel Bank and Bering Sea king, tanner and snow crab fisheries. The biological closure dates are as follows: Petrel Bank red king crab, February 15<sup>th</sup>; Aleutians golden king crab season in

August 15<sup>th</sup> to August 14<sup>th</sup>, year-round; Bristol Bay king crab is January 15<sup>th</sup>; NMFS Bob Otto made a presentation using old survey data from the 1940s and mid 1980s that molting occurs in January until June and negated the ACC proposal to extend the season until March first; Pribilof Islands red and blue king crab, January 15<sup>th</sup>; St. Matthew Island blue king crab, February 1<sup>st</sup>. Bering Sea tanner crab, April first; and Bering Sea snow crab, May 15<sup>th</sup>.

- **PNCIAC ACTION, Eastern Bering Sea Tanner (c. bairdi) fishery:** In the course of discussions about the bairdi fishery, ADFG reminded industry that bairdi will be managed as a two stock fishery when it reopens, an eastern and a western district with two separate quotas. NMFS Phil Smith stated that this will require that the Council revisit this fishery to establish allocation guidelines for harvesters. It is anticipated there will be some discussion of the bairdi issues at the June Council meeting in Portland and a trailing amendment analysis will be required to remedy the situation. The Implementation Task Force and the BOF will also be looking ways to revise the concurrent season structure and the subdistrict boundaries.

#### **PNCIAC ACTION, Discussions and recommendations on pot limits:**

- **To the surprise of a number of Task Force members, Wayne Donaldson (ADFG, Kodiak) opened the discussions on pot limits by stating management of crab fisheries under the new QS program will focus on allowing adequate soak time to allow the escape of undersize and female crab. ADFG's objective is to reduce the number of pot lifts and bycatch in the fisheries.** Wayne did express a management concern to also insure pot loss. However, other than that, he did not feel that manageability, requiring restrictive pot limits, was an issue with the rationalized program, as it has been under the open access fisheries. With the opilio fishery there is a pot loss concern related to fast moving ice that could lead to limiting vessels to two loads of gear.
- **Most of the Task Force members concurred on going to a flat pot limit, with no vessel length distinctions.** However, ADFG noted that the Crab FMP requires that pot limits be set in a non-discriminatory manner, recognizing that larger boats have higher operating costs, etc. Industry members noted that absent the race for fish and the associated allocation issues, that it seems a flat pot limit for all vessel sizes, provided it is high enough, could be established. An opinion has been requested from NOAA GC on this issue. A few Task Force members reserved comment on the single tier pot limit, pending what the recommendations are for the flat pot limits in the individual fisheries.
- **Most of the Task Force members concurred on the Alaska Boat Co. proposal that would allow members of a specific cooperative to operate each others gear.** A few have reservations. ADFG and the BOF are expressing willingness to seriously consider it as an incentive to join coops. It was clarified that the proposal would only apply to vessels not only validly registered with NMFS in a



coop, but vessels that are validly registered in a fishery and actively fishing. An opinion has been requested from the Dept. of Public Safety.

- **There was also considerable discussion with ADFG about the concept of stacking or aggregating pot limits for individuals and members of cooperatives based on either LLPs or QS held, or the number of vessels actively fishing in cooperatives, to insure that vessels actively fishing have an adequate amount of pots to provide plenty of soak time to reduce bycatch; and to allow for setting separate strings of gear on different species in the same registration area, where there are concurrent seasons i.e. bairdi and king crab in Area T, and bairdi and opilio in the Bering Sea opilio and tanner crab district. Discussions called for an adequate minimum level of pots for individual vessels and separate provisions for members of cooperatives. By the day's end, the BOF members had already preliminarily determined that stacking gear allocations could likely not be based on QS or LLPs, as these are based on federal programs and there are conflicts with State statutes. However, at the same they have expressed interest in the linkage concept and they are going to explore other mechanisms, i.e. pot allocations based on ADFG vessel numbers, or some other ADFG vessel or fishery related number. Most of the Task Force members supported the concept of stacking gear allocations in Bering Sea fisheries and the Petrel Bank fishery to provide flexibility.**
- **The Aleutians golden king crab proposal (Henkel, Mezich and Minor) was discussed at length. This proposal calls for a limit of 800 pots in the Eastern district and 1200 pots in the Western district. ADFG in responding to a question about why there is such a discrepancy in the number of pots being reported in the fishery, compared to the actual number of pots being fished, despite 100% observer coverage, reported that absent a pot limit, there are no buoy tags required and the reports are based on the operator interviews. ADFG also reported that there have been some serious incidents of grounds preemption and gear conflicts between boats with heavy line and boats with light line on the narrow Aleutian shelf. During the discussion, about the need for pot limits in the Aleutians because of homesteading, grounds preemption and gear conflicts, a clear distinction was made between this unique fishery and the Bering Sea crab fisheries where ADFG instituted pot limits for manageability and to reduce gear loss in the winter snow crab fishery.**
- In the discussion about pot limits for the major Bering Sea crab fisheries, Bristol Bay king crab, bairdi and Bering Sea opilio crab, most of the Task Force concurred that whatever limit was established it should be the same for all these fisheries. In addition to Jeff Steele's recommendation for 250 pots, requests for 500 and 600 pots in these fisheries has been proposed.

**Issues for the Next meeting of the Board of Fisheries Crab Implementation Task Force:** Art Nelson has scheduled the next meeting of the Task Force for June 21<sup>st</sup> and 22<sup>nd</sup> in Anchorage. **The BOF will continue with discussions and recommendations on**

pot limits and also discuss gear regulations, i.e. mesh regulations for the Bering Sea fisheries. The Pribilofs and St. Matthew king crab pot limits will be discussed for the first time. They will also continue the discussion on strategies for concurrent harvesting of king, tanner and opilio crab. It is anticipated that representatives from the Dept. of Public Safety and Dept. of Law will be in attendance. Mr. Nelson has requested brief written recommendations with rationale from Task Force members, fishery by fishery, on pot limits and gear regulations.

#### **Additional implementation issues and clarifications:**

- **Four distinct owners for formation of a cooperative:** Mark Fina has provided some clarifications on this. The issue arises if multiple individuals own shares in the same corporation. For example if "John" and "Scott" each own 50% of Corp "Crab Boat Corp" and "Crab Boat Corp." owns a crab boat, John and Scott are considered one entity by NMFS. However, if for example John owns 100% of "John's Fishing Corp" and Scott owns 100% of "Scott's Fishing Corp" and they have a partnership that owns a crab boat then they are considered 2 distinct entities because John and Scott each own their own corps 100%. I hope this helps. The minimum four distinct owners requirement determines how many separate entities and boats will be required to form a cooperative. (ATTACHMENT, DISTINCT OWNERS CHARTS, by Edward Poulsen )

#### **Additional background information:**

The initial response from the agency is that the co-op would need four independent entities (i.e., less the 10 percent common ownership and control). As a result, any partnership would always be looked at as one entity and partnerships with a common owner (that holds more than 10 percent of both) are looked at as a single entity. The way we may be able to get over the hurdle is:

- 1). A partnership could break up its shares (or a portion of its shares) - for example, a 4 person partnership that holds 1000 shares could transfer 25 shares to each partner, with the partnership retaining 900. This results in each of the partners being a distinct share holder, while the partnership retains control of most of the shares. The cooperative agreement can govern the harvest of all 1000 shares. (NOTE –it must be confirmed that this approach is acceptable with the agency and will be allowed by the regs.)
  - 2). Bear in mind that skippers, as owners of QS are considered as an independent entity in cooperative eligibility.
- **PNCIAC ACTION, Catcher processor reporting and observer requirements:** ADFG and NMFS held a meeting with CP owners and operators in Seattle on May 4<sup>th</sup>, to discuss options for increased monitoring under the rationalized

program. The options being discussed focus on NMFS recommended increase to two observers per vessel, with a new requirement for mandatory “hopper” weighing scales to weigh all live sorted crab prior to processing and observed offloading. Several CPs have proposed using standardized Product Recovery Rates (PRRs) species by species, in lieu of hopper scales. ADFG has proposed going with one observer, hopper scale weighing and observed offloading. Agency representatives toured cps on May 5<sup>th</sup>, looking at various deck configurations for sorting and butchering of crab to look at the feasibility of installation of hopper scales. It is anticipated the Council may have some discussions about the options at the June meeting. The BOF Task Force will also be addressing the monitoring proposals at its meeting on June 21<sup>st</sup>.

- **Shorebased catcher vessels and processor reporting requirements:** On May 6<sup>th</sup>, NMFS and ADFG representatives met with shorebased processors to discuss monitoring of shorebased plants and floaters under rationalized program.
  1. All crab not processed at-sea must be landed to a “registered crab receiver” (RCR). This would include any dockside activity, such as dockside sales, offloading to a tender, custom processing, etc. The first receiver must be a registered crab receiver.
  2. The registered crab receiver would be required to ensure that all crab (including deadloss) offloaded is weighed by quota category.
  3. Weighing scales must be approved annually by the State of Alaska (or if Washington State ports approved, then also by the State of Washington).
  4. RCRs must an annual “catch monitoring plan” with NMFS for each geographic location (or vessel for floaters) where the RCR takes crab deliveries. The plan is brief, three or four paragraphs, can be submitted by email.
  5. Complete a landing report before the before the vessel leaves the dock.
  6. Partial or split deliveries are allowed.
  7. NMFS/ADFG is developing plans to implement a complete internet based electronic dockside catch reporting system—that will replace the paper fish ticket system. This reporting system will be expanded to all the federal fisheries in Alaska, with BSAI crab being the first priority. NFMS is hopeful they will have the system online for the initiation of the crab QS program in the fall of 2005.
  8. At this time NFMS is not planning any additional coverage at shorebased plants. ADFG made no comments about increased observer coverage for catcher vessels at this meeing.

9. RCRs will be required to pay the 3 percent management fee, based on all crab fisheries. Fees can be paid fishery by fishery, but must be paid in full by June 30<sup>th</sup>, the end of the crab year.

- **PNCIAC ACTION, Results of bidding on the crab buyback program:**

See the attached tables explaining the buyback reductions, fishery by fishery and the proposed loan costs. The results are summarized in the following table:

**Estimated percent of increases that fewer post-buyback license holders may receive if the permit holder ballot referendum succeeds:**

Fishery	Permits	% Increase	Loan Portions	Loan Fees
Aleutian Islands Brown	3	11.04%	\$ 4.8 m	2.3%
Adak Red	0	0	0	0
Bristol Bay Red	27	19.72%	\$19.8 m	2.3%
Bering Sea Opilio/Bairdi	28	16.0 %	\$67.1 m	5.0%
Pribilof Red and Blue	15	35.0 %	\$ 2.9 m	5.0%
<u>St. Matthew Blue</u>	<u>21</u>	<u>22.8%</u>	<u>\$ 5.3 m</u>	<u>5.0%</u>
Totals	28		\$99.9 m	

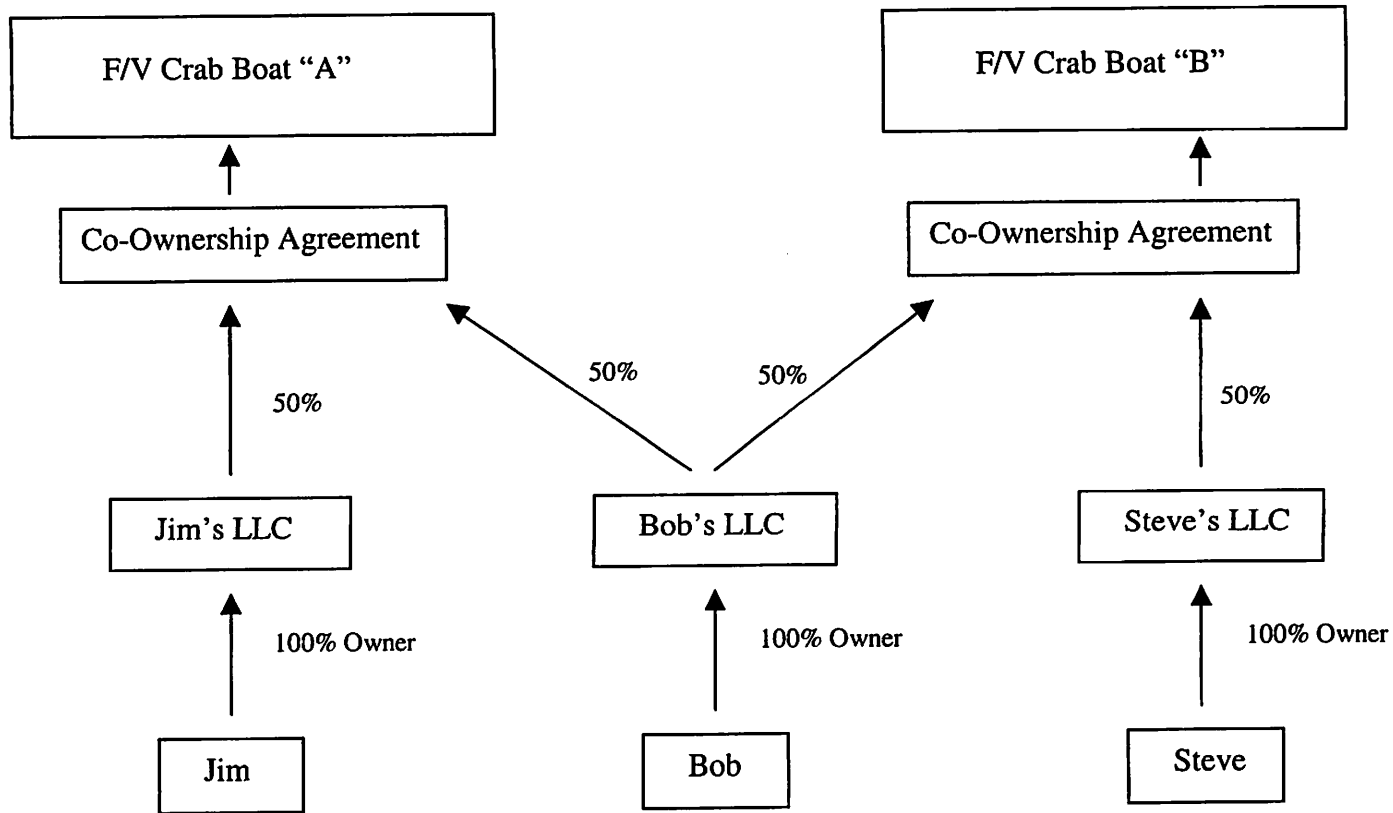
Ballots must be returned to NMFS no later than 5:00 P.M. Eastern Daylight Time, on June 11, 2004. Referendum general results will be available within 48 hours.

PNCIAC should consider what action, if any, they wish to take on the Buyback Referendum.

Arni Thomson, Secretary

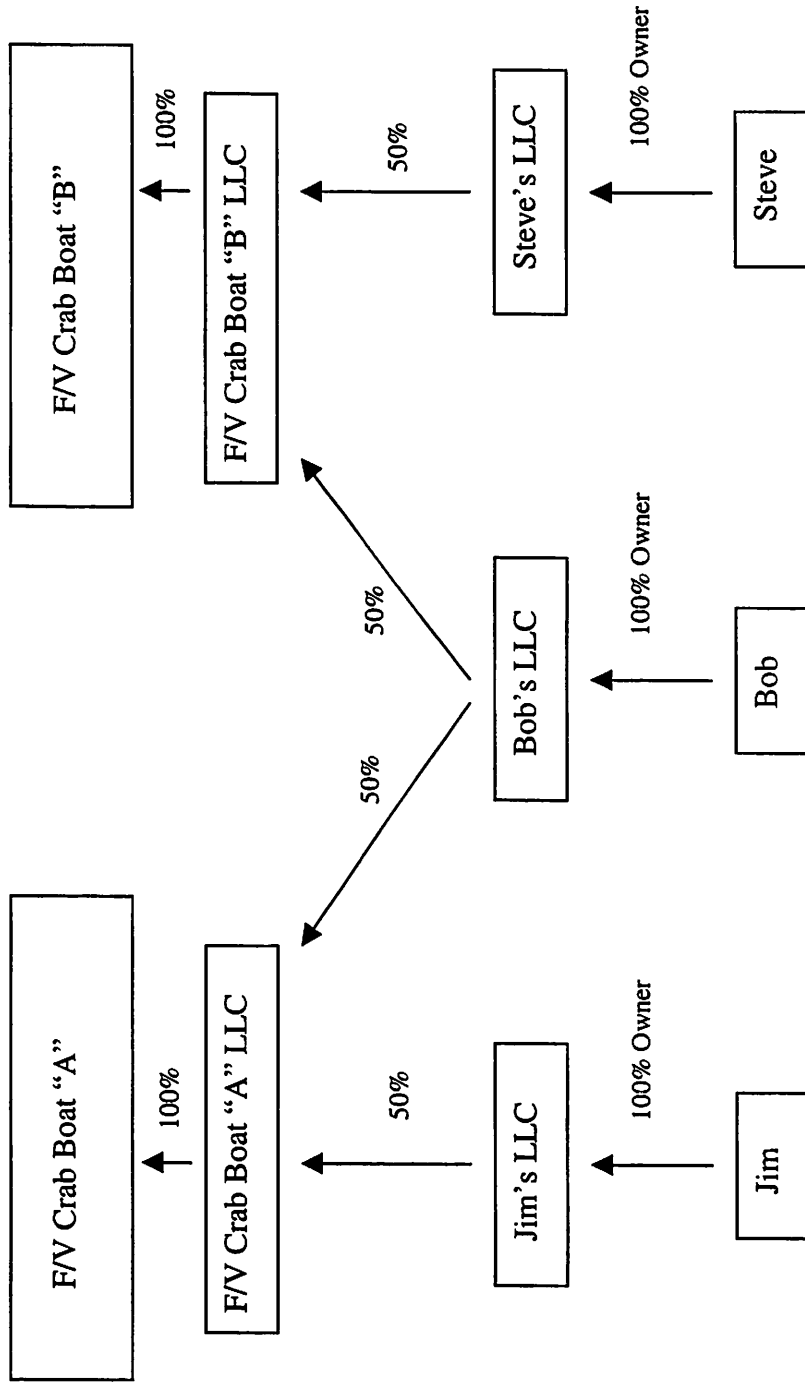
Pacific Northwest Crab Industry Advisory Committee

## Co-Ownership Structure:



Three Distinct Owners

# Corporate/LLC Structure:



One Distinct Owner

**Public Testimony Sign-Up Sheet  
and  
Other Handouts Received**



**PUBLIC TESTIMONY SIGN-UP SHEET FOR**  
**AGENDA ITEM** C-1 BSAI CRAB RATZ

EIS

	NAME (PLEASE PRINT)	AFFILIATION	
1 ✓	Joe Sullivan	Mundt MacGregor	6
2 ✓	Tom Cox	AFCH	6
3 ✓	Coleman Anderson	Parlof	3
4 ✓	Doug Wells	BARANOV / COMBOS	3
5 ✓	Steve Minor	Saint Paul / CBSFA	6
6 ✓	John Gamm	Northwest Seafoods	3
7 ✓	Arnie Thompson	A.C.C.	6
8 ✓	Tom Suryan	SEA	6
9 ✓	MIKE STANLEY, TED PAINTER	ALASKA TROJAN PARTNERSHIP	A 3
10 ✓	Frank Kelly	CITY OF UMAK, AK.	6
11 ✓	TERRY LEITZELL	ICICLE	3
12 ✓	Dick Miller	Controller Bay	3
13 ✓	Gary Painter	FIV Trailblazer	3
14 ✓	Steve Hall	-	
15 ✓	Dave Soma	Dir. Bering Sea Fish. Union	
16 ✓	Barney Olson	SEA, D.S.F.U., FV (?)	
17			
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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.



21

1923

The first thing I noticed when I stepped  
 out of the car was the cold. It was a  
 sharp, biting cold that seemed to  
 penetrate my coat. I shivered as I  
 looked around at the snow-covered  
 landscape. The trees were bare and  
 their branches were heavily laden with  
 snow. The ground was a smooth, white  
 expanse, and the air was filled with a  
 soft, hazy light. I took a deep  
 breath and felt the cold air fill my  
 lungs. It was a strange feeling, at  
 once refreshing and terrifying. I  
 had never experienced anything like  
 this before. The silence was  
 absolute, and the only sound I  
 could hear was the crunch of my  
 boots on the snow. I felt a sense  
 of isolation, as if I were the only  
 person in the world. The beauty of  
 the scene was overwhelming, but  
 the cold was a constant reminder  
 of the harshness of the environment.

The snow continued to fall, and the  
 landscape became even more serene.  
 I walked slowly, savoring the  
 quiet and the beauty of the winter  
 scene. The snow was soft and  
 fluffy, and it felt like a blanket  
 of white. I had never seen so much  
 snow before. The trees were like  
 white sculptures, and the ground was  
 a perfect white. The air was so  
 clean and fresh. I felt a sense of  
 peace and tranquility. The cold was  
 no longer a threat, but a part of  
 the beauty of the scene. I had  
 found a new world, a world of  
 snow and silence. It was a world  
 that I had never known before, and  
 it was a world that I would never  
 forget.

6/9/04 2:30p  
C-1 Pub. Com.  
Arni Thomson

**Alaska Crab Coalition**  
3901 Leary Way N.W. Suite #6  
Seattle, Washington 98107  
206.547.7560  
Fax 206.547.0130  
accrabak@earthlink.net

June 8, 2004  
Portland, Oregon

**ACC RECOMMENDATIONS TO THE NORTH PACIFIC FISHERIES  
MANAGEMENT COUNCIL ON THE BERING SEA ALEUTIANS ISLANDS CRAB  
ENVIRONMENTAL IMPACT STATEMENT**

1. The ACC recommends the NPMC approve the BSAI Crab Fisheries Environmental Impact Statement with the NPFMC preferred alternative of June 11, 2004 and subsequent amendments through April 2003.

**Rationale:** The preferred alternative, as asserted in the DEIS pages 1-25 and analyzed in the DEIS, is exactly the program referred to in section 313(j) of the Magnuson-Stevens Fishery Conservation and Management Act ("MSA"), as amended by Title VIII, section 801, of H.R. 2673, the Omnibus Consolidated Appropriations Act 2004, P.L. 108-199. As further asserted by the DEIS at pages 1-25, the preferred alternative complies with the requirements of the MSA.

The ACC also supports the following recommendations from the Advisory Panel motion of June 7, 2004, in regards to the Council's preferred alternative for the crab Program.

2. Approve an amendment to the binding arbitration system as identified in the Lisa Lindeman, NOAA Alaska Regional Counsel, memorandum of May 25, 2004, addressed to Stephanie Madsen, Chair, NPFMC.

**Rationale:** NOAA GC has recommended the Council consider amendments to the binding arbitration system at this meeting, to address specific issues that may be problematic or difficult to implement.

3. Approve an amendment to the crab program following NOAA Regional Counsel recommendations to modify the groundfish sideboards (Item 1.8.5), as identified in the memorandum of May 25, 2004. NOAA recommends the removal of sideboard language that will eliminate the requirement that cooperatives manage the Pacific cod sideboard fishing activity of their members. Thus cooperatives will rely on NMFS to manage sideboard fishing in Federal waters and the parallel fishery in State waters.

Rationale: Management of the sideboard fishing activities by cooperatives would likely be impossible to implement and enforce for several reasons. The first obstacle is that crab cooperatives are organized around quota share (QS) holders but the sideboard applies to vessels and LLP licenses. The second obstacle is that the fishing seasons for crab and Pacific cod do not coincide. The crab season will run from July 1 to June 30 and crab cooperatives will be given one-year fishing permits that will be valid for this time period. However, the Pacific cod season runs on the calendar year from January 1 to December 31. This means that a crab cooperative will be in effect for the last half of one cod season and the first half of the subsequent season. Membership in crab cooperatives is entirely voluntary and membership can change greatly, year to year, further complicating cooperative management of cod sideboard fishing.

4. In regards to Item #13 of the Council motion on the binding arbitration system, a prohibition on processor affiliate QS holders to participate in binding arbitration, the ACC recommends the Council request of NOAA Fisheries in developing the draft regulations "to consider" possible circumstances of QS holders with limited processor affiliation and consider potential mechanisms to permit participation of these QS holders in the arbitration program, including the use of confidentiality agreements and operating agreements to prevent potential antitrust violations. Notwithstanding this request, all participation must be in compliance with antitrust law. (This is not a request for an amendment, it is a request for consideration.)

Rationale: Unless implementing regulations allow for QS holders with limited processor affiliation (no control over delivery of landings), numerous QS holders who are minority partners in vessels could be locked out of arbitration and the subsequent benefits to insure competitive prices.

5. Based on the EIS public comments of Olsen and Anderson, DSFU and the Skippers for Equitable Access, and the NOAA Fisheries responses to these comments in the NOAA Fisheries Draft Comment Analysis Report, May 2004, the ACC recommends the Council approve an amendment to delete the 90/10 A share/B share split to C shares following three years of program implementation (Item 1.8.1.6, Option 2).

Rationale: The application of the A/B share split to C shares will negatively impact the value and efficacy of the shares. The practical effect of C shares, because they represent such a small portion of an individual vessel's IFQs, is that regardless of a 90/10 split, they will follow the A shares, which are subject to IPQ and regionalization landing requirements.

The average C share allocation for Bristol Bay king crab, based on the 2003 GHL, for 189 captains would be 2,142 pounds, exvessel value at \$10,710. The average C share allocation for Bering Sea snow crab, based on the 2004 GHL, for 155

captains would be 4,354 pounds, exvessel value at \$8,000. This represents one or two trailors of crab per fishery, an insufficient amount of crab to justify fuel costs to travel to an alternative point of delivery.

In the NOAA Fisheries Draft Comment Analysis Report, in response to the comments of Olsen and Anderson, NOAA notes on page 105 that the analysis in section 4.6.3 concludes that any negotiating leverage arising from the C share allocation will be "severely diminished" if those shares are subject to IPQ landing requirements after three years as is currently intended. The DSFU and the Skippers for Equitable Access also filed comments of concern about the 90/10 A share/B share split to C shares.

The DEIS specifically notes on page 4-175: "Since these C shares require the owner to be on board the vessel fishing the shares, they should trade at a lower price. Whether holders of these shares will be able to leverage better compensation with the relatively small allocation cannot be predicted, but is not likely. The ability of holders of C shares to use those shares for negotiating leverage will be limited by the requirement that those shares be subject to the 90/10 A share/B share division in the third year of the program. Since C share holder allocations will require landing of the shares with the holder of processor shares, the captain will need to displace not only another captain, but a harvest share holder in order to move into a new position. The need for such a displacement limits the use of C shares as negotiating leverage since the threat of a C share holder to walk away from a position is dependent on the existence of another position on a vessel that delivers to a processor with uncommitted processor shares. So C shares provide their holders with an allocation of little value for negotiation but which can (be) divested when leaving a fishery or moving between positions."

**The Role of Public Comment** as noted in the NOAA Fisheries Bering Sea Aleutian Islands Crab Fisheries EIS Draft Comment Analysis Report, ("Report") May 2004, page 1, "The Role of Public Comment," in reference to the newly amended section 313(j)(1), of the MSA, "the Secretary cannot amend the Program prior to January 1, 2005, unless the Council forwards a recommendation for change to the Secretary prior to January 1, 2005. Given this discretion, the Council may consider subsequent program amendments to the Program at its upcoming June 2004 meeting. Because of the Council's statutory ability to recommend subsequent program amendments to the Program prior to January 1, 2005, the Council will consider the comments received and will determine whether subsequent amendments are warranted."

Arni Thomson  
Executive Director  
Alaska Crab Coalition





6/9/04 2:40p  
C-1 Pub Com.  
Tom Suryan

SKIPPERS FOR EQUITABLE ACCESS  
101 Nickerson Suite 340  
Seattle, WA. 98109

James W Balsiger  
Administrator  
Alaska Region, NMFS  
P.O. Box 21668  
Juneau, Alaska 99802

Dear Dr. Balsiger,

I am writing you to express some concerns Skippers for Equitable Access (SEA) has regarding the NPFMC Bering Sea Crab Rationalization Program Draft Environmental Impact Statement (DEIS). There are two main areas of concern for us, first is the nature of C shares and the time frame in which the impacts of that nature is evaluated and the second is the issue of royalty fees paid for quota shares and how their cost will impact skippers and crews earning potential.

Under section 4.6.3 which discusses the potential effects of the program on captains and crew the DEIS states that: *"The ability of holders of C shares to use those shares for negotiating leverage will be limited by the requirement of those shares to be subject to the 90/10 A share/B share division in the third year of the program. Since C share holder allocations will require landing of the shares with the holder of processor shares, the captain will need to displace not only another captain but also a harvest share holder in order to move to a new position. The need for such a displacement limits the use of C shares as negotiating leverage since the threat of a C share holder to walk away from a position is dependent on the existence of another person on a vessel that delivers to a processor with uncommitted processing shares. So, C shares provide their holders with an allocation of little value for negotiation but which can (be) divested when leaving a fishery or moving between positions."*

SEA feels that C shares should not be constrained after the initial three years since we agree with the above analysis and believe that such constraint will both undermine the C share holders value to the operation and make it nearly impossible to move freely within the fleet. We feel it is extremely important for the Council to look at the nature of C shares before they automatically default to the A share/B share regionalized split after three years. We suggest that an appropriate time to evaluate the nature of C shares would be 18 months after implementation, at the same time the Council looks at the effects of IPQ's and arbitration on price as outlined at the February Council meeting in Anchorage.

The second area that SEA feels the EIS needs to address is the costs of royalty fees paid for quota shares (both initial allocation and leased or purchased quota shares) and their impact on the income of skippers and crew. We feel that discussion of royalties and their impacts has not been adequately addressed in the DEIS. The potentially significant impact royalty costs, especially on quota initially allocated to vessels, could have on the vessels gross stock and therefore the earning potential of the captain and crew needs to be addressed in the final EIS.

Sincerely,  
Tom Suryan  
President, SEA  
(206)522-1249 ph  
(206)525-7311 fax  
tomsuryan@aol.com

6/9/04 2:50p  
C-1 Pub. Test.  
Mike Stanley &  
Ted Painter

## **FACTORS FAVORING AN EXCEPTION FOR ALASKA TROJAN PARTNERSHIP (ATP)**

### **FAIRNESS AND EQUITY**

- ***F/V ALASKA TROJAN* IS A MAJOR PRODUCER IN THE ALEUTIAN ISLANDS BROWN KING CRAB FISHERY**
- **ATP INVESTED IN THE FISHERY IN 1994, PRIOR TO ADOPTION OF THE LLP PROGRAM**
- **ATP APPLICATION FOR LLP ENDORSEMENT FOR THE FISHERY NOT FINALLY DENIED UNTIL DECEMBER 2003. ATP THEN PURCHASED ANOTHER PERMANENT LLP PERMIT**
- **FAILURE TO GAIN ENDORSEMENT FOR THE FISHERY DUE SOLELY TO ABSENCE OF A THIRD DELIVERY IN NOV/DEC 1994**
- **NO UNAVOIDABLE CIRCUMSTANCES EXCEPTION FOR INABILITY TO MAKE PLANNED THIRD DELIVERY MID-NOVEMBER 1994**

### **PRESENT AND HISTORIC PARTICIPATION**

- ***F/V ALASKA TROJAN* HAS PARTICIPATED IN THE ALEUTIAN ISLANDS BROWN KING CRAB FISHERY EVERY YEAR SINCE 1994**
- **SUBSTANTIAL HARVESTS DURING THE QUOTA SHARE BASE YEARS, 1996/97 – 2000/01**

### **DEPENDENCE ON THE FISHERY**

- **BROWN KING CRAB THE PRIMARY, AND IN MANY YEARS THE ONLY, CRAB SPECIES HARVESTED BY THE *F/V ALASKA TROJAN***

### **REDUCES CONCENTRATED ALLOCATION OF QUOTA SHARE**

- **ONLY FOUR VESSELS MAY RECEIVE 90 PERCENT OF THE ADAK GOLDEN KING CRAB ALLOCATION (DEIS, P. 4-177)**
- **INCLUDING THE *F/V ALASKA TROJAN* SPREADS THE ADAK GOLDEN KING CRAB QUOTA SHARE AMONG MORE VESSELS**

## **TIMELINE FOR ALASKA TROJAN PARTNERSHIP (ATP)**

### **1994**

- **SPRING/SUMMER – ATP INVESTS \$ 750,000 TO RECONFIGURE THE *F/V ALASKA TROJAN* AND GEAR UP FOR ADAK BROWN KING CRAB**
- **NOV/DEC – *F/V ALASKA TROJAN* BEGINS FISHING WHEN SEASON OPENS ON 11/1. MAKES TWO DELIVERIES, ON 11/24 AND 12/1. CIRCUMSTANCES PREVENT PLANNED THIRD DELIVERY**

### **1995**

- **APRIL/MAY/JUNE – *F/V ALASKA TROJAN* MAKES FOUR DELIVERIES OF BROWN KING CRAB**
- **COUNCIL ADOPTS LLP PROGRAM ON JUNE 17. FISHING DURING PERIOD JANUARY 1 TO JUNE 17 INCLUDED IN QUALIFICATION PERIODS FOR GROUND FISH ENDORSEMENTS BUT NOT FOR CRAB**

### **1996/1997 THROUGH 2000/2001**

- **QUOTA SHARE BASE YEARS. *F/V ALASKA TROJAN* ENJOYS SUBSTANTIAL HARVESTS OF ALEUTIAN ISLANDS BROWN CRAB**

### **1999**

- **ATP APPLIES FOR LLP LICENSE BY DECEMBER 17 DEADLINE. CLAIMS ELIGIBILITY FOR ALEUTIAN ISLANDS ENDORSEMENT**

### **2000**

- **RAM ISSUES INITIAL ADMINISTRATIVE DETERMINATION (IAD) ON DECEMBER 19. ATP TIMELY APPEALS TO OAA**

### **2003**

- **OAA HEARING OFFICER UPHOLDS IAD ON OCTOBER 20. DECISION BECOMES FINAL ON DECEMBER 29. ATP INTERIM PERMIT WITH ALEUTIAN ISLANDS BROWN KING CRAB ENDORSEMENT REVOKED**
- **ATP PURCHASES A PERMANENT LLP PERMIT WITH AN ALEUTIAN ISLANDS BROWN KING CRAB ENDORSEMENT IN DECEMBER**



6/9/04 Dick Miller  
C-1 Pub Test.

**COUNCIL MEMBERS MY NAME IS DICK MILLER. I AM  
HERE TODAY ON BEHALF OF CONTROLLER BAY JOINT  
VENTURE.**

**I AM HERE TODAY BECAUSE OF FEDERAL AND STATE  
LAWS THAT WERE PASSED SHORTLY AFTER THE  
SINKING OF THE OUR VESSEL.**

**THE NEW LAWS THAT WERE PASSED EFFECTIVELY  
ELIMATED US FROM ENTRY BACK INTO OUR  
HISTORICAL FISHERIES.**

**WE LOST OUR VESSEL THE CONTROLLER BAY IN MAY  
OF 1999.**

**AFTER MOST OF THE RELATED INSURANCE ISSUE'S  
HAD BEEN RESOLVED WE WERE PREPARED TO SIGN  
A CONSTRUCTION CONTRACT FOR THE  
REPLACEMENT VESSEL WITH FRED WAHL MARINE  
CONSTRUCTION IN DECEMBER OF 2000.**

**IN AUGUST OF 2000 THE STATE OF WASHINGTON  
ENACTED AMENDMENTS WHICH RESTRICTED THE  
NUMBER OF CRAB POTS A VESSEL COULD CARRY.  
THE POT RESTRICTIONS WERE BASED ON THE  
NUMBER OF POUNDS OF CRAB CAUGHT BY A  
VESSELL IN 96-97, 97-98, AND 98-99. THE NEW LAW  
DID NOT ALLOW FOR ANY SUNKEN VESSEL  
PROVISION'S.**

**BECAUSE OUR VESSEL HAD SUNK IN 1999 WE WERE  
UNABLE TO FISH IN ONE OF THE QUALIFYING YEARS.  
THEREFORE ONLY A SMALL UNVIABLE AMOUNT OF  
POTS COULD BE CARRIED ON OUR VESSEL.**

**THE LAW WAS REVISED IN 2001 FOR SUNKEN  
VESSEL'S. WE ARE NOW ALLOWED TO CARRY 100%  
OF THE MAXIMUM POTS ALLOWED.**

**THIS LAW DID NOT ELIMINATE US FROM CONSTRUCTION.**

**IN DECEMBER OF 2000 WHEN WE WERE PREPARING TO SIGN A CONTRACT TO CONSTRUCT THE NEW REPLACEMENT VESSEL WITH FRED WHAL CONSTRUCTION, ANOTHER LAW WAS ENACTED CALLED PUBLIC LAW 106-554.**

**THIS LAW WAS INTENDED TO IMPLEMENT THE OBJECTIONS OF A FISHERIES MANAGEMENT PLAN STRUCTURED TO CONFORM WITH THE MAGNUSEN ACT.**

**IT RESTRICTED THE GRANTING OF FISHING HISTORY TO SPECIFIC VESSELS, AND DID NOT ALLOW FOR HISTORIES TO BE TRANSFERRED TO REPLACEMENT VESSEL LOST AT SEA.**

**AT THIS TIME IN OUR EFFORT TO RECONSTRUCT, OUR LOAN AT U.S. BANK WAS WITHDRAWN. THERE WAS NO BANK THAT WAS GOING TO LEND ON CONSTRUCTION OF A 2 MILLION PLUS FISHING VESSEL WITH BY LAW HAS NO FISHING HISTORY TO FISH AND NO DATE TO RECEIVE IT BACK.**

**WE THEN HIRED 2 ATTORNEY'S TO FIGHT THE UNINTENTIONAL WRONG DOING'S BY THE GOVERNMENT.**

**WITH NO POSSIBILITY OF A LOAN, WE KNEW WE WOULD BE IN TROUBLE WITH THE IRS. BECAUSE BY LAW WE HAD 2 YEARS TO RECONSTRUCT AFTER THE SINKING OR PAY THEM 40% OF THE INSURANCE PROCEEDS.**

**WE CONTACTED THE IRS AND TOLD THEM ABOUT PUBLIC LAW 106-554 WHICH LED US TO HIRING YET**

**ANOTHER ATTORNEY AND ACCOUNTING FIRM,  
EXPLAINING THAT WE HAD NO CHOICE OR FAULT IN  
THESE STATE AND FEDERAL DECISIONS.**

**AFTER 11 MONTHS OF BATTLING WITH IRS, IN  
NOVEMBER OF 2001 THE IRS GRANTED US A FULL 1  
YEAR EXTENSION TO REPLACE OUR VESSEL  
BECAUSE OF LAWS THAT WERE BEYOND ANY  
CONTROL OF OURS.**

**PUBLIC LAW 106-554 WAS ENACTED INTO LAW IN  
DECEMBER OF 2000. THE GOVERNMENT REALIZED  
HOW UNFAIR PUBLIC LAW 106-554 WAS AND  
OVERTURNED IT 9 MONTHS LATER, IN AUGUST OF  
2001. WE SHOUDN'T HAVE TO SUFFER FROM THEIR  
MISTAKES.**

**I REALIZED THIS LAW WAS NOT AIMED INTENTIONALLY  
AT US, BUT IT PULLED OUR PANTS DOWN, KICKED US  
OUT THE DOOR AND SLAMMED IT SHUT ON US.**

**AFTER RETURNING FROM FISHING IN SEPTEMBER OF  
2001, AND FINDING OUT THAT PUBLIC LAW 106-554  
HAD BEEN REVISED TO LET US BACK INTO THE  
FISHERIES. WE IMEDIATLY STARTED FINAL  
PREPERATION FOR THE CONSTRUCTION OF THE NEW  
VESSEL. THE NEW VESSEL WAS THEN LAUNCHED  
ONE YEAR LATER IN SEPTEMBER OF 2002.**

**DURING THE TIME PERIOD SPENT FIGHTING THESE  
ISSUES BEYOND OUR CONTROL, THESE ARE THE  
COSTS THAT WE INCURRED THAT SHOULD HAVE  
BEEN ZERO:**

**EXHIBIT 1: COST OF VESSELL \$87,779.11**

**EXHIBIT 2: U.S. BANK, ATTORNEY FEE'S \$6,609.00**

**EXHIBIT 3: CONTROLLER BAY J.V. LEGAL FEES  
\$98,333.40**

**EXHIBIT 4: LOST REVENUE \$1,189,232.62**

**THE TOTAL LOSS WAS \$1,381,954.10**

**NO OTHER VESSELL IN THE CRAB INDUSTRY HAD TO  
INCURE THESE KINDS OF COSTS AND FRUSTRATIONS.**

**THIS IS WHY I ASK THE COUNCIL TO REVISIT  
ADDITIONAL SUNKEN VESSELL PROVISION'S.**

**I WAS ASKED BY A COUPLE OF THE COUNCIL  
MEMBERS TO HAVE AN EXPERT CONFIRM THAT WE  
ARE THE ONLY VESSEL THAT FELL UNDER THE  
ADDITIONAL SUNKEN VESSEL PROVISION'S.  
ACCORDING TO MARK FINA, STATE RECORDS SHOW  
THAT WE ARE THE ONLY VESSEL.**

**EVEN IF THE COUNCIL GIVES US 100% OF OUR PRO-  
RATA HISTORY, IT WOULD BE JUST A FRACTION OF  
THE OVERALL QUOTA SHARES AND JUST A SMALL  
PERCENTAGE OF THE COST THAT WE INCURED.**

**NO ONE IS PERFECT AND EVERYONE MAKES  
MISTAKES - THE GOVERNMENT IS CERTAINLY NO  
EXCEPTION.**

Dick Miller  
C-1 Public Test.  
6/9/04 3:25p

EXHIBT 1

Dick Miller  
C-1 Pub. Com.  
6/9/04 3:25p

**FRED WAHL  
MARINE CONSTRUCTION, INC.**

100 Port Dock Rd. • Reedsport, OR 97467  
(541) 271-5720 • FAX (541) 271-4349

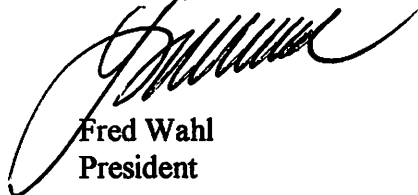
To Whom It May Concern:

February 2002, Fred Wahl Marine Construction, Inc. signed a contract with Dick Miller to build a Jensen Maritime Consultant design for a 90' x 30' steel fishing vessel. Completion date was scheduled for September 30, 2002 and was delivered on September 26, 2002. We had worked with Mr. Miller for approximately 1 ½ years prior to signing this contract. Mr. Miller had postponed the project several times in that time period due to the uncertainty of his fishing rights. In September 2001, Controller Bay J.V. notified our shipyard that they had retained their fishing rights. At that point the contract was negotiated and signed.

Due to these delays and the change in equipment, we have concluded that if the vessel would have been built the prior year it would have cost approximately 4% less than the construction price of \$2,194,477.84. The difference in price being attributed mainly to the increase cost of insurances due the result of the terrorist attack in New York on September 11, 2001. Also attributing to the increase in cost is the added burden that environmental agencies have place on shipyards in recent years to be more environmentally conscious and in general inflation of prices.

In conclusion, if the F/V Controller Bay could have been built the previous year, the cost would have been approximately 4% less.

Sincerely,



Fred Wahl  
President

Register Report  
9/9/99 Through 6/4/04

Date	Num	Description	Memo	Category	Clr	Amount
9/9/99	4555	WAHL CONSTRUCTION		NEW BOAT	c	-15,000.00
10/31/01	4622	jensen maritime		NEW BOAT	c	-150.00
11/13/01	4625	jensen maritime		NEW BOAT	c	-222.50
12/16/01	4629	jensen maritime		NEW BOAT	c	-2,945.26
1/6/02	4632	jensen maritime		NEW BOAT	c	-8,583.90
2/4/02	4634	jensen maritime		NEW BOAT	c	-8,152.67
2/19/02	4635	WAHL CONSTRUCTION		NEW BOAT	c	-150,000.00
3/11/02	4639	jensen maritime		NEW BOAT	c	-883.26
3/19/02	4642	WAHL CONSTRUCTION		NEW BOAT	c	-250,000.00
4/9/02	4653	jensen maritime		NEW BOAT	c	-120.75
5/1/02	4662	WAHL CONSTRUCTION		NEW BOAT	c	-250,000.00
5/20/02	4667	WAHL CONSTRUCTION		NEW BOAT	c	-250,000.00
5/22/02	4668	jensen maritime		NEW BOAT	c	-259.56
7/3/02	4679	WAHL CONSTRUCTION		NEW BOAT	c	-250,000.00
7/22/02	4681	WAHL CONSTRUCTION		NEW BOAT	c	-250,000.00
8/16/02	4684	LUNDE MARINE	payment on electro...	NEW BOAT	c	-70,000.00
8/16/02	4686	MARINE SHIP SUPPLY	safety equipment	NEW BOAT	c	-6,340.30
8/23/02	4687	WAHL CONSTRUCTION		NEW BOAT	c	-250,000.00
8/30/02	4692	coos bay marine	skiff motor	NEW BOAT	c	-1,200.00
9/3/02	4695	nicks boats	skiff	NEW BOAT	c	-1,020.00
9/17/02	4700	CAPTAINS	charts	NEW BOAT	c	-338.42
9/18/02	4702	WAHL CONSTRUCTION		NEW BOAT	c	-250,000.00
9/26/02	4705	WAHL CONSTRUCTION	final payment	NEW BOAT	c	-153,432.00
9/29/02	4707	CURRY MARINE	antifreeze	NEW BOAT	c	-915.00
10/5/02	4709	JOHN T CURRY	SURVEY	NEW BOAT	c	-525.00
10/5/02	4710	LUNDE MARINE	ELECTRONICS	NEW BOAT	c	-5,478.65
11/12/02	4736	jensen maritime		NEW BOAT	c	-696.18
11/16/02	4740	jensen maritime		NEW BOAT	c	-4,232.12
11/23/02	4742	DNV	admeasurements	NEW BOAT	c	-3,619.00
12/15/02	4756	NORTHWEST PROPELLOR	block0	NEW BOAT	c	-2,995.50
1/13/03	4779	WAHL CONSTRUCTION		NEW BOAT	c	-764.41
2/1/03	4785	WAHL CONSTRUCTION		NEW BOAT	c	-2,277.00
4/29/03	4829	pacific maiden	fish pump	NEW BOAT	c	-3,500.00
9/30/03	4893	BALLARD OIL	cetrafuge	NEW BOAT	c	-826.36

Register Report  
9/9/99 Through 6/4/04

Date	Num	Description	Memo	Category	Clr	Amount
TOTAL 9/9/99 - 6/4/04						-2,194,477.84
TOTAL INFLOWS						0.00
TOTAL OUTFLOWS						-2,194,477.84
NET TOTAL						-2,194,477.84

4% INFLATION charge For Same Boat 1 year later

**\$ 87,779.11**



**EXHIBT 2**



**Northwest Washington Commercial Banking**

PD-WA-3483  
607 Pacific Avenue  
Bremerton, WA 98337-0064  
360 478-5431  
360 478-5404 fax

January 28, 2004

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

Re: Controller Bay Joint Venture, F/V Controller Bay  
Richard L. Miller, Allen M. Edgar

Dear Council Members:

I am writing you this letter to express our desire for the F/V Controller Bay to be granted the full fishing rights it deserves.

In 2000, Controller Bay Joint Venture requested a commercial loan from U.S. Bank to cover some of the final construction costs for its new fishing vessel "Controller Bay" to be built at Fred Wahl Marine in Reedsport, Oregon.

In December of 2000, U.S. Bank was notified from Controller Bay Joint Venture that the fishing rights for the new contemplated vessel were nullified under a ruling from the North Pacific Fishing Council. Therefore, U.S. Bank put the loan on hold until further verification could be received that the Controller Bay would receive its rights back.

Then in early 2002, Controller Bay asked us to go ahead with our loan application, as they had found out they had 100% of their pro-rata fishing rights after the sinking. As part of our due diligence in the credit granting process, we had our attorney verify that the fishing rights of the old fishing vessel "Controller Bay" which was lost in 1999 transferred to the new fishing vessel being constructed. After consulting with NMFS in April 2002, our attorney was told that the Controller Bay had its full 100% fishing rights after the sinking.

Therefore, the funding for Controller Bay Joint Venture's advances for final construction costs were approved by U.S. Bank, and the loan was funded in August 2002 and the vessel was launched in September 2002.

As U.S. Bank's credit approval policy requires each entity to demonstrate sufficient cash flow from its operations, U.S. Bank would not have approved the funding of the loan in August 2002, had it been determined that there would ever be any problems in the future with the fishing rights for the new "Controller Bay" fishing vessel. As U.S. Bank is monitored by the Comptroller of the Currency, we have to classify our loans based on the ability of the operations of the borrower to cover its expenses and loan payments from revenues generated in the normal course of business.

U.S. Bank had granted the loan for the "old" Controller Bay fishing vessel, which had been paid off in full prior to the loss of that vessel. Therefore, U.S. Bank had the record of the old fishing vessel operations to use to determine the cash flow abilities along with projections with the new Controller Bay vessel in the credit granting process.

Please do everything in your powers to restore the 100% fishing rights to Controller Bay Joint Venture. Please let me know if you have any questions. I can be reached by telephone at 360-478-5432 or our toll free number, 800-792-6497 or via email at [margaret.lemay@usbank.com](mailto:margaret.lemay@usbank.com).

Sincerely,

*Margaret A. LeMay*  
 Margaret A. LeMay  
 Assistant Vice President

cc: Controller Bay Joint Venture

**CUSTOMER ACCOUNT ADJUSTMENT**

DATE	PREPARED BY	PHONE NUMBER
5/21/02	<i>Stouck</i>	360-478-5431
APPROVED BY	DEPT. NUMBER	BRANCH/OFFICE #
	1550534	3483
DESCRIPTION		
Debit acct for attorney's fees for new note CCL # 0608760074		
OFFSET ENTRY	153590338197	
ACCOUNT NAME	CONTROLLER BAY JT. VENTURE	

**DEBIT**

CUSTOMER LOCATION NUMBER \*

ROUTING NUMBER \*

12-DIGIT ACCOUNT NUMBER \*

AMOUNT \$

072-2180NS 22116-7 2/98

**EXHIBT 3**

# Legal Fees

6/6/04

CON BAY JV

Register Report  
10/9/00 Through 12/1/03

Page 1

Date	Num	Description	Memo	Category	Clr	Amount
						-407.55
10/9/00	4576	WHITE & THOMPSON INC		L&P	C	-3,500.00
10/19/00	4577	AEGUUS CORPORATION		L&P	C	-600.00
10/24/00	4578	HOUSE REPUBLICAN C...		L&P	C	-600.00
10/24/00	4579	SENATE REPUBLICAN ...		L&P	C	-600.00
10/27/00	4580	house democrat com...		L&P	C	-600.00
10/27/00	4581	senate democrat co...		L&P	C	-450.00
11/14/00	4586	ROBERT A GREEN		L&P	C	-3,500.00
11/16/00	4587	AEGUUS CORPORATION		L&P	C	-168.00
12/2/00	4588	Mundt MacGreger		L&P	C	-2,304.00
1/11/01	4591	ROBERT A GREEN		L&P	C	-3,500.00
2/5/01	4593	AEGUUS CORPORATION		L&P	C	-100.00
2/24/01	4594	WHITE & THOMPSON INC		L&P	C	-4,368.20
2/26/01	4595	AEGUUS CORPORATION		L&P	C	-260.00
3/13/01	4596	THERESA SKAGEN		L&P	C	-651.60
3/13/01	4597	Mundt MacGreger		L&P	C	-3,500.00
3/18/01	4598	AEGUUS CORPORATION		L&P	C	-79.12
3/19/01	4599	Mundt MacGreger		L&P	C	-4,176.00
3/19/01	4600	ROBERT A GREEN		L&P	C	-350.00
3/19/01	4601	WHITE & THOMPSON INC		L&P	C	-3,500.00
4/2/01	4602	AEGUUS CORPORATION		L&P	C	-1,560.00
4/10/01	4603	Mundt MacGreger		L&P	C	-442.75
4/23/01	4604	WHITE & THOMPSON INC		L&P	C	-3,500.00
5/2/01	4605	AEGUUS CORPORATION		L&P	C	-658.08
5/14/01	4606	ROBERT A GREEN		L&P	C	-1,072.50
5/14/01	4607	Mundt MacGreger		L&P	C	-173.29
5/14/01	4608	Mundt MacGreger		L&P	C	-130.00
6/1/01	4609	Mundt MacGreger		L&P	C	-3,500.00
6/1/01	4610	AEGUUS CORPORATION		L&P	C	-3,500.00
6/15/01	4611	AEGUUS CORPORATION		L&P	C	-916.50
6/15/01	4612	Mundt MacGreger		L&P	C	-249.70
7/10/01	4613	Mundt MacGreger		L&P	C	-3,500.00
7/10/01	4614	AEGUUS CORPORATION		L&P	C	-2,702.44
9/5/01	4615	Mundt MacGreger		L&P	C	-130.00
9/01	4616	Mundt MacGreger		L&P	C	

Register Report  
10/9/00 Through 12/1/03

Date	Num	Description	Memo	Category	Clr	Amount
9/7/01	4617	AEQUUS CORPORATION		L&P	c	-3,500.00
10/9/01	4618	AEQUUS CORPORATION		L&P	c	-3,500.00
10/9/01	4620	WHITE & THOMPSON INC		L&P	c	-895.00
10/18/01	4621	WHITE & THOMPSON INC		L&P	c	-30.00
10/31/01	4623	Mundt MacGreger		L&P	c	-215.39
11/13/01	4624	Mundt MacGreger		L&P	c	-52.00
11/21/01	4626	WHITE & THOMPSON INC		L&P	c	-220.00
12/4/01	4627	AEQUUS CORPORATION		L&P	c	-3,500.00
12/5/01	4628	Mundt MacGreger		L&P	c	-38.06
1/2/02	4630	WHITE & THOMPSON INC		L&P	c	-340.00
2/21/02	4636	WHITE & THOMPSON INC		L&P	c	-220.00
2/25/02	4638	Mundt MacGreger		L&P	c	-113.00
3/11/02	4640	THERESA SKAGEN		L&P	c	-260.00
3/26/02	4644	WHITE & THOMPSON INC		L&P	c	-858.70
4/3/02	4649	Mundt MacGreger		L&P	c	-54.00
5/28/02	4671	Mundt MacGreger		L&P	c	-403.00
7/22/02	4682	WHITE & THOMPSON INC		L&P	c	-55.00
8/16/02	4685	Mundt MacGreger		L&P	c	-756.00
8/26/02	4688	AFCG		L&P	c	-3,000.00
8/26/02	4689	Mundt MacGreger		L&P	c	-675.00
8/26/02	4691	WHITE & THOMPSON INC		L&P	c	-22.00
10/5/02	4711	Mundt MacGreger		L&P	c	-358.56
10/26/02	4722	Mundt MacGreger		L&P	c	-999.00
10/26/02	4726	WHITE & THOMPSON INC		L&P	c	-88.00
11/24/02	4744	Mundt MacGreger		L&P	c	-153.06
12/7/02	4750	Mundt MacGreger		L&P	c	-3,092.00
12/15/02	4760	S us bank visa		L&P	c	-569.33
1/13/03	4777	WHITE & THOMPSON INC		L&P	c	-179.30
2/1/03	4784	WHITE & THOMPSON INC		L&P	c	-420.00
2/1/03	4786	Mundt MacGreger		L&P	c	-7,707.40
3/2/03	4797	Mundt MacGreger		L&P	c	-1,003.95
3/2/03	4798	WHITE & THOMPSON INC		L&P	c	-97.50
3/7/03	4801	THERESA SKAGEN		L&P	c	-360.00
3/20/03	4816	WHITE & THOMPSON INC		L&P	c	-502.50
3/28/03	4820	Mundt MacGreger		L&P	c	-55.00

Register Report  
 10/9/00 Through 12/1/03

Date	Num	Description	Memo	Category	Clr	Amount
4/21/03	4826	WHITE & THOMPSON INC		L&P	c	-1,447.34
5/12/03	4836	AFCG		L&P	c	-3,000.00
5/22/03	4841	WHITE & THOMPSON INC		L&P	c	-400.00
8/16/03	4865	THERESA SKAGEN		L&P	c	-310.00
8/16/03	4866	WHITE & THOMPSON INC		L&P	c	-38.40
9/4/03	4874	Mundt MacGreger		L&P	c	-555.18
9/22/03	4890	AFCG		L&P	c	-3,000.00
11/25/03	4934	WHITE & THOMPSON INC		L&P	c	-40.00
TOTAL 10/9/00 - 12/1/03						-98,333.40
TOTAL INFLOWS						0.00
TOTAL OUTFLOWS						-98,333.40
NET TOTAL						-98,333.40

EXHIBT 4



LOST INCOME  
10/25/02 Through 11/7/03

Date	Num	Description	Memo	Category	Clr	Amount
10/25/02		red king 2002		red king 2002	c	170,000.00
11/12/02		red king 2002		red king 2002	c	35,576.33
11/14/02		red king 2002	final adjustment	red king 2002	c	2,055.21
1/4/03		MERINO SEAFOODS		C.B DUNGY 02-03	c	10,000.00
1/13/03		MERINO SEAFOODS		C.B DUNGY 02-03	c	70,000.00
2/14/03		con bay 03 opys		con bay 03 opys	c	205,704.22
2/14/03		MERINO SEAFOODS		C.B DUNGY 02-03	c	61,541.14
3/14/03		con bay 03 cod		con bay 03 cod	c	81,333.22
9/3/03	S	TRIDENT SEAFOODS		03 tendering	c	102,179.06
10/1/03	S	con bay 03 cod		con bay 03 cod	c	47,100.00
10/8/03	S	TRIDENT SEAFOODS		03 tendering	c	35,020.94
11/7/03	S	03 red crab		03 red crab	c	324,794.64
11/7/03	S	con bay 03 cod		con bay 03 cod	c	43,927.86
TOTAL 10/25/02 - 11/7/03						1,189,232.62
TOTAL INFLOWS						1,189,232.62
TOTAL OUTFLOWS						0.00
NET TOTAL						1,189,232.62