



Minutes of the Sixth Plenary Session
North Pacific Fishery Management Council
April 27-28, 1977
Loussac Library, 427 F Street
Anchorage, Alaska

The regular meeting of the North Pacific Fishery Management Council was held in Anchorage, Alaska at the Loussac Library (427 F Street) on April 27th and 28th, 1977. Those present are listed in Appendix A.

The Council meeting was called to order on Wednesday, April 27, 1977 by Chairman Elmer Rasmuson at approximately 8:40 a.m. The Council's Advisory Panel and Scientific and Statistical Committee met with the Council until approximately 10:00 a.m., at which time they broke for the remainder of the day, into their own separate meetings. A closed session was held in the Loussac Library from 1:30 to 3:30 p.m. Council members, Advisory Panel members, and Scientific and Statistical Committee members with SECURITY clearances were in attendance. The Council reconvened to hear public testimony from 3:30 p.m. to 5:30 p.m. at which time the Council recessed for the day.

The Council was reconvened on Thursday morning, April 28, 1977 by Chairman Rasmuson at 8:40 a.m. The meeting was adjourned at 3:30 p.m.

The provisional agenda for the Council meeting was approved and is included in Appendix B. The minutes of the March 21-22, 1977 Council meeting, which had been mailed out to all Council members, were deferred for comment and subsequently approved with minor changes during the second day of the meeting (Appendix C).

THE EXECUTIVE DIRECTOR'S REPORT

The Executive Director, Jim Branson, presented his Director's report which included the following:

- o The Council had received a grant allocation of \$933K for FY77. This amount represents \$182.8K allotted for the first half of FY77, \$200K for contract funding, and \$550.2K for Council operations, including the developmental costs for management plans (\$109K).

- o Funding for the salmon tag recovery program off south-east Alaska had been approved (\$58.7K) and would be allocated from the Council's budget, administered through Northwest and Alaska Fisheries Center (NWAFC) and contracted to the Alaska Department of Fish and Game (ADF&G).

In a later report Steve Pennoyer, Vice-Chairman of the Scientific and Statistical Committee, said that the ADF&G was obtaining legislative clearance to accept this grant.

He said that the project would begin on May 1 and would monitor the entire 1977 salmon season. Delays in contract approval were discussed. The Council asked Harry Rietze, Director, NMFS, to look into the problem.

- o Procurement standards were submitted for Council review and are expected to be approved at the May Council meeting.
- o A Federal contract school has been scheduled for May 9-13, 1977 in Anchorage. It was requested that Judy Willoughby, Administrative Officer, attend. The Council on Thursday approved a motion authorizing Willoughby to attend and the Council to pay the \$165 registration fee.
- o A report that bids for an audit of the Council books had been received and it appeared that an audit would cost approximately \$1500. A decision to select an auditor was deferred until the May Council meeting.
- o A report on the meeting of all Regional Council's, Executive Directors in Charleston, South Carolina, March 28 and 29. The meeting resulted in a list of specific problems and unanswered questions from the Councils to be answered by NOAA and NMFS.
- o A sample newsletter has been prepared and pending Council approval will be mailed shortly after each meeting. The cost will be approximately \$100 per issue for a mailing of 500. The Council, on Thursday, approved the concept and authorized the staff to proceed.
- o A report that several Council members and staff had made public appearances. The Council reiterated its approval of this kind of activity to promote maximum public exposure.
- o A request that photos be taken of all Council members, SSC members and AP members at the May meeting for use in news releases. This would hopefully help familiarize the public with Council business.

- o The status of the NOAA research vessel OREGON was discussed. It has been scheduled for disposition by the end of FY77 with another NOAA ship the GEORGE M. BOWER. The Council discussed the urgent need to retain the OREGON as a research vessel to continue stock assessment and other fisheries survey work off Alaska.

Councilman John Harville, Executive Director, Pacific Marine Fisheries Commission introduced a letter he had written to Ted Stevens which conveyed his thoughts on the matter from an early letter to Subcommittee Chairman Ernest Hollings. Harville told the Council that he had testified at the Senate Hearings and submitted a letter of strong disagreement with the proposal from NOAA to retire the R/V OREGON from active service.

Councilman James Brooks, Commissioner of the Alaska Department of Fish and Game (ADF&G) said that the Department was planning to fund the construction of a new research vessel and would consider the possibility of buying the OREGON to make it available for future Alaskan fisheries work, but the State of Alaska did not have funds for operating the OREGON.

Councilman Don McKernan expressed dissatisfaction with the possibility of the OREGON not being available for other research groups if the State of Alaska purchased it.

Further discussion indicated that the OREGON was a very useful and productive boat and should not be lumped with the BOWER as average and unusable.

On the second day the Council unanimously approved a motion which stated "We recommend that the OREGON be maintained and retained for use until a new ship is allocated and in place." The motion was seconded and unanimously carried. (A letter has been written to Commerce Secretary Kreps relaying the Council's wishes and is included as Appendix D).

- o An announcement that the Statement of Organization, Practices and Procedures had been published in the Federal Register was made. It was pointed out that this was the first SOPP to be published in the Federal Register and was being used as a model by other Councils.

The Executive Director's report is Appendix E.

COMMUNICATIONS

The Council received a letter of resignation from Judith Ayres of the Advisory Panel. In the Advisory Panel meeting the resignation and possible replacements were discussed. The Council asked any interested persons to submit their recommendations to Councilman Chuck Meacham, Chairman of the Nomination Committee.

Jack Cotant, Chairman of the Advisory Panel, submitted a letter suggesting he resign as Chairman of the Panel because of time problems with his other activities. This was accepted by the Advisory Panel and by the Council. The Advisory Panel then recommended Keith Specking for Chairman. The Council unanimously endorsed this recommendation.

A letter from Ambassador Ridgway (Appendix F) reporting that official notification had been given Canada of U.S. intent to withdraw from The Convention for the Preservation of Halibut Fishing in the North Pacific Ocean and Bering Sea. General Council discussion emphasized the complexities of renegotiating the Treaty but deferred final action, until recommendations are received from the halibut work study group. Their report is scheduled at the May meeting.

A letter from Dr. White, Administrator of NOAA, (31 March 1977) discussing Council interaction with the Marine Fisheries Advisory Council (MAFAC) was discussed by the Council. It requested a consultant be appointed to MAFAC from each Regional Management Council. The Council deferred action on this matter until the second day.

In the discussions it was pointed out that Chairman Rasmuson, Councilman Clement Tillion and SSC member Don Bevin are members of MAFAC. Input into MAFAC was considered valuable for this Council: but preferably as a participant and not as an advisor or consultant. With that understanding the Council directed a letter be sent to Dr. White indicating the Council's appreciation for the invitation by White but suggesting active Council participation with MAFAC by appointing a North Pacific Fishery Management Council representative to MAFAC. (A letter has been sent and is Appendix G).

Correspondence from NMFS Director Robert Schoning (April 13, 1977) contained information on the current status of applications received and permits issued for foreign vessels. For the Alaska area permits were issued for 351 Japanese fishing vessels and 70 support vessels; 4 Polish fishing vessels and 2 support vessels; 28 South Korean fishing vessels; 4 Tiawanese fishing vessels and 138 U.S.S.R. fishing vessels and 70 support vessels. Totals off Alaska include 525 fishing vessels and 142 support vessels.

A letter from Mr. David Wallace, Marine Resources, NOAA, (March 3, 1977) in response to a letter (December 23, 1976) from Chairman Rasmuson in which the Council requested \$670,000 for fishery development activities received considerable attention from the Council.

The letter pointed out that while the Act encouraged the development of under-utilized fisheries it did not authorize the Councils, to undertake or to fund fishery development, market research and product promotion projects. Council members generally agreed with this approach but restated the need for Council participation in fisheries development projects.

A letter from Mr. Harry Rietze, Director, NMFS, Alaska Region, (April 12, 1977) was introduced. It proposed that a fisheries development steering committee be established to coordinate the efforts of industry, government agencies and universities to accelerate an Alaskan effort for groundfish. Walt Jones, NMFS, in a report to the Council elaborated on the steering committee proposal.

The Council discussed a steering committee as it related to the following: (1) the necessity of an industry-partnership to satisfy Office of Management and Budget (OMB) requirements, (2) the ability of the steering committee to effectively coordinate regional efforts, (3) potential conflicts with the steering committee and overlapping management plan responsibilities, and (4) the possibility of an extension of effort beyond the primary responsibilities of Council.

The Council unanimously approved a motion to defer the matter until industry could be consulted. The matter was then referred to the Advisory Panel for review, discussion and their recommendations.

On the second day the Advisory Panel recommended to the Council that the Advisory Panel serve as a committee of the whole to accelerate development of an Alaskan groundfish fishery. They further stated that they would begin this effort by distributing 15 to 20 questionnaires, each, throughout the industry to solicit comments. The questionnaire is being formulated by Walt Jones. The Council approved the Advisory Panel recommendation.

A letter from Representative Al Osterback, Chairman of the Alaska Legislature House Resources Committee (19 April, 1977) dealing with a research proposal which had been submitted for the Alaska Interim Resources Committee to review was presented to the Council. The objective of the

research proposal was "That Alaska should capture and market the marine resources of the 200-mile Limit Zone on a sustained yield basis and return the profitability of that resource harvest to the people and the State of Alaska." There was no discussion on the proposal and no Council action.

A letter from Governor Ray of Washington (March, 1977) designating Frank Haw as the State of Washington's representative on the Council was introduced. Mr. Haw was not present but was represented by his designee, Mr. Henry Wendler.

The Council considered a memorandum (April 4, 1977) from the Office of Fisheries Management, (F3) NOAA on amendments to the Fishery Conservation and Management Act. The Council was asked to suggest possible changes to the Act by 15 April, 1977.

The Chair explained that reference in the memorandum to "a year's experience" with the FCMA was incorrect insofar as the Council was concerned. He also said that the time frame for responding was not appropriate.

Harville told the Council that U.S. Senator Leggett was concerned about the FCMA and was trying to ascertain whether there might be problems with the Act. Councilman Hank Wendler expressed concern that to suggest amendments this early would be unwise.

In response to the memorandum, the Council directed a letter be written containing the following information: (1) the Council's have not operated within the FCMA for one year, (2) the time allowed for response on so important a matter was not appropriate and (3) copies of the letter should be sent to all other Councils to make them aware of the North Pacific Council's thinking and to let them know we are commenting on the question of amendments. (A letter has been sent and is Appendix H.)

A letter was introduced from Brian Rothschild, Director, Office of Long Range Planning and Policy Development, NMFS, (April 11, 1977) which announced a workshop on The Concept of Optimum Yield in Fishery Management to be held in Houston, Texas on June 6-10. The letter invited the Chairman, the Executive Director, a representative of the SSC and one other member of the Council. The matter was deferred for further discussion and consideration until the second day.

The Chairman announced a conflict which prohibited him from accepting the invitation and subsequently asked Harold Lokken, the Vice-Chairman, to take his place. The Council also authorized Jim Branson, Executive Director, Don Collinsworth, SSC representative, Sig Jaeger, Advisory Panel

representative as the four persons to attend the workshop. Donald Bevan, Lee Alverson and Don McKernan had received separate invitations and would also be attending.

A letter was introduced from Rear Admiral Hayes (April 18, 1977) which outlined potential problems in the enforcement of certain provisions of the U.S.-Canadian Agreement. The letter restated the opinion that State regulations could not be applied to non-Americans outside the three-mile limit. He did not consider that the State of Alaska was a management entity in the sense of Article 8, Paragraph 2. The potential impact from Canadians fishing off Alaska and taking advantage of that interpretation was not considered to be very great. The letter is Appendix I.

NEW BUSINESS

HR 1833 (Aquaculture Bill)

A request was made by Mr. Keith Specking, Alaska State Legislator and member of the Advisory Panel, for Council review of a Bill entitled "The National Aquaculture Organic Act of 1977". Specking asked for the review in order to clarify the position he should take in commenting, on behalf of the State of Alaska on the bill at an upcoming hearing in Seattle. The Chair asked Assistant Executive Director Mark Hutton to meet with Specking to discuss the bill and further to identify areas of concern to this Council not previously addressed in the Bill.

The Council rescheduled this matter as a topic for action on the second day. However, the press of business precluded any further discussion. Specking did receive staff summary and also staff comments on the Bill (Appendix J).

Bering Sea Clam Fishery

An experimental trawl survey for clams in the Bering Sea was discussed by the Council. It is to begin this summer and will be co-sponsored by the Alaska Department of Economic Development, New England Fish Company, Borden Company (Snows Clams), Howard Johnson Company, General Mills Company, and Campbell Soup Company. Both ADF&G and NMFS will participate also. The research effort is projected to cost \$175,000 and will be shared by the State of Alaska (Department of Economic Development) and the private companies involved.

The survey is designed to answer questions concerning the distribution and abundance of clams, the status of the clam stocks, potential areas of harvest, the magnitude of a sustainable harvest and develop paralytic shellfish poisoning (PSP) testing techniques and problems.

McKernan commented on the proposal and said that Alaska should be highly concerned about the possibility of a destructive clam fishery. Brooks said that the clam fishery could be properly managed so as not to be destructive. The question was then raised as to whether or not this exploratory cruise would require an environmental impact statement?

The matter was referred to the Scientific and Statistical Committee for review since a management plan would be needed for this fishery. They studied the matter and made the following report to the Council on the second day.

Carl Rosier, SSC member, stated that there was not enough information to develop a management plan for clams. Brooks told the Council that there was considerable information available from the University of Alaska and that with the help of the National Marine Fishery Service and the Department of Fish and Game a management plan could be developed for clams.

A motion was made by Wendler which requested the SSC to designate a management team to begin a management plan for the clam fishery in the Eastern Bering Sea. The Council unanimously approved this motion.

SCIENTIFIC AND STATISTICAL COMMITTEE REPORT

Steve Pennoyer, Vice-Chairman of the Scientific and Statistical Committee (SSC), reported that the SSC had met in the Council office on Wednesday, from 10:00 a.m. until early afternoon and then again from 8:00 p.m. until 11:00 p.m. Pennoyer's report touched on the following items.

- o The SSC studied the problem of the discharge of organic fish waste into the marine environment dividing the study into two categories. They reported that salmon waste, which had been studied extensively, created virtually no ill effects to most receiving waters. The results from discharging shellfish waste were not clear and the subject had not been thoroughly studied. Pennoyer said that the shellfish portion of the report was incomplete and asked the Council to reschedule that portion of the report for the May meeting, which they did.
- o The SSC reviewed the status of the R/V OREGON: Council discussion and the action taken is found on page 3 of these minutes.
- o Pennoyer reported on the coded wire salmon tagging recovery program off southeast Alaska which is discussed on page 2 of these minutes.

- o The Scientific and Statistical Committee recommended the Council approve and accept Don Collinsworth as the replacement for Bernard Skud as the 10th SSC member. It was pointed out that Mr. Collinsworth has a highly desirable background in socio-economic work, is a competent economist and has just currently begun employment with the Alaska Department of Fish and Game as their extended jurisdiction coordinator coming to that post from Alaska's Commercial Fisheries Entry Commission.

The Council unanimously accepted this recommendation.

- o Pennoyer reported that the guidelines for socio-economic data and analysis to be used by management planning teams, were progressing well. Some portions had been rewritten and revised but not reviewed but should be available in May for all planning teams. No Council action.
- o Pennoyer reported that the SSC recommended the Council establish a separate working group to (1) consider and prepare terms of reference and (2) formulate an appropriate structure for the INPFC special study group. Pennoyer recommended Mssrs. Don Bevan, Ed Miles, Frank Fukahara, Jack Lechner and a member of the halibut and the salmon management planning teams to work with this group.

The Council unanimously approved a motion authorizing the formulation of this group and its directive.

- o Pennoyer reported that the SSC had studied recommendations for contracts to fund from the Council budget. The Council had indicated that \$200K was appropriated for contract research of which \$58.7K had already been allocated for the salmon tag recovery program.

Only two contract proposals were reported reviewed by the SSC. One the Bristol Bay sockeye forecast study (\$100K) and the other the Alaska Department of Fish and Game data analysis proposal (\$153,000) in support of Council management plans.

The suggestion was made that initiating studies on forecasting Bristol Bay salmon runs Council should wait until initial plans were developed and objectives made

clear for the high seas salmon management plan. In responding to McKernan's question about annual and total costs, Pennoyer said that the Bristol Bay contract was for \$100K the first year, \$110K the second year and \$75K the third year.

Pennoyer reported that the SSC recommended funding of the ADF&G data information system, but not necessarily by this Council.

The Chair asked that by the May Council meeting, the SSC solicit, review and condense appropriate research proposals from various agencies and study them for consideration by the Council and possible funding.

McKernan reminded the Council that they should not finance programs which could be funded by other agencies. He said that the Council had a responsibility to fund unique and special projects: i.e., native herring fishing and the socio-economic impact on the area of non-subsistence fishermen, etc.

Harville suggested that the Council should, (1) look at research needs for developing management plans, (2) get recommendations without concern for funding sources, (3) refer this matter to a budget committee to handle funding appropriations, and (4) use the SSC to provide recommendations to the Council.

The Chair summarized all remarks and asked the SSC to report back to the Council at the May meeting. It was suggested that the Advisory Panel be involved in the SSC review process.

The complete SSC report is Appendix K.

GROUND FISH PROGRESS REPORT

Burt Larkin, Northwest and Alaska Fisheries Center (NWAFC), and head of the planning team for the trawl fishery for the Gulf of Alaska and Bering Sea, reported that the first draft of the Gulf of Alaska Trawl Fishery Management Plan would be available for the Council at the May meeting.

He indicated that the Bering Sea Trawl Fishery Management Plan would come two to three months later, and might possibly involve only modifications to the Preliminary Management Plan. The delay means the PMP must be continued after January 1, 1978 since the Council plan could not be in effect by that date.

Larkin said that the Council's management plan for Gulf of Alaska Trawl Fishery would include the following new provisions: (1) the total allowable catch would be set by individual Gulf of Alaska INPFC areas, (2) more halibut saving, trawl closure areas would be established, and (3) there would be sanctuaries for sablefish longlining for U.S. fishermen.

Meacham commented that various testimony before the Council had indicated the U.S. capacity for harvesting bottomfish was increasing. Brooks asked the question, "has there been a budget developed for an ongoing management regime?"

McKernan questioned the modification of a preliminary management plan for the Bering Sea Trawl Fishery Plan? Larkin stated that there was not time to develop a new plan but he felt that modification of the PMP would be completely adequate for the 1978 Bering Sea and Aleutian Island fisheries. The general question was raised as to legal procedure for modification of a PMP and whether it required Federal Register review and public hearings?

STATUS OF TANNER CRABS IN THE BERING SEA

Dr. Alverson, Chairman of the Scientific and Statistical Committee and Director of the Northwest and Alaskan Fisheries Center, NMFS, Seattle, presented a report on the "Determination of Minimum Size and Yield Limitations for Tanner Crabs in the Eastern Bering Sea" (Sumerton and Low, April 1977). The report (Appendix L) discussed the general distribution and density profiles for tanner crab, Chionoecetes bairdi, C. opilio and C. hybrid. Alverson also discussed the location of the fishery in the Bering Sea, year class variability and its effect on the fishery. He said that four-year old crabs were used in predicting recruitment into the fishery; with mature harvestable males generally 9-11 years old.

The major thrust of his report indicated that there was a major declining trend in the four-year old recruit classes for C. bairdi in the Bering Sea which would result in an 80% reduction, over the next six years, of the number of harvestable male crabs.

The report was given to the SSC for review and comment for the May meeting and also for general use in preparation and review of the tanner crab management plan which will also be presented in May.

ADVISORY PANEL REPORT

Nick Szabo, Vice-Chairman of the Advisory Panel reported that the Panel had met on Wednesday beginning at 11:00 a.m., concluding at 3:30 p.m. and then again at 7:30 p.m., concluding at 10:30 p.m. His report covered the following topics and is included as Appendix M.

- o The resignation of Judith Ayres from the Panel and of Jack Cotant as Chairman. Recommended Keith Specking to replace Cotant as Chairman.
- o A recommendation that the following individuals be named as advisors to the management plan drafting teams. Troll salmon management plan: Jack Cotant and Alan Otness. Trawl fishery management plan: Bob Alverson and Oral Burch. Tanner crab fishery plan: Chuck Jensen and Sig Jaeger. High seas salmon management plan: Truman Emberg, Bud Boddy and Paul Guy.
- o Panel recommendation on the steering committee issue which was mentioned previously on page 5.
- o Discussion of the concept of foreign ownership and foreign investment in the commercial fishing industry in Alaska. Szabo said the Panel recommended Council support of the AuCoin-Stud Bill, H.R. 2564, with the exception of not supporting Section 2, part 204(b)(1) This Act requires 75% U.S. ownership in vessels to qualify for U.S. priorities and privileges.

In discussing foreign ownership Szabo said the Panel also discussed processing facilities and the need for legislation to prevent new foreign equity capital from exceeding 50% in the fishing industry.

The Council asked Carl Price to report at the May meeting on U.S. policies governing this foreign investment in U.S. industry.

- o The need for a flexible quota in the management plans. The AP recommended that the domestic quota should have the flexibility to systematically increase if a larger U.S. harvest develops than indicated by pre-season predictions. Their recommendation was that the Council consider a mechanism to be incorporated in the management plans by which the foreign allocation could be adjusted as the domestic catch increased.

Lokken questioned the recommendation only to ask if the reverse could be true; i.e., if the U.S. catch were less than predicted would the foreign catch be adjusted upward?

The Council's discussion and recommendations were generally in accord with the Advisory Panel, in that the total allowable catch should not be exceeded, for any species under any circumstances, and first consideration will be given U.S. fishermen as catch trends change.

- o The Advisory Panel requested the Council to make available a NMFS investigative report of the export of small halibut by Eastern Products Company Limited of Tokyo to Amendi and Scultz Inc. of San Francisco. The Council concurred with the request and asked Harry Rietze, Director NMFS, to handle the matter.
- o Jay Gage, from the Advisory Panel, reported that as President of Peter Pan Seafoods, which is 100% owned by the Bristol Bay Native Corporation, his interests depended upon guaranteed fishermen deliveries. Gage said that American fishermen selling to foreign processors would undermine his operation. He could not compete with an operation which had no minimum wage requirement and was not subject to the same taxes and controls as U.S. industry.

MANAGEMENT PLANNING TEAM - TANNER CRAB AND TROLL SALMON

Steve Pennoyer reported to the Council that the tanner crab management plan and troll salmon management plan were developing on schedule. The tanner crab plan will be presented in May and the troll salmon plan in August.

TANNER CRAB MARKETING REPORT (Appendix N)

Don Rosenberg, SSC member, and Director, Alaska Sea Grant Program, reported that all data had been gathered for the tanner crab processing capability short-term study. He said that in two weeks the data would be summarized and would be made available to the Council, to the SSC and to the Tanner Crab Management Team. He said that industry cooperation had been good although there had been some reluctance by some processors to release information despite the guarantee of confidentiality.

FINANCE COMMITTEE

The Chair recommended Messrs. McKernan, Hank Eaton, Rasmuson, Meacham and Lokken serve as a finance committee to act on contract and procurement as specified in the Council's procurement standards. The recommendation further specified that any three members could act on a contract proposal, but that no action would be taken without consultation with the Scientific and Statistical Committee concerning research contracts. The recommendation was unanimously accepted.

FOREIGN FISHING PERMIT REVIEW

The Council heard two reports relating to foreign permit applications.

Mr. Rietze requested the Council reconsider 31 independent Japanese tanner crab permit applications for the Northwest Bering Sea. The permit requests had been turned down at the March Council meeting because the applications did not meet Department of Commerce requirements for U.S. observers on board and crab deliveries only to designated factory ships.

The motion at the March meeting which recommended not approving the applications specifically stated "at this time". Mr. Rietze suggested to the Council that now an agreement had been worked out with the Japanese Fishery agency to provide guarantees for the enforcement and observer problems the applications should be reconsidered.

Mr. Rietze told the Council that the proposed agreement would make a Japanese fishing agency patrol boat with two U.S. observers on board available to patrol the area at all times. That boats fishing in the area would be required to report daily catches and positions and would not be allowed to offload crab without a U.S. observer present. The ships would have to check in and out of the zone and would have to be inspected by a U.S. observer before leaving the area in a manner allowing all catch aboard to be estimated.

The Chair asked for comments from the crab fishing industry regarding their plans for exploratory fishing for 1977 in the Triangle Area in the Northwest Bering Sea. Thomas Casey, Manager, United Fishermen's Marketing Association in Kodiak told the Council that there were several U.S. tanner crab boats preparing to explore that portion of the Bering Sea this summer. Casey also said that the U.S. fishermen in the Bering Sea would prefer to have the Japanese mother ship tanner crab fleet, fishing that area and not the independent tanner crab fleet that has applied for the applications.

Mssrs. Brooks and Rietze, in discussing the quota, stated that 2,727 metric tons of tanner crab were allocated for that area and that if it was not taken by the 31 independent crab boats it would be taken by the mother ship fleet.

Hank Eaton said that it was physically impossible to guarantee vessels checking in and out of the zone and to guarantee fishing locations and the accuracy of the reports for the area. Admiral Hayes concurred with these remarks and stated that the Coast Guard would patrol that area. He did, however, emphasize that there was a chance for major error and that added patrol effort for the Triangle Area would dilute enforcement and surveillance in other important, critical areas.

The motion and second to reconsider and approve the permit applications for 31 Japanese independent tanner crab permits, based on the newly formulated enforcement and management guarantees, was rejected (defeated). The roll call vote was 5 no and 3 yes with Mssrs. Rietze, Brooks, McKernan - yes and Mssrs. Rasmuson, Meacham, Lokken, Wendler, and H. Eaton - no. Voting members Tillion, Mace and Eaton (Douglas B.) were absent.

The second report (Appendix O) was submitted by the subcommittee studying foreign permit applications. (This subcommittee was appointed at the January Council meeting and consisted of Mssrs. Rietze, Brooks, Giffin, Eaton, Price, Fukuhara, Naab, Specking, Emberg, Jensen, Jaeger and Olsen, as well as any other Council persons wishing to participate.)

Subcommittee Chairman Specking reported that the subcommittee had reviewed 13 foreign permit applications. He said the subcommittee recommended approval of the following applications:

- o #3 Chil Bo San Ho (KS-77-0074)
- o #5 Chil Bo San Ho (KS-77-0075)
- o #6 Chil Bo San Ho (KS-77-0076)
- o Anyo Maru #11 (JA-77-20541-P)
- o Shinsei Maru #2 (JA-77-20319-B)
- o Hoyo Maru
- o Jimin 305 (to replace the So Gong 51)

The Council accepted the recommendation of the subcommittee with no discussion and voted unanimously to recommend approval of these applications.

Specking told the Council that the subcommittee, after reviewing the other six applications, recommended the following: "That the Secretary not approve the permits for the six Korean Marine Industrial Development Corporation support vessels until the North Pacific Council submits its recommendation following their May meeting. The deferral was made to resolve several legal issues surrounding the grant of these permits."

The six applications recommended for disapproval were for South Korean vessels belonging to the Korean Marine Industrial Development Corporation intended for use in the Gulf of Alaska to buy raw fish from American fishing vessels and process it on board.

The Council had heard testimony at the March 27 and April 27 public hearing portions of the regular Council meetings from several witnesses relating to the proposed joint venture (see page 20 these minutes and page 8,9 of March minutes). On April 28, following the subcommittee recommendation, the Council further discussed not only the KMIDC/Devanny proposal, but also the broad policy implications of foreign processing of domestic caught fish in the Fishery Conservation Zone. The discussion included the following comments.

Vice-Chairman Harold Lokken stated that he opposed approving the permit applications because if approved they would replace U.S. labor and U.S. standards with Korean standards: i.e. OSHA, state, federal and local tax structures, EPA, etc. He felt also there would be little or no opportunity for the U.S. labor force to compete against cheaper Korean, Japanese, Soviet Union, Republic of China, and Peoples Republic of Poland operations. Other companies could also propose ventures which could ultimately affect our high seas salmon and halibut stocks. In summary, Lokken told the Council the venture could be disastrous as it affected our current U.S. harvesting/processing capacity and future potentials for developing new fisheries.

Charles Meacham told the Council he felt this venture would ultimately lend assistance to the domestic industry to develop the bottom fishery. He further stated that there were at least three different legal opinions on this issue, of which one did not believe permits were required for foreign processing or transporting vessels.

Meacham then introduced a supporting letter (Appendix P) from Alaska Attorney General Avrum Gross which presented the State opinion on three basic issues of the FCMA: (1) can foreign vessels be used to transport and/or process domestic

caught fish; (2) are the fish accepted by these foreign vessels, deducted from that foreign nation's allocation or from the domestic allocation; and (3) what specific activities constitute transportation and processing under the FCMA.

In summary, the letter concluded that transportation and processing by definition and intent of the Act, are not fishing. This then precludes the requirement for any transportation and/or processing vessels to obtain foreign fishing permits. The opinion also states that because of the definition of fishing the Act intends that U.S. caught fisheries resources, no matter by who processed or transported, would always count against the U.S. quota. Regarding the third issue of defining support, processing, and transportation activities, the letter states that the legislative history and the FCMA reveals nothing which resolves this question.

Council members Rear Admiral Hayes and John Harville indicated that if they could vote they would favor not approving the foreign permit applications. Both Brooks and McKernan commented that there were major legal issues which, if answered, could possibly guide the Council's actions.

In summary, Chairman Elmer Rasmuson offered the following comments. The Chairman told the Council that the issue related to two problems: (1) are we going to give a degree of protection or aid to our domestic processing industry, and (2) should we take a step-by-step approach so that our domestic fishermen be allowed to catch fish even though the processing industry is not ready to accept the product?

The Chairman said the Council should give very careful thought about supporting a national policy which would require domestic primary processing of all fishery products. Such a requirement, he said, would mean the catching capacity could then be correlated with the domestic processing capacity.

Rasmuson stated that while in Kodiak he learned that an experimental pollock trawl fishery had resulted in large catches of mixed stocks which included considerable numbers of small halibut. Proposals such as the KMIDC/Davenny venture, the Chairman emphasized, could harm the resource by making catches of mixed bottom fish.

The Chairman said that the Council was faced with the serious problem of considering a major policy change in mid-season. He declared that this Council must be consistent and at the very least should support domestic primary processing of fishery products.

In response to the questions of legal interpretation of the FCMA and to McKernan's remarks, the Chairman requested Kim White, NOAA legal counsel and LCMD Ellis, U.S. Coast Guard attorney, to develop an opinion of (1) what is allowed under Public Law 94-265 regarding landings of raw fish beyond three miles to a foreign processor or transporter, and (2) are these opinions based on administrative or legal requirements.

The report requested of Ellis and White is scheduled for presentation at the May Council meeting.

Mr. Wendler moved and Henry Eaton seconded that the Council disapprove the six Korean Marine Industrial Development Corporation permit applications. The motion was passed by a roll call vote of six YES and 2 NO, with Mssrs. Henry Eaton and Meacham - NO, and Mssrs. Rietze, Brooks, McKernan, Rasmuson, Wendler and Lokken - YES. Mssrs. Mace, Tillion and D.B. Eaton were absent.

The permit applications rejected were for the following ships:

- o Gae Chuk Ho
- o Soo Gon #31
- o Bookneung
- o Tae Yang #11
- o Tae Yang #12
- o Tae Yang #15

A letter from Chairman Rasmuson to Commerce Secretary Kreps transmitting the Council's recommendation and outlining the Council's reasons for the action is Appendix Q.

COAST GUARD REPORT

Rear Admiral J.B. Hayes, Commander of the 17th Coast Guard District, reported on Coast Guard enforcement activities in the Fishery Conservation Zone off Alaska (Appendix R).

The Admiral reported that currently there were 76 Japanese units, 42 Soviet units and one Korean unit in Alaska's Fishery Conservation Zone with 50 of the 76 Japanese units, 38 of the 42 Soviet units and the single Republic of Korean unit sighted. He further stated that boardings had occurred on 32 of the 76 Japanese units, 23 of the Soviet units and the Korean vessel. The resultant boarding efficient - 47% - Hayes said was excellent.

Fifteen violations of the FCMA were reported to date, of which 9 were citations and the remaining 6 are pending civil action. The pattern of violations seem to indicate, Hayes

said, only minor misunderstandings of the law. He said that a majority of the citations were for improper ship identification numbers and call signal displays. Other types of incidents were (a) minor amounts of halibut on board; (b) small amounts of crab and salmon on board; (c) destruction of evidence; (d) failure to sort crabs for 15 hours; (e) failure to check into the Fishery Conservation Zone (FCZ) and (f) in the case of the Eikeu Maru #2, a ship's log entry indicating fishing within the 12 mile limit.

The Coast Guard reported that most vessels would not be seized for minor violations. He further stated that NMFS and the U.S. Coast Guard had approved a pre-season joint approach which was not intended to "harrass or unduly cite" foreign operations for minor violations.

McKernan asked if there were areas in which foreign fishing was allowed inside 12 miles? Admiral Hayes reported that there were areas west of Unimak Pass that were open to foreign fishing inside 12 miles.

Carl Price, State Department representative on the Council, presented a summary of East coast Coast Guard activities. He reported that there had been 270 inspections to date resulting in 185 citations and penalties. He said that the Soviet Union had received 101 inspections, 73 citations and 46 civil penalties: Japan had 77 inspections, 25 citations and 2 civil penalties: Spain had 36 inspections, 29 citations and 6 civil penalties: and the Republic of Korea had 1 inspection, 1 citation.

CONGRESSMAN LEGGETT'S OVERSIGHT HEARING

John Harville reported that he had testified before the Leggett Committee oversight hearings on P.L. 94-265 on April 14, 1977 in California. Harville's testimony covered the following topics: (a) emphasis for the need for continuing Council funding support, (b) special request regarding the R/V OREGON, (page 3 of minutes), (c) discussion of state control of vessels and foreign ownership of fishing vessels, (d) logistics and time problems regarding meetings, (e) discussion of the Marine Mammal Protection Act and its relationship to P.L. 94-265 (f) the need for U.S. policy to support U.S. fisheries to take advantage of opportunities available under P.L. 94-265, (g) the Eastland Resolution, (h) GAO Studies, and (i) the National Fisheries Plan.

PUBLIC TESTIMONY

Mr. Harold Sparck, representing Nunam Kitlutsisti, reported on major problems within the Arctic-Yukon-Kuskowim (AYK)

Coastal area. He said that several villages in the area objected to (1) the influx of other Alaskan fishermen into the herring fishery of the Eastern Bering Sea and (2) continued high seas take of chinook salmon by the Japanese. He requested support for a member of the Council from Western Alaska and asked that someone from his area be on the INPFC renegotiation team.

Mssrs. Tom Casey and Clay Cook announced the formation of the North Pacific Ocean Protein Collation. They asked that catches not exceed the total allowable catch (TAC) for any species and supported the expansion of the U.S. processing and fishing industry.

Mr. Bob Ely spoke on behalf of Japanese clients commenting on the penalty provisions of P.L. 94-265. He considered them much fairer than those contained in previous legislation governing fishing off the U.S.

Bob Davenny of Davenny and Associates requested Council approval of permit applications for six Korean processing and transport ships seeking to buy U.S. caught bottomfish. He said the operation expected to harvest 130,000 tons in a twelve month period and they hoped to have a ship on the grounds by July 1 to buy 60 to 80 thousand metric tons in 1977. He said no U.S. boats had been engaged as yet but they were actively seeking 30. Price to the fishermen was expected to be 5¢ a pound for pollock with a 1¢ bonus at the end of the year.

Ed Furia, attorney for New England Fish Company, spoke against the Davenny proposal on the grounds of its negative affect on U.S. industry development and its potential harm to the resource.

John 'Pete' Harris, vice-president of New England Fish Company (NEFCO), stated that the NEFCO expected to develop three bottomfish processing plants in Alaska with the first to be at Kodiak and in operation by October 1, 1977.

Testimony presented before the Council is included as Appendix S.

End of minutes.