

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

DIVISION OF COMMERCIAL FISHERIES

SARAH PALIN, GOVERNOR

P.O. BOX 115526
JUNEAU, AK 99811-5526
PHONE: (907) 465-4100
FAX: (907) 465-2332

July 7, 2007

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

Dear Representative Seaton:

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

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

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

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

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

DISCUSSION OF PUBLIC SUGGESTIONS

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

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

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

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

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

SCALLOP MANAGEMENT DURING 2007 AND AFTER

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

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

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

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

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

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

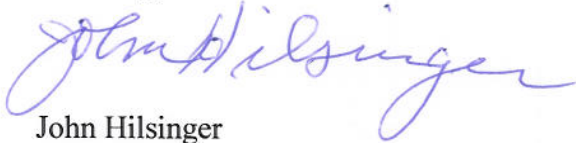
3. Stand alone state fishery. This option would be necessary if effort in the state-waters portion of state/federal scallop beds was sufficient to increase the historic harvest proportion in state waters. The department would manage state-waters separately from the federal waters portion of the same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

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

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

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

Sincerely,

A handwritten signature in blue ink that reads "John Hilsinger". The signature is fluid and cursive, with the first name "John" and last name "Hilsinger" clearly legible.

John Hilsinger
Director
Commercial Fisheries Division