

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

April 23, 2003
8:39 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Peggy Wilson, Vice Chair
Representative Cheryll Heinze
Representative Dan Ogg
Representative Ralph Samuels
Representative Ethan Berkowitz

MEMBERS ABSENT

Representative David Guttenberg

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 25
Supporting Alaska's independent commercial fishermen and
Alaska's fish processing industry and opposing the establishment
of processor quota shares.

- HEARD AND HELD

PREVIOUS ACTION

BILL: HJR 25

SHORT TITLE: COMMERCIAL FISHING & PROCESSOR SHARES

SPONSOR(S): REPRESENTATIVE(S) SEATON

Jrn-Date	Jrn-Page		Action
04/16/03	1008	(H)	READ THE FIRST TIME - REFERRALS
04/16/03	1008	(H)	FSH, STA, RES
04/16/03	1008	(H)	REFERRED TO FISHERIES
04/22/03	1058	(H)	COSPONSOR REMOVED: HEINZE
04/23/03		(H)	FSH AT 8:30 AM CAPITOL 124

WITNESS REGISTER

TAMMY SCHRADER

Homer, Alaska

POSITION STATEMENT: Testified in support of HJR 25.

WALTER TELLMAN
Unalaska Fisherman's Association
Unalaska, Alaska
POSITION STATEMENT: Testified in support of HJR 25.

BOB STORRS, Vice President
Unalaska Native Fisherman's Association
Unalaska, Alaska
POSITION STATEMENT: Testified in support of HJR 25.

BOB NEHUS
Unalaska, Alaska
POSITION STATEMENT: Testified in support HJR 25.

KEN DUCKETT
United Southeast Alaska Gillnetters Association
Ketchikan, Alaska
POSITION STATEMENT: Testified in support of HJR 25.

KEITH GAIN, City Council Member
City of Seldovia
Seldovia, Alaska
POSITION STATEMENT: Testified in support of HJR 25.

FRANK KELTY
Unalaska, Alaska
POSITION STATEMENT: Testified in opposition to HJR 25.

DON GRAVES, Research and Development Manager
UniSea, Inc.;
City Council Member, City of Unalaska
Unalaska, Alaska
POSITION STATEMENT: Testified in opposition to HJR 25.

PHILLIP LESTENKOF, City Council Member
City of Saint Paul
Saint Paul, Alaska
POSITION STATEMENT: Testified in opposition to HJR 25.

SIMEON SWETZOF, Jr., Mayor
City of Saint Paul
Saint Paul, Alaska
POSITION STATEMENT: Testified in opposition to HJR 25.

STEVE MINOR, Public Relations/Fisheries Consultant
City of Saint Paul;
Central Bering Sea Fishermen's Association (CBSFA)

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HJR 25.

JOSEPH CHILDERS, Director

Western Gulf of Alaska Fishermen's Association;

Board Member, United Fishermen of Alaska (UFA);

National Committee Issues Chairman

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HJR 25.

JOHN GARNER, Executive Director

North Pacific Crab Association;

Owner, Northwest Seafoods Company

Seattle, Washington

POSITION STATEMENT: Testified in opposition to HJR 25.

LINDA KOZAK

Kodiak, Alaska

POSITION STATEMENT: Testified in support of HJR 25

DAVID POLUSHKIN

K-Bay Fishing Association

Willow, Alaska

POSITION STATEMENT: Testified in support of HJR 25.

GORDON BLUE

C.R.A.B. Group

Sitka, Alaska

POSITION STATEMENT: Testified in support of HJR 25.

BUCK LAUKITIS, President

North Pacific Fishing Association

Homer, Alaska

POSITION STATEMENT: Testified in support of HJR 25.

JOE MACINKO

Kodiak, Alaska

POSITION STATEMENT: Testified in support of HJR 25.

ACTION NARRATIVE

TAPE 03-25, SIDE A

Number 0001

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at 8:39 a.m. Representatives Seaton, Heinze, Ogg, and Samuels were present at the call to order.

Representatives Wilson and Berkowitz arrived as the meeting was in progress.

HJR 25-COMMERCIAL FISHING & PROCESSOR SHARES

Number 0065

CHAIR SEATON announced that the only order of business would be HOUSE JOINT RESOLUTION NO. 25, Supporting Alaska's independent commercial fishermen and Alaska's fish processing industry and opposing the establishment of processor quota shares.

Number 0116

REPRESENTATIVE OGG moved to adopt Amendment 1, which read [original punctuation provided]:

Page 1, line 2,
After the words "processor quota shares" *insert* the following

in the Bering Sea Aleutian Islands crab rationalization plan.

Page 2, line 2,
After the word "area" Delete the following

and is currently developing a rationalization plan for the Gulf of Alaska groundfish stocks

Page 2, line 7 insert the following Whereas

Whereas to mitigate the affects of Processor Quota Shares the council has adopted port of delivery restrictions and federal binding arbitration amendments, which on their own may create financial hardship on commercial fishermen; and

Page 2, line 18,
After the words "processor quota "shares." insert the following and re-punctuate.

port of delivery restrictions and federal binding arbitration in the Bering Sea/Aleutians Islands crab plan.

Number 0145

REPRESENTATIVE SAMUELS objected for purposes of discussion.

REPRESENTATIVE OGG explained that Amendment 1 is designed to focus the resolution so it reflects what has passed most of the hurdles of the North Pacific Fishery Management Council (NPFMC). He added that there will be a hearing with a select committee on this plan in the U.S. Capitol in the near future. Amendment 1 changes the language within the resolution to clearly focus on the Bering Sea and Aleutian Islands crab rationalization plan.

Number 0468

REPRESENTATIVE SAMUELS offered a friendly amendment to Amendment 1, on page 2, line 2, to add a semicolon after "area".

CHAIR SEATON questioned its necessity.

REPRESENTATIVE SAMUELS withdrew his friendly amendment. He asked about the portion of Amendment 1 that refers to page 2, line 18. He suggested it expands the scope of the resolution and isn't on one topic.

CHAIR SEATON offered his belief that it is one topic. He explained that the language refers to elements of the processor quota share section.

REPRESENTATIVE OGG said there were discussions about including the elements of the crab rationalization plan, but the decision was made to leave those out of the amendment. He said if Chair Seaton believes including them will enhance the clarity of the resolution, he doesn't have a problem with adding them back in.

CHAIR SEATON said a committee substitute will be provided so the members can review [the changes].

REPRESENTATIVE SAMUELS told the members he doesn't believe that portion of the amendment should be included because the point of the resolution is to address the issue of processor quota shares.

REPRESENTATIVE OGG commented that there are other elements of the plan that are of concern.

REPRESENTATIVE SAMUELS asked if the other elements are under the umbrella of this resolution. If not, then he believes there are three different subjects being dealt with in this resolution.

CHAIR SEATON asked Representative Ogg if he would agree to leave [page 2, line 18] out of the amendment.

REPRESENTATIVE OGG responded that he does not agree with removing this portion of the amendment.

Number 0689

REPRESENTATIVE SAMUELS told the members he maintains his objection to the second two portions of Amendment 1, relating to page 2, lines 7 and 18. He explained that the first two sections of the amendment seem to clarify the resolution; however, the second two sections seem to expand it. He asked if the amendment could be split in two, since he had no objection to the first two parts of Amendment 1.

REPRESENTATIVE OGG asked Representative Samuels if changing the title of the resolution would eliminate his concerns.

REPRESENTATIVE SAMUELS responded that if [the resolution] is all about processor quota shares, then he believes it is better not to get into the details of the issue. If the resolution isn't about the processor quota shares, then this part of the amendment really is expanding the scope of the resolution. He told the members he has a problem with that.

REPRESENTATIVE OGG offered his understanding that binding arbitration is part of the crab rationalization plan. He explained that the binding arbitration element is a default result of the processor quota shares; because once processor quota shares was addressed, there was a need to address binding arbitration and port delivery restrictions as part of the plan itself.

CHAIR SEATON suggested that Amendment 1 be divided into two amendments.

REPRESENTATIVE HEINZE said she needs clarification of the Bering Sea Aleutian Islands crab rationalization plan and the rationalization plan for the Gulf of Alaska groundfish.

Number 0960

REPRESENTATIVE OGG moved to divide Amendment 1, with the first two sections as [new] Amendment 1, and the second two sections

as Amendment 2. [No objection was stated, and it was treated as two amendments.]

CHAIR SEATON asked if the members wished to adopt [new] Amendment 1.

REPRESENTATIVE HEINZE said she'd like clarification on the plan before moving forward.

Number 1093

[Chair Seaton handed the gavel to Vice Chair Wilson.]

CHAIR SEATON, sponsor, explained that HJR 25 addresses the Bering Sea Aleutian Island crab [rationalization] plan and the elements that establish processor quota shares. [The concept of] processor quota shares is new and different; it establishes that fishermen will have to deliver their product to certain named processors. Furthermore, 90 percent of the fishermen's catch would have to be delivered to these processors. He reiterated that this is a drastic change because these fishermen will be told where to sell their private property or product.

CHAIR SEATON said the Aleutian Islands crab [rationalization] plan started a number of years ago with fishermen on the downswing of the crab fisheries. It was thought that there should be a change in the structure of management and harvesting of fish so it would be more economical, stretch the season out, and accomplish some conservation goals that can be attempted by a longer-duration in the season.

Number 1220

CHAIR SEATON explained that the plan was modeled slightly on the halibut and sablefish IFQ [individual fishery quota] plan. He said one thing that happened with halibut and sablefish is that once the plan went into effect, the object of the plan was being fulfilled, which was to deliver fish in a way that made them more valuable. The result was that there was a shift in delivery ports to areas that were on the road system; the season lasted eight months instead of a few days; the price of fish was up; and there was a lot more fresh fish on the market. Although the halibut and sablefish plan succeeded in accomplishing the goal of creating more value in the fish, it also shifted some of the ways in which fish were delivered.

CHAIR SEATON said one problem identified with a long season was that processors didn't need the large plants originally used - there was no need to handle a glut of fish at one time. This led to "stranded capital" because a smaller plant could handle the fishery stretched out over time. Processors were concerned about tying up capital in those plants and wanted some way to have that capital compensated. Chair Seaton commented that almost everyone agrees that it is a problem. However, most agree that if there is stranded capital, then there [needs to be] compensation for that capital, the process moves on in the free enterprise system, and everyone is competitive.

CHAIR SEATON suggested that this is a two-quota system. One quota is for fishermen that catch a resource owned by all [Alaskans] and deliver it. This is a mechanism to control resource harvest, he commented. The second is for specified processors who process the fish. He explained that this would tremendously distort the free-enterprise system because now the fishermen cannot sell their product to whomever they wish.

CHAIR SEATON said in the Bering Sea plan, processor quota shares were setup for processors, based on the historic amount [of fish processed]. Fishermen would have to take their fish to these particular processors, based on those percentages. He said 90 percent of the fish would have to go to those existing processors. However, the first element of the plan was that processors that have quotas can process the fish at any plant they wish. Chair Seaton told the members that this plan doesn't create the same stability in the communities that would be expected [historically], because the processors can shuffle where the fishermen have to take their fish. For example, if a processor has a plant in Adak and in Unalaska, it could be decided that the fishermen will have to run to Adak to sell their fish, a 1,000 mile run from the fishing grounds. There would be nothing [fishermen or communities] could do about it, he added.

Number 1399

CHAIR SEATON pointed out that this [plan] creates a distortion if this is the only place a fisherman can sell his fish. Where does price competition come into [the plan]? One processor cannot gain any more fish by raising his price. He reiterated that it does not matter how much the processor pays, there is only so much product coming to them. So as a result price competition between processors goes away. This is how binding arbitration became an element of the plan, and what it means is

that a fisherman would have to sign a contract with a processor before the fisherman knows what the price is. If the fisherman and the processor could not agree on a price, then the federal government would come in, look at the expenses of both parties, and set a price. The fishermen would be bound to that price. Chair Seaton explained that part of the problem then is that the fishermen could not refuse to fish and in fact would be forced to fish whether or not it is economically beneficial. He explained that if the fisherman did not fish for the price offered, then he/she could be sued for loss of profits by the processor.

Number 1548

CHAIR SEATON reiterated that the result of this plan is the total distortion of the free market system. He used the analogy of a farmer who would have to sell all his grain to Archer Daniels Midland [Company]. If a farmer did not sell their product to them, then the farmer could be sued by Archer Daniels Midland [Company] because they lost profit on the grain the farmer did not harvest because it was not economically feasible at the price that was offered.

CHAIR SEATON went on to say that these are just a few of the intricacies that have come out. He told the members of another problem where there is a line [or barrier drawn] across the middle of Bristol Bay [and an agreement] which says any fish that were historically delivered North of [that line] have to be delivered North of that line or [if the fish were historically deliver South of that line, must be delivered] South of that line. This creates a lot of artificial barriers and there is no impetus for product development because the price does not change.

Number 1640

CHAIR SEATON said part of the problem with this structure of providing processor quota shares allows for a lot of anti-trust manipulation, even with binding arbitration because most processors are set up with a number of sub-corporations or partners. He explained that a company could sell their processing quota shares to someone else, even another corporation that the company controls, then lease it back to operate the business. By doing this, the processor has inflated their cost structure. He pointed out that this is just one of the simple mechanisms of inflating the processor's costs. When the company goes into binding arbitration the [federal

government] looks at the cost structure and the processor has this huge lease amount, so the fishermen's price could end up being less, Chair Seaton said.

CHAIR SEATON told the members that this is one of the problems that no one has been able to figure out. The entire structure is basically a top-down controlled economy, which is a structure that is not found in the United States. He said this plan provides that independent businessmen/businesswomen are told where they can sell their product. Chair Seaton noted that there are a few exceptions with "high tech" products, particularly with the U.S. Department of Defense; for example, atomic bombs and cruise missiles cannot be sold on the open market; they must be sold to the Department of Defense. He said other than a few exceptions, private business people can sell their product to whomever they want and wherever there is the best deal. He pointed out that processor quota shares totally changes that practice.

CHAIR SEATON summarized his comments by saying that the fishermen tried a rationalization plan, a longer harvest plan, and now almost all of the fishermen oppose this plan. He commented that there will be a lot of testimony today from individuals who are represented by the C.R.A.B. Group which is made up of 104 vessels. Chair Seaton told the members that the plan has been so distorted with the processor quota shares that the fishermen definitely do not support it anymore because they lose control of their future and their ability to make decisions. He asked the members to look at the letters of support on HJR 25.

Number 1796

REPRESENTATIVE SAMUELS told the members that he has trouble with this legislation on many levels. He said once the number of fishermen who are allowed to fish is limited the entire free market concept has gone anyway. Representative Samuels said he believes that in a true free market everyone fishes. When the quota goes from 200 million pounds to 20 million pounds, the little guys will all go bankrupt and the market place will take care of too much capacity in the market.

Number 1839

REPRESENTATIVE SAMUELS commented that the biggest problem that he has with this is that the [North Pacific Fisheries Management] Council has been dealing with these [issues] for

years. He asked if anyone can related to a compromised position that comes out of a group like that. He told the members that he believes this must have been a painful process for the [NPFMC]. He said he cannot imagine having the same meetings the members are having now, only having it for year, after year, after year. He explained that the legislature should be able to relate to this because whatever is done is a compromise and the members always get beat up on issues.

Number 1879

REPRESENTATIVE SAMUELS pointed out that everyone that will testify before the committee today, probably already testified before the NPFMC. He said he believes that it is disheartening to the [NPFMC] because if there is no agreement, then a government agency will end up making the decisions. He told the members he does not believe anyone wants a bureaucracy making decisions when there can be some say on who is on the [NPFMC].

CHAIR SEATON acknowledged that NPFMC worked to develop a structure of fisheries management. However, the legislature has a different prospective, in that our efforts are on behalf of Alaskan communities. Chair Seaton commented that the federal government does provides management at the 200-mile limit; however, it often defers to the Alaska Department of Fish and Game to do the technical management. When the regulations are done by the federal government it can have huge impacts upon Alaskan coastal communities, fishermen, and residents. He reiterated his comments by saying that the legislature is considering this issue from a different prospective. Chair Seaton pointed out that there are many resolutions in the members' packets from Alaskan coastal communities who are extremely worried about this issue. He said while this may be a federal management plan, it has direct effects on Alaskan coastal towns.

Number 2009

CHAIR SEATON explained that this resolution is not meant to recreate the management plan, but to point out that certain elements of the management plan are going to have severe economic impacts upon Alaskans, Alaskan fishermen, and Alaskan coastal towns. He said he believes it is the legislature's job to bring forth those considerations. He pointed out that the NPFMC is an advisory group to the Secretary of Commerce, and does not have the last word on this plan. Chair Seaton told the members that Senator Ted Stevens will be conducting a hearing in

May. This resolution is [meant] to provide input to those hearings, as well as, Alaska's other delegation members in Congress, [by] letting them know our concerns on this element of the plan, the way it works, and the effect it will have on Alaskans and Alaskan communities, he said.

CHAIR SEATON told the members he believes it is the role of the legislature to comment when federal actions are going to have severe impacts upon coastal Alaska. He reiterated that the legislature and the [NPFMC] missions are different, and it is not the intent of this resolution for the Alaska Legislature to rewrite the rationalization plan. He told the members that he is sure there will be a lot of testimony today expressing the dramatic impact this plan will have on Alaskans.

Number 2140

CHAIR SEATON pointed out that 46 percent of the crab in Alaska will be allocated to foreign owned companies. Here is a plan that will set forth a vast quantity of our fish into foreign controlled countries. This was not the intent of the Magnuson Act [Magnuson-Stevens Fishery Conservation and Management Act] when a 200-mile limit was established.

Number 2199

REPRESENTATIVE HEINZE asked if the anti-trust laws apply to processors.

CHAIR SEATON replied that issue is being addressed in Washington, D.C. Processors would probably have to have an anti-trust exemption because this [plan] would form a cartel, he said. Chair Seaton told members that 90 percent of the crab will go to six processors. These processors will forever own, 90 percent of all the crab that is produced in the Bering Sea. He pointed out that it does not matter who produces the crab, these processors will own them because the crab will have to be sold to them. Because of this, it will be necessary to get an anti-trust exemption and that is why Congress must act on this plan.

Number 2260

REPRESENTATIVE SAMUELS said he assumes it is the same problem with fishermen. The number of fishermen and crew shares have been limited. There is the same capitalization problem in that the fishermen need to limit the number of boats because these

are expensive pieces of machinery, and the fishermen have the same problem that the processors have once the plant and or crab boat is built and it is not used, then the owners are stuck with it. With the rise and fall of the price of the product it is a problem. Representative Samuels reiterated his original point that the NPFMC has already looked at all of these issues.

CHAIR SEATON responded that there is quite a difference between [the fishermen and the processors]. There is a buy-back plan, where there is a \$100-million loan that the fishermen will pay back over time to buy out some of the capital and remove it from the fleet. He told the members that it still comes down to a public resource, in which there is an efficient design to harvest. When discussing processor quota shares it is not a public resource, it is a restriction of people's ability to sell their product in a competitive market system. He compared this to a five-year plan in Russia. It is very interesting when looked at from another perspective outside of a crab plan. This is a structure where someone is told where and to whom they have to sell their product at a state set arbitrated price.

REPRESENTATIVE SAMUELS replied that this plan eliminates his ability to go fishing at all. He pointed out that this is a shift, but the fishermen are doing the same thing to the rest of Alaskans who are not [commercial] fishermen. He reiterated that he can no longer go crabbing. So the same argument can be made on having any plan whatsoever.

VICE CHAIR WILSON announced that the committee will take public testimony on HJR 25.

Number 2412

TAMMY SCHRADER testified in support of HJR 25. She told the members that she is a small-boat halibut fisherman, and is in full support of HJR 25, which opposes processor quota shares. The reason she opposes processor quota shares is that she does not believe it is a good precedent to change the anti-trust laws of the nation. She went on to say it will upset the balance of power between the processors and the fishermen. She asked the name of the legislator who spoke about the [NPFMC] process.

VICE CHAIR WILSON replied that it was Representative Samuels.

MS. SCHRADER commented that she would like Representative Samuels to know that she does not agree with the council's [NPFMC] process on this issue. She pointed out that the council

[NPFMC] is composed of members who have potential conflicts of interest and she does not feel that her voice was heard in this process. The council [NPFMC] members are political appointees versus legislators who are elected officials. Ms. Schrader explained that she could not afford to go to every council [NPFMC] meeting that covered every nuance that may come out of these meetings. She said as elected officials it is important legislators hear the concerns of the communities and she believes it is their responsibility to go back to the council [NPFMC] and say look, the people who elected us are concerned about this, and tell them to take another look. The council [NPFMC] process is broken on this issue.

Number 2539

VICE CHAIR WILSON announced that there are over 30 people who have signed up to testify, and time is limited, so she explained that she would be limiting testimony to one and a half minutes.

Number 2577

WALTER TELLMAN, Unalaska Fisherman's Association, testified in support of HJR 25. He told the members that he supports HJR 25 because free enterprise is an important concept to maintain. There are many family members in the Aleut community who have children that would like to earn a living off of the resources of the region and would like to see that door remain open. Unalaska is not a CDQ [community development quota] community.

Number 2624

BOB STORRS, Vice President, Unalaska Native Fisherman's Association testified in support of HJR 25. He told the members that he is a small boat fisherman, and has crab fished for many years. He told the members that it is important for the them to know that there is only one active fisherman on the NPFMC. From the very beginning the processor industry said there would be a "poison pill", any rationalization program would have to include a processor quota system or the processors would not allow the plan to get through, he said.

Number 2700

MR. STORRS said the Alaska Native Fisherman's Association has been involved from the very beginning, and he wants the members to understand that this is way more than settling on a price for fish, it changes the whole fabric of the communities forever.

For example, there are three people who wanted to testify from the community today, who cannot. One was told by the processor not to do so because he/she has a contract where they catch and sell bait to that company. Another one has a small freezer long-liner and was told that if he dared to actively oppose this [plan], the market for his cod might be eliminated. The third is a person who works for a union that has close dealing with processors and could not compromise his position there. Mr. Storrs pointed out that this [plan] reaches right into the very fabric of the community. It is important to note that these fishermen would be the only people in the United States who would not be covered by the anti-trust legislation and would not be able to remain a cooperative that was initially formed seven years ago. [The cooperative] would be functionally illegal because there can be no cooperative if federal law says 90 percent of the members' product has to go to the competition. This policy takes a huge step back to the old days of company towns [during] territorial days. Mr. Storrs summarized his comments by saying he is opposed to the processor quota shares policy.

Number 2765

BOB NEHUS testified in support HJR 25. He told the members that he is fisherman from Unalaska and is opposed the rationalization plan for processor quota shares for crab. Mr. Nehus explained that it would not only establish a precedent in the crab industry, but it could spread statewide into other fisheries, and perhaps, nationwide.

Number 2786

JANICE KRUKOFF testified in support of HJR 25. She told the members that while she is not a fisherman, she is a 44 year resident of Unalaska and has two children. Ms. Krukoff expressed her support of HJR 25 and opposition to the crab rationalization plan. She said her boys, who are under 14 years old, should have the opportunity to crab fish and she believes this plan would be a detriment to their future.

Number 2814

KEN DUCKETT, United Southeast Alaska Gillnetters Association, testified in support of HJR 25. He told the members that the association is opposed to the processor [quota] shares in principle. He said the association fears that with current stress in the salmon industry, if this plan is established, some

form of reorganization may occur. Mr. Duckett told the members that if the plan is approved for the Bering Sea crab [fishery], it may become applicable to other fisheries, and the association does not want that to happen. He reiterated his support of HJR 25.

Number 2874

KEITH GAIN, City Council Member, City of Seldovia, testified in support of HJR 25. He told the members that Seldovia is particularly interested in this plan as it may set a precedent for other management decisions. This kind of plan has never been done before for a lot of good reasons. The two-pie system is not supported by communities. It was brought about by power lobbying from the canneries, he said. These are the same kinds of issues that brought about statehood. Mr. Gain told the members that the residents of Seldovia opposes any kind of cartel having a stranglehold on the state's fisheries.

Number 2928

FRANK KELTY testified in opposition to HJR 25. He told the members that he is a former 20-year elected official of Unalaska, and worked in the seafood industry 30 years in the community. He said he believes this resolution is very one-sided and does not make mention of the millions of dollars that the processing industry sends into the general fund for the State of Alaska through fisheries taxes. Nor does this resolution make any mention of the millions of dollars of revenue that is generated in property and sales taxes that are paid to local fishery dependent communities by the processing sector, he said. Mr. Kelty told the members he believes if the government is going to give away the public resources, then it should be given away to everyone that is invested in it. In Unalaska and other Bering Sea communities where the bulk of the crab is processed, 85 percent is processed in communities in the Bering Sea. He said he doubts there are very many resolutions opposing this plan [from communities] in the Bering Sea area such as Saint Paul, Saint George, and Unalaska. He suggested that the committee has a lot of resolutions from communities that are not heavily involved in the crab fisheries. Mr. Kelty summarized his comments by saying that he does not support the resolution because he believes there needs to be consideration for the investment that has been made in the crab industry [by processors].

MR. KELTY read what Chairman Benton sent to Congress when the plan was adopted:

The adoption of the council of processing quota shares as a fundamental part of the program is probably the most controversial aspect of the program. However, the council believes as reflected in the unanimous vote of 11 to 0 that the crab fisheries of the Bering Sea and Aleutian Islands requires this innovative comprehensive management approach to adamantly recognize and protect the interests of all participants. It recognizes all components of the fishery as a balanced linked system, rather than the individual competing opponent. It may not be an appropriate model for other fisheries in the nation or other fisheries in the North Pacific and it is not intended to be a template for other fisheries.

TAPE 03-25, SIDE B

Number 2991

DON GRAVES, Research and Development Manager, UniSea, Inc. ("UniSea"), City Council Member, City of Unalaska, testified in opposition to HJR 25. He told the members that UniSea employs 700 year-round people in Unalaska. Their community has passed resolutions supporting crab rationalization [plan], and as an individual, he said he supports what the NPFMC has done. He said he believes it is in the best interest of Unalaska to move the plan forward. Mr. Graves told the members that as a research and development manager for UniSea he has seen the benefits of cooperation between the fishermen and the processors to increase the value and move the product forward to a retail market, and process the raw material here in Alaska. This has created more jobs and that in turn creates more revenues and a tax base for the state.

MR. GRAVES said there was a person who testified earlier about concerns on delivering to some of the plants. One of those people who testified against the crab rationalization plan delivered to his plant this morning, and there will be no ramifications against that person. He told the members that these businesses in Unalaska support a lot, and without the vested interest of both parties, the community does not have the resources or the ability to make investments to improve products and create more jobs.

Number 2838

STEVEN STUBBE testified in opposition to HJR 25. He told the members that he has been a resident of Dutch Harbor/Unalaska for the past 20 years, has worked as a processor, and has some involvement in the fishing industry. He said he worked for one of the smaller crab operations, and he strongly opposes any resolution that would preclude processors from some kind of protection in this plan. It was mentioned earlier that rationalization was patterned after IFQs. He said he does not believe that is true, and thinks some of it might have come from the IFQs program and also the American Fisheries Act. Mr. Stubbe said with reference to the IFQ fisheries that he no longer participates in the longline halibut fishery because outside interests, such as brokers, have taken control. These brokers do not pay taxes in this state, do not have employees who work in this community, and the money goes out of the community and out of the state of Alaska. Mr. Stubbe said he finds it hard to believe that the legislature is going to unravel a program that was brought to the council [NPFMC] by the State of Alaska itself, and passed unanimously. There is a huge tax base in this community and some of the best facilities, schools, and community centers have been generated by people who have made huge investments in Unalaska, whether the company is [owned by citizens of the United States] or not. Mr. Stubbe pointed out that the NPFMC has spent years trying to protect the communities, the harvesters, and the processors. This resolution would only serve to delay the progress of a fishery that cannot even be managed by the State of Alaska at this point. Mr. Stubbe summarized his comments by saying the members need to better educate themselves before objecting to the plan.

Number 2715

PHILLIP LESTENKOF, City Council Member, City of Saint Paul, testified in opposition to HJR 25. He told the members that for the last three years he and Mayor Simeon Swetsof have been attending the North Pacific Fishery Management Council meetings, as the council worked on the crab rationalization program. He said as a councilman, local halibut fisherman, and participant of the local CDQ group, he does not support HJR 25. Mr. Lestenkof told the members that the Pribilof Islands of Saint Paul and Saint George are unique because of their strategic location to the Bering Sea opilio crab fishery. Over 20 years ago the Pribilof Island lost their main stay economy which was the harvesting of the northern fur seals for commercial pelt sales. When that was terminated by the federal government the Pribilof Islands developed their harbors, and it only succeeded

because of the community's strategic location to the fisheries resource. He said he wants to make it clear that the community is not being threatened by processors and that the community views this plan from their own perspective. He said because of the processors investments and operations in the Pribilof Islands the communities are able to exist. Mr. Lestenkof closed his comments by saying he does not support HJR 25.

Number 2560

SIMEON SWETZOF, JR., Mayor, City of Saint Paul, testified in opposition to HJR 25. He said he agrees with all the points that Mr. Lestenkof mentioned. Mayor Swetzof explained that for those who have not been attending all the [NPFMC] meetings, this has been a very long process, and a difficult, painful process. When the crab market went under, the city applied for disaster relief, funds were received last year, but nothing has been received this year. He said the community wants the crab rationalization [debate] to end. Mayor Swetzof reminded the members that they need to pay very close attention to the communities in the other parts of the state that depend entirely on halibut and crab fisheries.

Number 2425

STEVE MINOR, Public Relations/Fisheries Consultant, City of Saint Paul and Central Bering Sea Fishermen's Association (CBSFA), testified in opposition to HJR 25. He told the members that this process has been going on at the council [NPFMC] for four years. There have been three economists, over 1,000 pages of analysis, six working groups, and [many] committees of which he has served on a majority of them. The meetings have been held in Kodiak, Dutch Harbor, Anchorage, Sitka, and Seattle, numerous times, so there has been access to the hearings. It has been a very open, comprehensive, and extensive process. He pointed out that 85 percent of the economy in Saint Paul is based on the crab fishery. Mr. Minor apologized that there was no testimony before the legislature sooner, but it had been viewed as a council [NPFMC] issue and he invested time and money there. It was never imagined that this issue would be brought to the state legislature. He reiterated that the issue is very comprehensive and complex.

MR. MINOR said he wanted to refocus the discussion by addressing some of Chair Seaton's comments. He explained that there are two types of coastal fisheries dependent communities in Alaska. There are those that rely heavily on harvesters, like Kodiak,

which has over 80 boats in the crab fisheries, and those that depend heavily on processing activities like Dutch Harbor, Saint Paul, and Saint George. He pointed out that these three communities account for over 80 percent of the opilio processing activities. He asked the members to understand that this is not salmon, cod, or halibut, it is crab which is very capital intensive, and landings intensive, because so much must be invested in a crab plant and crab harvesting. Mr. Minor commented that most of the letters of support [for this resolution] are from non-crab communities.

Number 2287

MR. MINOR summarized by saying that processor quota [shares], which seems to be the main concern, was designed over a long period of time as the best community protection measure. He explained that process quotas will be issued and are then restricted to the communities where it earns that quota. He pointed out that one mistake that Chair Seaton made in his statement is that the quotas can be moved. It cannot. Mr. Minor explained that in the first two years the processors cannot move their quotas between communities at all. After the first two years, the only movement that is allowed is intra-company transfers. He said he believes there are less than three companies that can take advantage of that. Under no circumstances will the quota be allowed to leave the regions in which it was earned. He said if a processor does not want to do business in a particular town any more, that community through its CDQ group or nonprofit entity can buy that quota from that processor to keep it in the town. Mr. Minor told the members that processor quotas were designed as a community protection mechanism by the communities that are most dependent on this resource. He said he has not seen that fact brought up in the discussion today. Mr. Minor closed his comments by saying that if the committee votes to support HJR 25 the members are saying that the committee is in agreement with stripping away the only community protections that have logically been built into this program.

Number 2268

JOSEPH CHILDERS, Director, Western Gulf of Alaska Fishermen; Board Member, United Fishermen of Alaska (UFA); National Committee Issues Chairman, testified in opposition to HJR 25. He said he wants to make it clear that he is representing only the Western Gulf of Alaska Fishermen in his testimony today. He told the members that the fishermen in his group typically fish

in 58-foot vessels; they harvest fish in purse seine fisheries, troll fisheries, pot fisheries, and longline fisheries. They harvest fish from the squid fishery off of Windy Bay to the troll fisheries in Adak. Mr. Childers said his group has solid support for the North Pacific Fishery Management Council.

MR. CHILDERS said it is an extremely open, accessible, and excruciatingly thorough process. He said to try to thumbnail the crab process plan in an hour, day, week, month, or year, is impossible. He told the members that he has attended every council [NPFMC] meeting for the last five years; he began attending just prior to the implementation of the American Fisheries Act. Mr. Childers explained that he sat through the processor debates on pollock and crab fisheries. In all that time, this is the first testimony he has ever given about the crab plan. It has been very thoroughly investigated including three sets of economists, one from the State of Alaska, NPFMC economists, and private economists. Every type of analysis has been done on this issue. He urged the members to read the final report, which is over 500 pages long. Mr. Childers told the members that to think that the members could debate this issue today without reading the report is impossible. He said the council [NPFMC] process should not be jeopardized in any flippant way. The process has included the Magnuson-Stevens Fishery Conservation and Management Act, the appointment processes, and public process. It has tremendous value. Alaska has the strongest fisheries in the world today, the most dynamic, adaptive management programs, and in large part [NPFMC] is responsible for the system, he said.

Number 2070

MR. CHILDERS summarized his comments by saying rationalization of public resources is a tremendously complicated subject and very emotional because it is in effect the privatization [of the resource]. When there are quota shares, and distribution of public resources, that creates wealth and there are very few things that bring up a lot of controversy when [government] starts distributing the public wealth to people. He said that is what is going on here. Quota shares are not about harvesting fish; it is about accessing the wealth of the fishery. It can be done by giving the shares to the harvester or the processor, but that is what is happening here. What is being rationalized is the wealth of the fishery. Mr. Childers told members that the communities need to be central to that. The communities need to be far more responsible because they are far more dependent than the harvesters or the processors. He said if the

wealth of the fishery is going to be given away, do not give it all to one group because no one has the moral high ground.

Number 2057

JOHN GARNER, Executive Director, North Pacific Crab Association; Owner, Northwest Seafoods, testified in opposition to HJR 25. He told the members that North Pacific Crab Association represents about 85 percent of the crab purchased and processed in the Bering Sea. Mr. Garner added that he is also an owner of Northwest Seafoods, which has shore plants in Ketchikan, two in Petersburg, Cordova, Chignik, and floating processors that operate primarily in the Bering Sea area, one of which is in the crab fishery. He shared that he has been fishing since he was 13 years old, was a fisherman for many years, and became a processor.

MR. GARNER told members that he wants to echo what the members have already heard. This is a systemic approach to rationalize the fishery, and [the plan] attempts to address all of the concerns and direction from Congress in terms of developing the plan, he said. That direction was to include communities, harvesters, and processors to develop a plan that would eliminate the race for fish, the deaths that go along with the race that currently occurs, and conservation concerns. Mr. Garner commented that the members are aware that the [NPFMC] is composed of 11 voting members - 6 are from Alaska, and the chair is from Alaska. This plan was put forward by the representative from the State of Alaska, and was voted on unanimously. He said he supports that exhaustive process. The processors are not saying that the fisheries need to be rationalized. He commented that he believes that is a decision for the Secretary of Commerce and the NPFMC. However, what the processors are saying is that they stood at Dutch Harbor and Saint Paul Island and made investments like everyone else did.

Number 1898

MR. GARNER summarized his comments by saying that if there is going to be a change in the way those investments are deployed, he believes the processors should be considered. He told members he would send them a copy of the opinion of the Congressional Research Service which reviewed the anti-trust implications of the proposed plan. It addresses many of the concerns that have been articulated here and identifies the number of circumstances where a regulated industry of this type of market share allocation has occurred. It makes it very clear

that there is no anti-trust exemption with respect to price activities, he said.

CHAIR SEATON asked those that are on-line who have written testimony to please send it to the committee.

Number 1865

LINDA KOZAK testified in support of HJR 25. She told members that she is a lifelong Alaskan, has fished salmon in Bristol Bay all of her life, and works with crabbers who fish in the Bering Sea Aleutian Islands. Ms. Kozak pointed out that the issue of processor shares has been rejected in every other part of the country with the exception of Alaska. The NPFMC was required by congressional law to analyze rationalization in the crab fisheries and to prepare a report for Congress. They prepared and submitted the report to Congress last summer, and the action [NPFMC] took on the preferred alternative is not final action by the council, but simply a preferred alternative to be included in the report, she said.

MS. KOZAK pointed out that Congress must take two specific actions for the council [NPFMC] plan to go forward. Those [points] include addressing the processor share quota and the community-landing requirement. She said it is important to recognized that the NPFMC has not taken final action; therefore, it is really appropriate for the legislature to look at a resolution and make a finding in regard to the appropriateness of processor shares in the state of Alaska, and whether this should be established as a precedent nationwide. Ms. Kozak read the following text from [page 155] a portion of a report done by the National Academy of Sciences that studied the issue of processor shares:

The committee was not convinced, however, that the solution to the perceived problems lies in the allocation of either the harvesting or processing quota shares to processors.

MS. KOZAK read another portion of the report from page 205, saying, "Nor did the committee find a compelling reason to establish a separate, complementary processor quota system or two-pie system." She summarized by saying she supports HJR 25. She pointed out that if there were processor shares in the sable fish and halibut fisheries, the raw fish tax to the State of Alaska would be substantially less because the price would be substantially lower.

Number 1718

DAVID POLUSHKIN, K-Bay Fishing Association, testified in support of HJR 25. He told the members that the association is primarily a small-boat fleet, under 50 feet [in length]. Most of the comments that he wished to make have already been made, he said. Mr. Polushkin reiterated that the association members support HJR 25.

Number 1690

GORDON BLUE, C.R.A.B. Group, testified in support of HJR 25. He told the members that the group includes sports membership, but most of the members are independent crab vessel [owners] that harvest crab in the Bering Sea. Mr. Blue said its group has also been involved in the NPFMC process, and found that the real problem that manifests with processing of quota shares that has not been touched on is that in trying to establish [quota shares] NPFMC has wrestled for a year to arrive at some solutions. The council [NPFMC] promised last June that there would be protection for the harvesters from the imbalance in bargaining power that was created by processors quota shares. He said NPFMC promised that they would protect communities. Then the council [NPFMC] spent the next year, actually up to this month, in a committee process of which the group took part in, trying to work out how to do that and it has not succeeded, he said.

Number 1592

MR. BLUE said the NPFMC came up with a binding arbitration method which would require harvesters to sign a contract before they know what the price might be. He pointed out that once the arbitration was concluded the harvesters would be bound to deliver no-matter-what at that price. It was important to note that there were no harvester organizations that came out of the NPFMC meeting in support of this plan, he said. However, he understands that some organizations are trying to negotiate some changes. Mr. Blue said the lack of support is due to the fact that the processors have too much power under this plan because the processing quota shares are market allocation to only a few companies. That marketing allocation stays with the processor. He said he heard testimony from communities in Western Alaska who feel they have been protected by the NPFMC's actions, but what the members have not heard from people who understand that the council's [NPFMC] plan does no such thing. There are so

many loopholes in the council's [NPFMC] plan that allow for processors to move their quotas that there is no protection for these communities. Under this plan [these communities] very likely will find themselves bereft of any processing activity in the very near term and will be unable to get it back. Mr. Blue summarized his comments by saying that the group opposes processing quotas because of the distortions that it introduces into the market economy.

Number 1466

BUCK LAUKITIS, President, North Pacific Fishing Association (NPFA), testified in support of HJR 25. He told the committee that NPFA members include Bering Sea crabbers, halibut and sable fish longliners, Gulf of Alaska ground fishermen, fixed-gear harvesters, fishermen who catch and process their own fish for export markets, and salmon fishermen. Mr. Lukitis reiterated their strong support for HJR 25, and strong opposition to processor shares in any Alaska fishery. North Pacific Fishing Association submitted a resolution to the committee and he hopes the members have had a chance to review it. He commented that NPFA and many people in communities see corporate consolidation of the fisheries and the drive-by national food companies to control Alaska's fishery resource management, and in turn control fishermen in coastal communities as the number one threat they face. Mr. Lukitis told members that the fishermen want the full protection of federal anti-trust laws. The fish dock in Homer is thriving because of healthy competition among halibut and sable fish buyers.

Number 1411

MR. LUKITIS told the members that there has never been a coherent rational justification given for processor shares, except that processors wanted them, and were and are willing to hold any fishery rationalization process hostage unless the processors got what they wanted. He said "PQS" [processor quota shares] in the crab plant are an artifact of the Knowles Administration. The PQS are under consideration for Gulf of Alaska groundfish and salmon rationalization now. He said many pointed out that the economic analysis known as the Matulich Study used by the State of Alaska and paid for by the processors to justify this aberrant plan which necessitates eliminating protections under federal anti-trust laws is seriously flawed.

MR. LUKITIS summarized his comments by saying that the General Accounting Office (GAO) in Washington, D.C., came to the same

conclusion that the Matulich [Study] analysis is seriously flawed. He emphasized earlier statements concerning the National Academy of Science's view that "found no compelling reason to establish separate complimentary processor assistance." In conclusion, he said he supports the resolution and believes it is important, not only for the crab fishery, but for the Gulf of Alaska groundfish rationalization as well. Mr. Lukitis closed by saying NPFA supports the resolution without amendments.

Number 1309

JOE MACINKO testified in support of HJR 25. He told the members he is a 20-year resident of Alaska and a commercial fisherman. He said he supports the resolution, but not the amendments because they serve to confuse the issue. Processor shares will facilitate the export of money as low value fish out of the state. It will cost the state and communities jobs and tax revenues. He pointed out that crab, pollock, and salmon are already being sent to Thailand and China to avoid state and local taxes. Mr. Macinko commented that there has been an 11-0 vote for processor shares by the NPFMC and it has been referred to as a compromise, but he said he believes it is more power politics. None of the people who voted for that plan were subject to the processor share provision, he said. The CDQ groups got their portion of the resource increased from 7.5 percent to 10 percent, and they are allowed to sell their product to the highest bidder. He compared this vote to the [legislature's] fixing Alaska's fiscal problems by taxing everyone except those that live in the district represented by the legislator who is voting. Mr. Macinko told the members he does not think this is good public policy. He urged members to please stand up for those in their communities.

[HJR 25 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 10:00 a.m.