

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

April 25, 2003
8:35 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Peggy Wilson, Vice Chair
Representative Dan Ogg
Representative Ralph Samuels
Representative David Guttenberg

MEMBERS ABSENT

Representative Cheryll Heinze
Representative Ethan Berkowitz

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
04/23/03		(H)	Heard & Held MINUTE(FSH)
04/25/03		(H)	FSH AT 8:30 AM CAPITOL 124

WITNESS REGISTER

LINDA FREED, City Manager

City of Kodiak
Kodiak, Alaska
POSITION STATEMENT: Testified in support of HJR 25 and answered questions from the members.

RON BRIGGS
Kodiak, Alaska
POSITION STATEMENT: Testified in support of HJR 25.

ROGER ROLAND
Unalaska, Alaska
POSITION STATEMENT: Testified in support of HJR 25.

DAVID HILLSTRAND
Homer, Alaska
POSITION STATEMENT: Testified on HJR 25.

MAX MALAVANSKY, City Administrator
City of Saint George
Saint George, Alaska
POSITION STATEMENT: Testified in opposition to HJR 25.

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

SINCLAIR WILT
Alyeska Seafoods, Inc.
Unalaska, Alaska
POSITION STATEMENT: Testified in opposition to HJR 25.

JOHN MERCULIEF, City Manager
City of Saint Paul
Saint Paul Island, Alaska
POSITION STATEMENT: Testified in opposition to HJR 25.

TOM ENLOW, General Manager
UniSea, Inc.
Unalaska, Alaska
POSITION STATEMENT: Testified in opposition to HJR 25.

RON PHILEMONOF, Chief Executive Officer
Village Corporation of Saint Paul
Saint Paul Island, Alaska
POSITION STATEMENT: Testified in support of HJR 25.

PHYLLIS SWETZOF, City Clerk
Village Corporation of Saint Paul
Saint Paul Island, Alaska
POSITION STATEMENT: Testified against HJR 25.

DOROTHY CHILDERS, Executive Director
Alaska Marine Conservation Council (AMCC)
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HJR 25.

DAN FALVEY, Advisory Council Member
North Pacific Fishery Management Council
Sitka, Alaska
POSITION STATEMENT: Testified in support of HJR 25.

DAVE OHMER, Plant Manager
NorQuest Seafoods, Inc.
Petersburg, Alaska
POSITION STATEMENT: Testified in opposition to HJR 25.

STEVE FISH
Sitka, Alaska
POSITION STATEMENT: Testified in support of HJR 25.

SUE WEAVER
Homer, Alaska
POSITION STATEMENT: Testified in opposition to HJR 25.

JESSIE NELSON
Homer, Alaska
POSITION STATEMENT: Testified in opposition to HJR 25.

GLENN CARROLL
Homer, Alaska
POSITION STATEMENT: Testified on HJR 25.

JOHN HANSEN
Anchorage, Alaska
POSITION STATEMENT: Testified in opposition to HJR 25.

DAVE WOODRUFF, Manager
Alaska Fresh Seafoods
Kodiak, Alaska
POSITION STATEMENT: Testified in support of HJR 25.

DICK POWELL
Kodiak, Alaska

POSITION STATEMENT: Testified in support of HJR 25.

GREG HATHAWAY, Plant Manager
Trident Seafoods, Inc.
Kodiak, Alaska

POSITION STATEMENT: Testified in opposition to HJR 25.

JULIE BONNEY, Director
Alaska Ground Fish Data Bank
Kodiak, Alaska

POSITION STATEMENT: Testified in opposition to HJR 25.

CHARLES REHDER
Homer, Alaska

POSITION STATEMENT: Testified in opposition to HJR 25.

MIMI TOLVA
Homer, Alaska

POSITION STATEMENT: Testified in support of HJR 25

CHARLIE PARSONS
Western Gulf of Alaska Fishermen Group
Homer, Alaska

POSITION STATEMENT: testified in opposition to HJR 25.

HEATHER McCARTY, Representative
for Central Bering Sea Fishermen's Association;
Board Member

Alaska Seafood Marketing Institute
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HJR 25 and
answered questions from the members.

KRIS NOROSZ, Representative
for Icicle Seafoods, Inc.
Petersburg, Alaska

POSITION STATEMENT: Testified in opposition to HJR 25.

GORDON BLUE, President
C.R.A.B. Group [Crab Rationalization and Buyback Group]
Sitka, Alaska

POSITION STATEMENT: Testified in support of HJR 25 and answered
questions from the members.

ACTION NARRATIVE

TAPE 03-26, SIDE A

Number 0001

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at 8:35 a.m. Representatives Seaton, Wilson, Ogg, and Guttenberg were present at the call to order. Representatives Samuels joined the meeting as it was in progress. Representative Heinze was excused from the meeting.

HJR 25-COMMERCIAL FISHING & PROCESSOR SHARES

Number 0064

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 0142

LINDA FREED, City Manager, City of Kodiak, testified in support of HJR 25. She told the members that all on-shore crab processing in the Kodiak region takes place in the City of Kodiak, so this is a very significant issue for the community. She pointed out that the members have a copy of Mayor Floyd's letter [in their packets] which highlights some points made by the mayor and responds to some of the testimony made in earlier hearings.

MS. FREED stated that this is a policy issue on one of the largest industries in the state of Alaska, and it is imperative that the legislature take a look at this because it will impact coastal communities and residents throughout the state. The North Pacific Fisheries Management Council [NPFMC] is influenced by what the policy is in the state of Alaska with this and other fisheries issues. She encouraged the members to provide guidance to the NPFMC and the administration. Ms. Freed said the City of Kodiak has participated in the NPFMC process, but does not believe the process has been as open and inclusive as others have said. She explained that while there have been a number of economic studies and analysis done with regard to this issue, the council has eliminated or ignored some of the economic analysis that did not support the council's preferred alternative.

Number 0331

MS. FREED told the members that the only reason community protection and binding arbitration are a necessary component of the council's preferred alternative is due to the fact that individual processing quotas [IPQs] are included in that alternative. The alternative the council promoted is called the two-pie system, which gives quotas to both the processors and the individual harvesters and fishermen. This system is untried, untested, and has not been shown to maximize national, regional, or state benefit. There is no reference in any of the analysis that shows that the two-pie system has been in use in any resource extraction industry anywhere in the world. The proposed rationalization plan will be the theory's multimillion dollar, or perhaps billion dollar, beta test, she said. Ms. Freed told the members that the City of Kodiak does not believe Alaska should be the guinea pigs for this system. She pointed out that they have agreed that some IPQs could be acceptable, but in a much smaller percentage or range, at most at the 30 percent range.

MS. FREED stated that the City of Kodiak is only one of the coastal communities that will be damaged and severely impacted by this particular program. She summarized her comments by saying that [the city] supports the legislature's efforts to look into this policy issue and encourages them to provide policy direction for the administration and the NPFMC. Ms. Freed stated that the City of Kodiak supports this resolution.

Number 0409

REPRESENTATIVE GUTTENBERG asked Ms. Freed to expand on her comments concerning the NPFMC's not having an open process.

MS. FREED responded that she sat as a member of the Community Protection Committee which was established to talk about protections for communities that would be impacted by this particular program. She explained that the members [of the Community Protection Committee] were told it would only be possible for them to bring up issues already posed within the framework of the council's decisions, and anything outside of the council's framework could not be discussed by the committee unless the committee had a two-third's vote. The committee was established in such a way that Kodiak could never get a two-third's vote to bring any issue of discussion to the table. Ms. Freed said she would be happy to provide the members with copies of the minutes of those meetings. She said she was concerned because she believed if the committee was working to protect communities, then there should have been an opportunity to

discuss all kinds of protections that might help most of the coastal communities that are dependent on crab. Unfortunately, the committee was not given that opportunity through the process. On the surface it appeared open, but the fact remained that there were such strict rules for participation, that the committee was not allowed to explore what some members thought were adequate, appropriate, or even unconventional, but acceptable, community protection measures.

Number 0560

REPRESENTATIVE GUTTENBERG commented that he believed her response was directed at the process after the decision was made. He asked her what happened prior to that, while the NPFMC was deliberating on the issue.

MS. FREED replied that the City of Kodiak was never formally asked or involved within the process. The NPFMC did not reach out specifically to communities. What did happen is that there would be notices posted on the council's web site, and if communities went to the web site and were familiar with the issues and understood the significance of the issues, they were allowed to participate, but were not encourage or contacted to identify the significance of the issues going on. Ms. Freed told the members that the City of Kodiak testified before the council that if the city had realized the significance of the issues and had been better informed by direct contact with the NPFMC or council staff, the city would have started participation much earlier in the process. She said that once the city understood what the council was doing, they became very actively involve. She commented that this involvement has been very expensive for the city to protect the industry and community.

Number 0650

REPRESENTATIVE OGG asked Ms. Freed what steps are left in this process.

MS. FREED responded that there are significant steps left in this process. The NPFMC has come up with a preferred alternative without meeting the requirements of the federal NEPA [National Environmental Policy Act of 1969] process. She said the council has not done a full analysis of a range of reasonable and practical alternatives as required by federal law. Ms. Freed said the City of Kodiak is very hopeful that the NPFMC will go through that process, and it will be much clearer

what the impacts really are because they will have completed a full analysis. She explained that the council still has to take final action and cannot do that until the NEPA or EIS process is complete. Ms. Freed said she understands Senator Stevens may be holding public hearings on this process and that is one reason it is so important for the state to be involved and take a closer look at this as a policy perspective. If Senator Stevens asks for a state position, it is imperative that it be a position that takes into consideration all of the needs, interests, and concerns of residents and participants of the fishing industry, she concluded.

Number 0755

RON BRIGGS testified in support of HJR 25. He told the members that the majority of the fishermen and a lot of the small business people he knows in Dutch Harbor do not want the last best offer that was voted on by the NPFMC. This vote went against the findings of the expert the council hired, Dr. Pott from California Technical Institute, who is considered to be the leading expert on binding arbitration in the United States. Dr. Pott recommended fleetwide arbitration because it enables the fishermen to negotiate the best price for their crab, which, in turn, generates more fish tax money for the state and communities. Mr. Briggs explained that fishermen perceive that in going down this road, fishermen will get less and less for their product, which, in turn, will generate less money for the state and communities through fish taxes.

Number 0871

ROGER ROLAND testified in support of HJR 25. He told the members he is a resident of Unalaska, and fishes for salmon in Chignik, gray and black cod in Unalaska, and herring around the state. He asked the members to note what has happened in Chignik over the past couple of years. He explained that in 2001 the fishermen were presented with a new product possibility which substantially out performed the traditional markets. However, both of the commercial buyers told him that they were not interested in the new product because they thought it would not work in the marketplace. Mr. Roland said that in 2002 this new market returned a dollar a pound ex-vessel price to fishermen for sockeye salmon. He stated that a comparison of what Kodiak and Area M, which are the two areas that border where he fishes, averaged approximately \$.50 per pound [more than where he fishes].

Number 0986

MR. ROLAND said the two-pie discussion concerns crab stocks in the Bering Sea, but he said he is convinced that these same companies that would benefit from processor shares for crab would use this plan for a template for multi-species Gulf rationalization. The miniscule 10 percent that is supposed to allow for the kind of competition he mentioned earlier would be laughable if it were not so tragic. Mr. Roland encouraged the members to ask any of the existing processors if it would be possible for them to be successful on 10 percent [share]. In closing, he said he supports legislation that stymies the processors ability to dictate an unfair price to the fishermen.

Number 1020

DAVID HILLSTRAND testified on HJR 25. He told the members that he remembers when the halibut quota share system was first implemented, and many people opposed it. He asked the members to come up with more than a resolution opposing the NPFMC's proposal. He said he believes it would be more helpful for the legislature to come up with a recommendation or solution to the problem for the council and Senator Stevens. Mr. Hillstrand said that during the NPFMC's hearings Kodiak, Homer, and several other communities came out in opposition to processor quota shares, and this had no effect on the NPFMC's vote for the crab rationalization plan.

MR. HILLSTRAND said when hearings were held [on the IFQ system] the only thing the fishermen were able to affect were the dates that were chosen. The council did listen to fishermen's suggestions and [the fishery] went to a limited entry system, and then to an IFQ system. He pointed out that the fishermen saw the shares split up between lots of smaller boats. There was equity in that the resources were split up between all the users of the resource, he commented.

Number 1126

MR. HILLSTRAND explained that there is some history with the IFQ program. When fishermen received quota shares, they took advantage of the opportunity to put as much money as possible in their pockets, and there was an effort to bypass the processors. He said he does see the processors' side of the argument; however, giving the processors 100 percent was not a realistic option, so the council came up with the 90 percent to 10 percent option. He said he does not believe that option is justified.

Mr. Hillstrand commented that a 50-percent-to-50-percent proposal might be more equitable. He said if this option were adopted there would be less argument between the parties. He said he believes binding arbitration is not realistic because it only encourages price fixing. He suggested that the legislature address the option of the first right of refusal of the selling of processor shares to the CDQ groups, and the regionalization of CDQ groups.

Number 1238

MAX MALAVANSKY, City Administrator, City of Saint George, testified in opposition to HJR 25. He told the members that the council process was open. The community has been involved in the crab rationalization process since 1999. Mr. Malavansky said he sat on the Community Protection Committee and that the process was open, fair, and democratic. He said he does not agree with comments that the process was not fair. Since Saint George is 750 miles west of Anchorage the community made every effort to be present at the NPFMC meetings. Mr. Malavansky said that he believes the processors have made significant investments in communities. The public investment by the City of Saint George, the State of Alaska, and the federal government has been over \$40 million in the last 15 years. He said that the community looks at crab rationalization [favorably].

Number 1372

BOB STORRS, Vice President, Unalaska Native Fisherman's Association, testified on HJR 25. He told the members that he is standing in for others who could not get off of work to testify. He commented that there has been a lot said about the two-pie option including the fact that it was a result of a long complicated process, went before the NPFMC, and that it had been reviewed by a number of economists. Mr. Storrs agreed that it was a long and complicated process; however, from the beginning the committee was told by the large [processing] companies that there was a "poison pill." Any program that did not offer them PQs [IPQs] was not to be considered as a preferred alternative or the large [processing] companies, with their immense money and political clout, would not allow it to go forward, he said. The final package that was put before the council was looked at by the NPFMC and approved unanimously.

MR. STORRS pointed out that only one currently active Alaskan fisherman was on that council. He said if this option went before the council today, there would not be the same unanimous

vote. He took issue with respect to earlier comments that a lot of economists reviewed [and agreed with] this option. He said what was not mentioned is that with the exception of the economists hired by the Knowles Administration, whose department at Washington State University received a very large amount of money from the Pacific Seafood Processors; almost all the other economist who looked at this plan have trashed it. The General Accounting Office [GAO] is not known as "bean counters with an attitude," but in their polite way they did develop an attitude over Dr. Matulich's methodology. Mr. Storrs told the members that even though the Knowles Administration did decide to carry the charge for the big companies and hired Dr. Matulich to justify it, people in the Alaska Department of Fish and Game and at the federal level have expressed incredulity at this option. One senior member of the division that would be administering the plan, when asked about Dr. Matulich's use of the halibut/sablefish program as an indicator for the problems that would happen for big business, said that this is "fraud."

MR. STORRS summarized his comments by saying that there is the threat that if the processors do not get quotas, there are certain communities that would suffer and die. He emphasized that there are alternatives that have been proposed to protect these communities by regionalizing the deliveries. These alternatives were killed by that "poison pill" and were not allowed to proceed unless the companies, not the regions, were specifically granted the resource. Mr. Storrs said that Alaskans should not be the only people in the United States who do not receive protection under anti-trust legislation. He believes fishermen should be allowed to establish functional fishermen's cooperatives because people are willing to look at other alternatives.

Number 1680

SINCLAIR WILT, Alyeska Seafoods, Inc., testified on behalf of Alyeska Seafoods, Inc., in saying he opposed HJR 25.

Number 1712

JOHN MERCULIEF, City Manager, City of Saint Paul, testified in opposition to HJR 25. He told the members that since the harbor opened on August 4, 1990, it has become one of the two largest ports in the Bering Sea. Crab processing has replaced the fur seal industry, and it is Saint Paul's only industry that makes up 80 percent of the community's tax base. The shoreside and shore-based processors handle about 40 percent of the opilio

crab caught in the Bering Sea. The spin-off business on the islands of Saint Paul and Saint George creates independence and local employment, and improves the viability of the community and the well being of the people who live in Saint Paul. The community is able to have volunteer services, maintain the infrastructure, and have year-round jobs for many of the people as a result of the crab industry operating, processing, and flying people in and out of Saint Paul Island. To support this industry in the past, the community invested its future, and incurred one of the highest per capita debts in the state to support the local and national crab industry. Mr. Mercurief pointed out that they do not have cod, salmon, or pollock; all they have is crab. The [Village Corporation] of Saint Paul has invested time, money, and manpower, working closely with the NPFMC, state and federal government agencies, and various crab-dependent communities. The community supports the crab rationalization plan. He said Saint Paul put their faith in the process mandated by Congress in the Magnuson-Stevens Fishery Conservation and Management Act; and he asked the members to respect this act. Mr. Mercurief told the members that on behalf of the community of Saint Paul, he opposes HJR 25. He told the members that this is an attempt to override hearings, deliberations, negotiations, and due process. The resolution is a direct threat to the well-being and livelihood of the citizens of Saint Paul.

Number 1880

TOM ENLOW, General Manager, UniSea, Inc., testified in opposition to HJR 25. He told the committee that UniSea, Inc., has been a crab processor in Unalaska for 30 years. Mr. Enlow said he is testifying in opposition to HJR 25 and in support of the NPFMC preferred alternative. That plan addresses the economic concerns for communities, seeks to retain parity between harvesters and processors, and promotes conservation issues including the rebuilding of healthy crab stocks. The plan chosen by the council is the result of many years of hard work by dozens of staff and industry representatives, and includes extensive public hearings and complete and thorough analysis, he said. Mr. Enlow explained that throughout the rationalization process there was bound to be controversy, simply because there was too little fishery left and far too many interested parties. It came down to those entities that could demonstrate a historical economic dependency to the crab fisheries.

Number 1947

MR. ENLOW told members that many of the concerns that were raised in HJR 25 were also raised during the public hearing process and have been addressed by the NPFMC and the crab plan. Amendments to the NPFMC motion have been fully developed and deal with many of the issues including provisions for binding arbitration that allows for an independent third party to come in and help determine and negotiate fair market price between harvesters and processors.

MR. ENLOW went on to say community protection provisions were established to ensure that coastal communities that are economically dependent on crab fisheries are protected under the rationalization plan. Mr. Enlow explained that at the core of these community protection provisions lie processor quotas, for what really binds a harvester to a community is the processor who resides in that community. Without the processor tie, the harvester has nothing that binds them to the community and it would mean the catch could be taken anywhere, including communities that do not have a historical dependency on crab.

Number 1977

MR. ENLOW disagreed with earlier testimony from Kodiak that there is no model available to compare what would happen on a two-pie system. He said he believes there is a model in the American Fisheries Act groundfish rationalization, which is a de facto two-pie system. Mr. Enlow said this system has had great success simply because processors and harvesters have collaborated to maximize the value of the fishery.

MR. ENLOW said processors have invested millions of dollars in the pollock and cod operations. UniSea, Inc., alone invested \$10 million in the pollock plants to increase recovery, reduce costs, and add value by diversifying their product line in supplying new markets. As a result, there have been greater revenues, which have been shared with the harvesters, as well as the local communities of Unalaska and the State of Alaska. Without the assurance of marketshare, processors would not have the confidence to make the investments. Mr. Enlow said he believes the same thing will happen with crab rationalization. Without the processor quota [shares], the processors will not have the confidence to make the necessary investments that will lead to maximizing the fisheries value, and sharing the increased revenues with both harvesters and coastal fishing communities.

Number 2066

MR. ENLOW remarked that crab fisheries have a desperate need for a comprehensive rationalization plan to fix the many problems. This plan should not jeopardize the economic viability of communities and fishermen, he said. Mr. Enlow said it is his understanding that the NPFMC is done with the work on this plan and has no intentions of going back and redoing any part of it. That basically means any opposition to its current form is opposition to the entire rationalization plan. In closing, Mr. Enlow said this plan must be moved forward with confidence that the responsible agencies including the U.S. Department of Commerce and Congress will keep the program under close scrutiny and won't allow any unfair practices.

Number 2110

RON PHILEMONOF, Chief Executive Officer, Village Corporation of Saint Paul, testified in support of HJR 25. He told the members that TDX Corporation is the landlord for Trident and Icicle seafood plants on Saint Paul Island and only has a leaseholder's interest in these plants. They also own the Anderson building, which was the first crab plant on Saint Paul; however, it was cutoff from the 8 percent historical quota by an arbitrary date that was set. Mr. Philemonof commented that all is not well on Saint Paul Island because there is not agreement on all points in the [crab] rationalization plan. Mr. Philemonof pointed out that at one point TDX [Corporation] did support the crab rationalization plan, but unfortunately the community protection measures were watered-down to a point where these measures are meaningless. It is an empty promise because there are no protections for communities under the current amendments that were adopted, he stated.

MR. PHILEMONOF told the committee that the Village Corporation of Saint Paul doesn't support the crab rationalization program; and therefore, they support HJR 25. He asked that the members, too, demand that the NPFMC put in better community protection measures. He said the community was told that they had no risks with this rationalization plan, but unfortunately, that is not true. The community has taken risks by investing over \$20 million in Saint Paul, yet there is no protection for the community. Mr. Philemonof commented that the Village Corporation of Saint Paul has no problem with Icicle [Seafoods, Inc.] and Trident [Seafoods, Inc.] getting PQs [IPQs], but what they do require is that those PQs [IPQs] be tied to the plants in the community where the Village Corporation has already made

substantial investments. It is essential that the product is not taken to floating processors around the country, he said.

Number 2229

PHYLLIS SWETZOF, City Clerk, Village Corporation of Saint Paul, testified on HJR 25. She told the committee that while she is currently the city clerk, she was the school board president for many years, and is very concerned about the crab fisheries because it is so much a part of the community's economy. Ms. Swetzof pointed out that HJR 25 opposes all the work that has been done by the parties involved. There were hundreds of man-hours spent in trying to reach a fair deal between all the parties. The end of negotiations always means that everyone wins something and everybody loses something, she said. Ms. Swetzof pointed out that the crab rationalization plan complies with the Magnuson-Stevens Fishery Conservation and Management Act, the American Fisheries Act, the development of the IFQ processes, and an on-going attempt to protect stakeholders and the resource. Ms. Swetzof told the members that she believes it is important that this legislation be allowed to go through. She stated she opposes HJR 25.

Number 2289

DOROTHY CHILDERS, Executive Director, Alaska Marine Conservation Council (AMCC), testified in support of HJR 25. She told the members that AMCC is a community based organization with over 900 members, most of whom are fishermen, subsistence harvesters, small business owners, and other local residents living in Alaska's coastal communities. Ms. Childers said that the AMCC supports the rationalization of the crab fishery because the resources need an improved management system. She explained that she worked with the NPFMC to advance conservation and community benefits of groundfish rationalization as well. However, the AMCC supports HJR 25 because they are concerned about the processor quota and the controlling affect this system will have on markets, fishermen, communities, and the public process for managing Alaska's resources.

Number 2351

MS. CHILDERS went on to say that she recognizes the important role that the processing sector has in communities. She said the question of Congress legalizing processor quotas should not be reduced to a processor versus fishermen battle, as some have made it out to be, because everyone knows the two sectors are

mutually dependent. She said she thinks instead of asking what it will take to get fishermen and communities to accept processor quotas, the question should be, "What is the appropriate way to support each sector of the seafood industry in order to better serve conservation management of the fish, stability of the communities, and preservation of the American competitive free-enterprise system." The Alaska Marine Conservation Council is involved in this issue because they see processor quotas as much more than an ordinary allocation decision. Processor quotas in the crab fishery, and if [this kind of plan] is applied to groundfish and salmon [fisheries], it will have a tremendous impact on the face of the seafood industry, governance of the public fishery resources, and day-to-day challenges for fishing families and small processing companies, she stated.

Number 2395

MS. CHILDERS believes that having the government allocate the marketshare in the form of processor quotas cannot be glossed over as a creative solution for rationalization. She said she believes it will create a kind of cartel that will squelch innovation and entrepreneurial opportunities and ultimately exert an unacceptable degree of control over Alaska's fishing families.

MS. CHILDERS urged the members to consider the public policy implications of the processor quotas because the NPFMC can find other ways to support processors and communities without giving permanent rights to a few corporations to buy fish from independent fishermen.

Number 2436

DAN FALVEY, Advisory Council Member, North Pacific Fishery Management Council, testified in support of HJR 25. He told the members that he is a fisherman and has been a member of the Advisory Council on NPFMC for the last 12 years. Mr. Falvey commented that while he fully appreciates Representative Samuels' remarks on the council's process, he fully supports HJR 25 and believes it is very appropriate for the legislature to comment on this issue because processor quotas are outside the normal secretary/council review process. He explained that PQs [IPQs] require Congress to substantially change the Magnuson-Stevens Fishery Conservation and Management Act and grant an exemption to the Sherman Anti-Trust Act of 1890. Mr. Falvey said he sees HJR 25 as a comment to Senator Stevens as he

considers making legislative changes, rather than micro managing the NPFMC process. Processor quota shares will have a profound impact on Alaska's communities and he reiterated that he believes it is appropriate for the legislature to comment on that.

Number 2505

MR. FALVEY shared that 45 percent of the PQs [IPQs] will be owned by foreign owned companies, the processors can leave a community two years after PQs [IPQs] are enacted, and it will have a significant effect on raw fish tax. He told the members that he believes this plan will effect all fishermen because this plan will cause consolidation in the processing industry and will eliminate independent market processors from forming. This will affect ground fisheries and salmon fisheries, at a time when there is a need for more markets and innovation, rather than less, he stated. Mr. Falvey said he believes PQs [IPQs] will spread to other fisheries. He cited proposals for a Gulf of Alaska rationalization plan and a plan for the salmon fisheries in Bristol Bay as well. In closing, Mr. Falvey pointed out that the NRC [National Research Council] report states that there is no compelling reason to have PQs [IPQs] because the concerns of processors can be addressed through other mechanisms that are legal and do not require anti-trust [exemptions]. The concerns of the communities can be addressed through regionalization of components of the plan that are legal and do not require legislative changes. Mr. Falvey urged the members to support HJR 25.

Number 2543

DAVE OHMER, Plant Manager, NorQuest Seafoods, Inc. testified on HJR 25. He told the members that he has been in the seafood processing business for 25 years and cannot remember a time when the processors and fishermen have had such financial hardships. Mr. Ohmer said he believes it takes a lot of discussion, public input, and expertise by the management bodies to offer positive solutions. He stated there is no way the legislature can match this process, and is very concerned for the future of decision-making processes if the legislature steps in and throws out decisions that have taken years to be worked out. Mr. Ohmer said that he believes it is important to keep the NPFMC and Board of Fish processes because it is the proper place to find the solutions to the industry's problems. He told the member that he does not believe this precedent would affect long-line

fisheries and salmon fisheries. Mr. Ohmer said he opposes HJR 25 and hopes the committee will let the process work.

Number 2620

REPRESENTATIVE SEATON clarified that HJR 25 does not override anything that has been done by the [NPFMC]. The resolution is a comment on a section of the proposal going through the NPFMC. He explained to Mr. Ohmer that the legislature does not have the authority to override the council's process.

Number 2642

STEVE FISH testified in support of HJR 25. He told the members he is a 29 year resident of Southeast Alaska, and believes it is not appropriate for the legislature to tell the NPFMC how to manage fisheries; however, it is appropriate for Alaska's Representatives to raise red flags when a proposed action will threaten and impose undue hardship on Alaskan communities, businesses, people, and the state's resources. Mr. Fish said he believes it is important that Alaska has a strong processing sector in the industry because fishermen depend on the processors a lot; however, what is being proposed goes way beyond what he believes is appropriate in helping the processing sector. Quota share programs are designed to facilitate consolidation. When considering consolidation and the market control of the fisheries, the negatives far outweigh the positives, and the positives can be reached through other means. Mr. Fish reiterated his support of HJR 25.

Number 2718

SUE WEAVER testified in opposition to HJR 25. She told the members that she and her husband have been Bering Sea crabbers for 22 years. She said she supports the NPFMC 11-0 decision, and recognizes that council has spent four years listening to all the testimony on all the issues. Ms. Weaver stated she does not believe the legislature should be addressing issues like this; stay out of it and let the process work.

MS. WEAVER said one of the reasons she would like to see this crab rationalization plan go forward is that it would mean longer seasons. For example, last fall the king crab opening was 68 hours long, and the opilio season was 10 days. Ms. Weaver explained that openings such as this leave little or no room for error or breakdown, and either one of these events could cost a crabber the season. She also pointed out that if

the season were longer it would be possible to open new markets and develop new products. Another reason this plan would benefit fishermen is that many times fishermen are out in weather they should not be out in. Even though it is about choices, it is also the only way [she and her husband] can make a living. Ms. Weaver said that in all the years they have fished the crab season, only once were they delayed because of weather. That was three years ago, when the U.S. Coast Guard said that if something happened they would not risk themselves to save us. Crabbers have the most dangerous job in the world, she commented. Safety is one of their biggest concerns and if the crab rationalization plan were to pass, all of this would change for them, she said.

MS. WEAVER told the members that they are on one of the smallest boats that fish in the Bering Sea and are from a small coastal community. She said AMCC claims to be protecting fishermen like her and her husband, but AMCC is really an environmental group. Ms. Weaver closed by saying she opposes HJR 25.

Number 2800

REPRESENTATIVE WILSON asked Ms. Weaver to comment on the testimony from individuals who are in favor of HJR 25, but do not live in a coastal community or make their living as crab fishermen.

MS. WEAVER replied that she is not sure what Representative Wilson is asking. However, she said that she questions why groups and people who are opposing the [crab rationalization plan] are testifying in support of HJR 25 since they have no vested interest in it; while she and her husband, who oppose the resolution, do. She said she believes their voice should be heard over other people [who have no vested interest in the plan].

Number 2866

JESSIE NELSON testified in opposition to HJR 25. She told the members that she and her husband had a crab boat that fished from Kodiak to Adak to the Russian border. The NPFMC spent years working on the Bering Sea crab rationalization program and voted 11-0 to forward the plan. Ms. Nelson asked how many of the members of the committee have attended these meetings and how many have testified. The sponsors of this resolution are not fishermen and have no vested interest in the fishery, she commented. She questioned how the Special Committee on Fisheries can make a judgment on this issue without spending

months evaluating the plan and conducting hearings. Environmental groups are testifying on this issue, but there is no environmental issue here. Ms. Nelson expressed the opinion that the stakeholders are the ones who should be listened to with respect to this issue.

MS. NELSON told the members that salmon fishermen are afraid that this plan will extend to salmon fisheries; however, as 35 year salmon fishermen, they have delivered to the same processor for 30 years [and are not concerned with the processor quota shares option in the plan]. For the past eight years, salmon fishermen have lamented the negative effects of the last governor's injection of politics into fisheries management, and now this resolution is proposing to do just that, she commented.

MS. NELSON pointed out that during the hotly contested IFQ debate the legislature properly stayed out of it. She told the members that she is opposed to setting a new precedent and opposes HJR 25.

Number 2945

GLENN CARROLL testified on HJR 25. He told the members that he has been fishing for 40 years and is now currently involved in the Gulf of Alaska groundfish fishery.

TAPE 03-26, SIDE B

MR. CARROLL said he is concerned about what will come next [in the Gulf of Alaska ground fisheries]. He said first there was the cooperative issue, then the crab [rationalization program], and he believes the Gulf of Alaska is next. Mr. Carroll said that he does not support blocking the crab rationalization program, just the provision of processor quotas.

Number 2926

JOHN HANSEN testified in opposition to HJR 25. He told the members that he is an owner and operator of a Bering Sea crab boat. For the past four years the people involved in this fishery; the fishermen, the communities, the canneries, and the NPFMC have been negotiating this rationalization process, he said. The program needs to proceed forward for safety and economic reasons. Mr. Hansen is opposed to HJR 25.

Number 2866

DAVE WOODRUFF, Manager, Alaska Fresh Seafoods, testified in support of HJR 25. He told the members that he is part owner and operator of a seafood processing plant. He said he has been a resident since territorial days, started his crab fishing career in Dutch Harbor in 1969, and he has owned and operated a crab processing plant in Kodiak for 25 years. He told the members that he has brought millions of pounds of crab from the Bering Sea on vessels that were owned by Alaska Fresh Seafoods. He explained that his partners owned 50 percent of the processing facility in Kodiak. In the scenario the NPFMC has brought forth, these vessels will not have the opportunity to bring crab back to Kodiak as they have through the qualifying years.

MR. WOODRUFF pointed out that Kodiak has helped to pioneer the Bering Sea crab fishery. The community has built the infrastructure to handle the large fleet of boats, which was over 65 crabbers at one time, but is currently down to 35 to 40 vessels. The crabbers have brought crab back to this community year after year and will not have that opportunity any more. Mr. Woodruff told the members that as a four-time elected official of Kodiak, he felt it was his responsibility to bring this to the committee's attention and ask for help when he realized the community was losing the battle. He pointed out that Kodiak has a vested interest in the Bering Sea crab, just like Saint Paul and Unalaska. Kodiak has invested millions of dollars of capital and still has the processor capability to run crab from the Bering Sea.

MR. WOODRUFF summarized his comments by saying that he supports HJR 25, and believes the council process is broken and needs to be fixed. He told the members that he served eight years on the advisory panel and in those eight years the panel managed fish stocks, not people and companies. Mr. Woodruff said he believes the NPFMC needs to get back to managing fisheries on a sustainable basis, and not try to manage the social problem since these problems will work themselves out.

Number 2736

DICK POWELL testified in support of HJR 25. He told the members that he has fished out of Kodiak for 39 years and owns three crab boats. Two of them fish crab in the Bering Sea and Aleutian Islands. Processor shares would force him to sell his crab to a specific processor, and since he owns a catcher/processor, he would not be allowed to even buy his own crab which he has done in years past, he said. Mr. Powell

stated that he believes he should be allowed to sell his crab to whomever he wants to, and especially to his own processor.

MR. POWELL explained that he has been involved in the discussions of the crab rationalization process with the NPFMC since the beginning and he is very disappointed. He said he has been to nearly every meeting and has made numerous trips to Washington, D.C. on this issue. Mr. Powell told the members he believes this process is broken because one industry has controlled the whole process. The processors have been able to out-spend the fishermen, their lobbyists, and consultants. He commented that after the NPFMC selected the preferred alternative [which was included in the report and provided] to Congress, the processors went racing back to [Washington, D.C.] to get special legislation enacted right away to adopt the plan. Mr. Powell stated that there has been so much opposition to this from Alaska and other areas of the country, that Congress has decided to have a hearing on this issue before taking action.

Number 2650

MR. POWELL told the members that he believes that the new administration and the legislature needs to take a stand on this important policy question. He questioned whether Alaska will go back to the fish trap days when the processing industry controlled commercial fishing. Mr. Powell stated that he supports HJR 25 and asked the members to pass it from committee.

Number 2677

GREG HATHAWAY, Plant Manager, Trident Seafoods, Inc., testified in opposition to HJR 25. He told the members that he is 16 year resident and runs the processing plant in Kodiak that employs 250. Mr. Hathaway stated that he is strongly opposed to HJR 25 because he believes that any crab rationalization plan should recognize both harvesters and processors equally for their investment in the industry. The NPFMC has been working on this issue for a number of years, and processors shares is one way to recognized both sectors investments equally.

Number 2591

JULIE BONNEY, Director, Alaska Ground Fish Data Bank, testified in opposition to HJR 25. She told the members that she has lived in Kodiak for 20 years, and owns a consulting business that represents troll catcher vessels and shore-based processors. Ms. Bonney said she is opposed to HJR 25 because

she does not believe the Alaska State Legislature should be involved in this issue by advising Senator Stevens [of the legislature's position]. There have been many controversial allocation restrictions on fisheries that both the NPFMC and the Board of Fisheries have worked through, and at the time when those other decisions were made, the Alaska State Legislature did not make a statement on the issues, she said. Ms. Bonney pointed out that the NPFMC is under scrutiny on a national level by organizations such as, the U.S. Oceans Commission and the PEW Oceans Commissions, who review how federal fisheries are being managed. Some people would like to see the fisheries managed on a national level by removing all regional authority, but she said she believes that is the last thing Alaskans want.

MS. BONNEY pointed out that she believes the testimony heard before the committee is the same testimony that came before the NPFMC. The difference is that while the members are hearing the motions and views of individuals, they are not receiving the analytical information on why this decision was made, she said. MS. BONNEY commented that in terms of Gulf rationalization, those members that she represents believe that historical communities, processors, harvesters need to benefit from the allocation system. HJR 25 is really an anti-community and anti-processor position [statement].

Number 2465

CHARLES REHDER testified in opposition to HJR 25. He told the members that he is a Bering Sea crab fisherman. During testimony he has been keeping track of those for and against the resolution. He said his count shows 22 in favor of the resolution and 23 against the resolution. Mr. Rehder said he opposes the resolution because it does not offer a solution. He said at this point in the process he is interested in a solution, not opposition.

Number 2427

MIMI TOLVA testified in support of HJR 25. She told the members that she has a financial interest in a Bering Sea crab boat that she depends on for her family's support. Ms. Tolva commented that she does not know how the [processor quota shares proposal] has managed to get this far, and cannot fathom how a proposal which provides for 90 percent of "A" shares and only 10 percent "B" shares [has proceeded through the process]. Several advisory panel members at the NPFMC expressed shock at the 11-0 vote allowing this proposal to go forward, she commented. Ms.

Tolva told the members that she believes it is important that the legislature weigh in on this issue. She offered that some of the processors may be feeling pressured because they now have to offer competitive prices for halibut, on top of battling an anti-trust law suit on [salmon pricing].

MS. TOLVA stated that she does not believe that the Bering Sea crab fishermen should have to accept artificially low prices to compensate for the challenges facing processors. Once the [quotas] are given away, it will be impossible to get it back; and once the harvesters lose the ability to negotiate a fair price, find a better market, or a more innovative way to process or market crab, that ability is gone forever. Ms. Tolva said if there had been a more fair and equitable processor quota system, she would have supported it, but as it stands now, in the interest of protecting the present and future participants in this fishery in the free market system, she strongly supports HJR 25.

Number 2345

CHARLIE PARSONS, Western Gulf of Alaska Fishermen Group, testified in opposition to HJR 25. He told the members that he has 25 years of experience as a ground fisherman and he believes the rationalization plan should stay within the NPFMC [purview] because he has faith in the process and [the council members'] abilities. Mr. Parsons said he believes that some individuals with little or no history in the fishing industry would like to see this process derailed. He asked the members to see that this does not happen.

Number 2310

HEATHER McCARTY, Representative for Central Bering Sea Fishermen's Association; Board Member, Alaska Seafood Marketing Institute, testified in opposition to HJR 25 and answered questions from the members. She told the members that she has been a resident of Alaska for nearly 30 years and her family has been in the salmon fishing industry for as long as she can recall. Ms. McCarty explained that her testimony before the committee is on behalf of the Central Bering Sea Fishermen's Association which is the CDQ [community development quota] group on Saint Paul Island. She said that she knows the members have heard from a number of people on Saint Paul Island, all but one of whom, has been opposed to HJR 25.

MS. McCARTY told the members that she has a copy of the economic analysis report which is about 600 pages long [300 pages of analysis and 300 pages of appendices] and was done by the NPFMC and the agency staff to support the crab rationalization program. The report deals with every aspect of this issue. She offered to leave the report with anyone who would like to review it, she said.

MS. McCARTY responded to an earlier question posed by Vice Chair Wilson to [Sue Weaver who lives in Homer], as to the motives of individuals who are supportive of HJR 25, but are not involved in crab fisheries or who are not living in one of the coastal communities [that depend on the crab fisheries]. Ms. McCarty said she believes these individuals believe that this program is a template for other fisheries, but that assumption is wrong. In fact, when David Benton, Chairman of the NPFMC, made his final speech on this issue, he stated for the record that no one on the council, in voting for this plan, intended for this to be a template for the rationalization of the groundfish fisheries in the Gulf, and certainly not for salmon fisheries. Ms. McCarty stated that she believes that fear is what is driving a lot of the opposition to processor shares, and that is an unfounded fear in her opinion.

Number 2155

MS. McCARTY commented that the committee has heard a lot of good testimony on why community protection and processor protection are inextricably linked in this plan. Saint Paul Island has two lags to the economy in Saint Paul, one is crab processing and the other is a local halibut fishery. These fishermen make their living fishing for halibut; there are about 1 million pounds in that quota, and it is fished every year out of small boats around the island. These fishermen depend on the processing capacity on the island which does crab processing, to then process their halibut. If that processing capability disappears they would not have the capability to process their own halibut and that would be a huge loss to them.

Number 2102

CHAIR SEATON asked Ms. McCarty, after [the adoption of] the amendments [to the crab rationalization plan], what restrictions are in place with respect to CDQ groups or other groups moving their processing quota shares from one community to another?

MS. McCARTY commented that she is not an expert on the final amendments. She offered to provide her perception of the amendments with respect to this issue.

CHAIR SEATON responded that a representative from NMFS [National Marine Fisheries Service] is here and can answer this question. The committee has heard two testimonies on this issue from Saint Paul Island; the TDX Native Corporation stated that they do not have protection, and the City of Saint Paul Island stated that they do have protection.

MS. McCARTY replied that she can address the Saint Paul issue. The TDX Native Corporation owns the buildings and the land that is being used by a couple of processing plants. If the quota share measures go through, those processors would be given the quota shares rather than the owners of the property, she said. In Saint Paul, the processor and community protections intertwine in this program which provides an opportunity for the community to gain even more control over the processing. Community groups, such as CDQ groups, could actually take over those processing plants in communities.

Number 1957

KRIS NOROSZ, Representative for Icicle Seafoods, Inc., testified in opposition to HJR 25. She told the members that processors in the crab fishery made large specialized investments based upon a derby style fishery, and likewise, crab vessel owners made significant investments. When a fishery rationalizes, such as the plan for the one in the Bering Sea, the race for fish ends and there is a surplus capacity. Both sectors, the harvesters and the processors, need to be granted shares in recognition of their investment and historical participation in order to avoid a shift in the power of one sector over another, while still protecting communities, she said. In the case of the sablefish and halibut program, shares were not granted to each sector and, as a result, there was a shift in power and some communities, such as Yakutat and Pelican, lost a lot of income as a result of that shift in power. Ms. Norosz stated that the Bering Sea Crab [rationalization] plan has taken great pains to avoid that type of situation.

Number 1885

MS. NOROSZ explained that Icicle Seafoods, Inc. has three floating processors that they use for crab [processing]. They have also used these platforms to process herring and salmon in

Western Alaska. Ms. Norosz told the members that if Icicle Seafoods is not granted processor shares based on their historical participation there is a strong likelihood that they would not be able to economically continue to operate these platforms and that would result in fewer markets for salmon and, in some cases, maybe no markets at all for herring in some areas of Western Alaska.

Number 1846

MS. NOROSZ commented that she listened to a previous meeting via teleconference where it was erroneously reported that crab fishermen do not support this plan. She said she thinks the members have heard otherwise today. Ms. Norosz concluded her testimony by highlighting the Alaska Crab Coalition's press release where they state their strong support for the program. She also pointed out that the Bering Sea's Skippers for Equitable Access also support the program. Ms. Norosz noted that both of these groups were part of the initial stakeholders that initiated the Bering Sea crab [rationalization] plan.

MS. NOROSZ submitted additional papers [and reports] for the members review, and pointed out that one paper by the United States Congressional Research Service which deals with anti-trust issues disputes these concerns and identifies other industries with market segmentation. Another report that she provided the members is the State of Alaska's response to the GAO's [General Accounting Office] report. In this report the state concludes that the GAO distorted the state's research into the halibut and sablefish IFQ program, and that the GAO relied on faulty analysis, she commented. The final paper she provided the members is a white paper done by the State of Alaska which was written last June after the NPFMC passed the [crab rationalization] plan unanimously; that paper supports the plan and states the reasons for supporting such a plan.

Number 1751

GORDON BLUE, President, C.R.A.B. Group [Crab Rationalization and Buyback Group], testified in support of HJR 25 and answered questions from the members. He told the members that he submitted some information for the members review, including a memorandum [Sher & Blackwell LLP, dated June 14, 2002] on antitrust issues, which Mr. Garner told the members was not in existence at a previous hearing [see minutes of the House Special Committee on Fisheries meeting dated 4/23/03]. Mr. Blue encouraged the members to study that memorandum and the material

that Ms. Norosz has provided because this is a large and important part of what the proposed plan does. The plan allocates the quota for processors and creates a horizontal market division which is a per se violation under existing antitrust rules. He pointed out that Congress has the power to set those rules aside. What is important to note, he said, is that the NPFMC had no debate on the wisdom of the antitrust rules; and, in fact, they set aside the study which showed the proposal would probably create an unfair balance to the benefit of processors, which the council itself had commissioned.

Number 1642

MR. BLUE commented that the members have heard from some crab fishermen today who support this program because of their close relationship with particular canneries that have spanned as many as 25 years. He pointed out that the C.R.A.B. Group is composed of 104 crab harvester vessels. He said he has fished in the Aleutians and Bering Sea for 25 years. The group's [membership] supports crab rationalization, but they do not support crab-processing quotas for the reasons already described. He stated that the group supports HJR 25.

REPRESENTATIVE OGG asked Mr. Blue if all 104 crab harvester vessels presently fish in the area that will be impacted by the [NPFMC crab rationalization] plan.

MR. BLUE responded that he has not verified that; however, he said he does know that all of those vessels have the right and the privilege to participate in the fishery. He commented that he does not know, for instance, if everyone of them went out for the opilio crab fishery this last season.

REPRESENTATIVE OGG asked for clarification that they have the right to participate in the fishery.

MR. BLUE responded that in the last two years all 104 crab harvesters have participated in the fishery.

Number 1531

REPRESENTATIVE OGG restated his question by asking if all 104 vessels participated in both the opilio and king crab fishery in the last two years.

MR. BLUE replied that, of the 104 vessels in the group, nearly all have participated in the last couple of years, but he stated

that he does not know if they fished just in the Bering Sea. He pointed out that there is also the Aleutian Islands brown crab fisheries. Mr. Blue said he is sure about the fact [that members of the group have fished for crab] because there is a recent qualification period that applies which he believes is about 4 years old. So everyone who is licensed would have to have participated within that time. Mr. Blue said it is possible that there are some members who have lost vessels or have tied up for one reason or another; however, that would not be a significant number of the membership.

REPRESENTATIVE OGG asked if all 104 vessels qualify for the Bering Sea crab rationalization plan, with the exception of those vessels that had been lost at sea.

MR. BLUE said that is absolutely correct; in fact, even vessels that had been lost at sea [could be replaced and participate in the fishery].

CHAIR SEATON announced that he was ending public testimony on HJR 25. [HJR 25 was held over.]

ADJOURNMENT

Number 1388

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 9:52 a.m.