

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

February 17, 2011

5:06 p.m.

MEMBERS PRESENT

Representative Steve Thompson, Chair
Representative Craig Johnson, Vice Chair
Representative Alan Austerman
Representative Bob Herron
Representative Lance Pruitt
Representative Scott Kawasaki

MEMBERS ABSENT

Representative Bob Miller

COMMITTEE CALENDAR

OVERVIEW(S): NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL (NPFMC)

- HEARD

HOUSE BILL NO. 141

"An Act relating to loans for the purchase of fishing quota shares by certain community quota entities; and providing for an effective date."

- MOVED OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 141

SHORT TITLE: LOANS TO COMMUNITY QUOTA ENTITIES/PERMITS

SPONSOR(S): REPRESENTATIVE(S) AUSTERMAN

02/04/11	(H)	READ THE FIRST TIME - REFERRALS
02/04/11	(H)	FSH, FIN
02/17/11	(H)	FSH AT 5:00 PM CAPITOL 120

WITNESS REGISTER

CHRIS OLIVER, Executive Director
North Pacific Fishery Management Council (NPFMC)
Anchorage, Alaska

POSITION STATEMENT: Presented an overview of the North Pacific Fisheries Management Council (NPFMC).

STEFANIE MORELAND, Federal Fisheries Coordinator
Office of the Commissioner
Alaska Department of Fish & Game (ADF&G)
Juneau, Alaska

POSITION STATEMENT: Responded to questions during the presentation from the North Pacific Fisheries Management Council (NPFMC).

DUNCAN FIELDS, Vice President
Fisheries and Economic Development
Old Harbor Native Corporation
Kodiak, Alaska

POSITION STATEMENT: Testified in support of HB 141, and responded to questions.

OLE OLSEN, Board Member
Gulf of Alaska Coastal Communities Coalition (GOAC3)
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 141.

TIM GREENE, Representative
Nanwalek IRA (Indian Reorganization Act) Village Council,
Nanwalek, Alaska

POSITION STATEMENT: Testified during the hearing on HB 141.

BILL LUCEY
Coastal Planner
City and Borough of Yakutat
Yakutat, Alaska

POSITION STATEMENT: Testified in support of HB 141.

GALE VICK
Executive Director
Gulf of Alaska Coastal Communities Coalition (GOAC3)
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 141.

PATRICIA BROWN SCHWALENBERG, Executive Director
Chugach Regional Resources Commission (CRRC)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 141.

BOB HENRICKS, Board Member
Chugach Regional Resources Commission (CRRC)

Cordova, Alaska

POSITION STATEMENT: Testified in support of HB 141.

TONY GREGORIO, Fisherman

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 141.

FREDDIE CHRISTIANSEN, Fisherman

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 141.

ACTION NARRATIVE

[5:06:06 PM](#)

CHAIR STEVE THOMPSON called the House Special Committee on Fisheries meeting to order at 5:06 p.m. Present at the call to order were Representatives Thompson, Herron, and Austerman. Representatives Johnson, Kawasaki, and Herron arrived while the meeting was in progress.

[5:06:18 PM](#)

OVERVIEW(S): North Pacific Fisheries Management Council (NPFMC)

CHAIR THOMPSON announced that the first order of business would be an overview from the North Pacific Fisheries Management Council (NPFMC).

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CHRIS OLIVER, Executive Director, North Pacific Fishery Management Council (NPFMC), presented an overview of the North Pacific Fisheries Management Council (NPFMC) summarizing the importance of Alaskan fisheries, and established: if Alaska were a country, it would rank in the top ten producing countries; it represents 50 percent of the total U.S. catch; the catch is between three and five billion pounds of groundfish annually, for the past 30 years; the industry is the number one private sector employer in Alaska; the industry ranks second only to oil in revenues to the state. He said that what established the regional council system was the Magnuson-Stevens Fishery Conservation and Management Act (MSA), adopted in 1976, which established the following: a 3-200 nautical mile (nm) exclusive economic zone, commonly referred to as the 200 mile limit; national standards and other requirements for

conservation and management of resources; a system of eight regional councils, composed of fishermen and government agency representatives, to develop fishery regulations for specific areas, subject to approval and implementation by the National Marine Fisheries Service. Mr. Oliver described the structure of the council, which includes the heads of the fisheries departments for Alaska, Washington, Oregon, and the National Marine Fisheries Service (NMFS) among the membership. The council holds week long meetings, on five different occasions throughout the year. An industry advisory panel, as well as scientific and statistical committees, provides advice to the council, and public testimony is taken at each meeting on all issues.

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MR. OLIVER provided pie charts, indicating the catch weight and value percentages, from the groundfish, herring, salmon, shellfish and halibut 2009 harvest report, which totaled 2,178,700 metric tons (mt) valued at \$1.15 billion dollars. He used pie charts to indicate the biomass of the major groundfish species specific to the Bering Sea, which produced 17 million mt, and the Gulf of Alaska (GOA), which produced 4 million mt. The council institutes a stock abundance program that maintains a formula for sustainable fisheries management. Vessels have observers in place, and conservative catch limits are the norm, along with by-catch limits. The overall optimal yield (OY) limit for the Bering Sea and Aleutian Islands (BSAI) is two million metric tons, and he reported that, as a result of the management system, there are no overfished groundfish stocks; plans are in place to rebuild the overfished crab stocks. All catch, including discards count towards each species catch limit; overseen by onboard observers using daily, real-time, electronic reporting.

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MR. OLIVER said that reducing bycatch, discards, and waste is being accomplished by instituting a program that minimizes discards and eliminates waste. A series of slides illustrated the progress made in this area using linear and bar graphs, which also listed methods employed including: bycatch limits for crab, salmon, halibut, and herring; gear restrictions such as pelagic trawls only for BSAI Pollock, biodegradable panels in pots, prohibition on gillnets and other gear; mandatory full retention of all Pollock and cod, and some GOA flatfish; voluntary industry program actions for sharing of bycatch data

to avoid hotspots. Additionally, habitat conservation is practiced, and requires closures of large areas that are not fished. Over 60 percent of the management area is closed to bottom trawling, or other methods, for habitat or species conservation. A comprehensive set of closures has been maintained to minimize interactions between the groundfish fisheries and the endangered Steller sea lion prey field. He reported that the most recent NMFS study, 2011, found that the pup counts are still decreasing and additional measures have been imposed; a law suit, filed by the council, is pending.

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MR. OLIVER said that coastal community needs are accommodated in various ways to provide community protection, which include: proposed management actions with assessments of social and community impacts based on development and maintenance of coastal community profiles; sablefish/halibut individual fishing quota (IFQ) programs designed with specific safeguards to maintain coastal community fleets; sea lion protection measures modified to ease the burden on small, local vessels; regulations to recognize halibut subsistence fisheries; regional delivery requirements as well as individual processing quotas (IPQs), built into the crab rationalization program; and support of the community development quota (CDQ) program. He elaborated on the CDQ program to establish the following points: benefits 65 remote coastal communities in BSAI since 1992; sets aside 10 percent of Pollock, ground fish and crab total allowable catch (TAC), and halibut set aside; since 1992, over \$100 million in wages, education, and training benefits provided to over 25,000 western Alaska residents; 2002 total revenues of the six CDQ groups was about \$70 million combined. Mr. Oliver said the new MSA reauthorization was signed by the president on January 12, 2007, and significant new provisions included were: a mandate for use of the annual catch limits to prevent overfishing; establishment of guidelines for limited access privilege programs (LAPPs); realigned environmental review process under NEPA (National Environmental Protection Agency) with the MSA; strengthened the role of science in decision making, and improved the data collection methods for better management. He reported that, when making any regulatory amendments or allocation revisions, the council is compelled to comply with a number of presidential Executive Orders (EOs), and he listed the most important as: the Endangered Species Act, requiring an assessment of impacts on listed species; the National Environmental Policy Act, requiring an analysis of the environmental impacts of federal actions; the Regulatory

Flexibility Act, requiring an examination of adverse impacts on small entities; Executive Order 12866, requiring an analysis of the costs and benefits of regulations; and special interest legislation.

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MR. OLIVER addressed a series of six slides to illustrate how the council receives and processes proposals, highlighting that input is received from the public and stakeholders, as well as governmental agencies. A flow chart indicated that changes to fishery regulations require a number of steps including proposal, development of alternatives, analysis and review, decision, and rulemaking. There are opportunities for public input into the process at each step. When the regulatory package of council action is completed it is submitted to the U.S. Secretary of Commerce, where it undergoes another review and approval process, which also allows for public comment. The vast majority of proposals are approved, published with a summary of comments and NMFS' response, and become effective within 30 days of the publication date. A proposal for council action can take one year to three years from inception to implementation. Coordination with the state of Alaska occurs through four means, which are: the ADF&G commissioner holds a voting seat on the council; annual meetings occur between the council and the Board of Fish (BOF); a joint protocol committee meets as necessary, comprised of council and BOF members; and there is ongoing council/NMFS/ADF&G staff coordination.

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MR. OLIVER reviewed recent and pending council issues and the actions being taken. The salmon bycatch, in the Pollock fisheries, has proven to be significant, and a cap was established, along with a series of cooperatives to help the Pollack fishermen manage the catch better. The high, disproportionate, bycatch numbers seen in 2006 and 2007 have been reduced; however, the Bering Sea chum salmon bycatch is now receiving specific focus. Additionally, Chinook salmon bycatch measures are being taken in the GOA, on an expedited timeframe with enactment to occur sometime next year. He reported that, this year, a change will be made in the halibut bycatch caps. Also, annual catch limits (ACLs) for groundfish, crab, and scallops are being established to align with the recent MSA reauthorization, which requires the establishment of annual catch limits for crab and scallop; management guidelines are deferred to ADF&G. Regarding the halibut charter sector

allocations, he said the council has developed a catch share plan, which is scheduled to take effect next year. The catch share plan will provide a solid allocation level and cement what was previously in place; a harvest level guideline. In place this year is a moratorium on the licensing for halibut charters, which has proven to be a controversial issue. A fishery management plan (FMP) was recently approved for the Arctic region, which established a moratorium as a precautionary procedure until sustainable fishing limits can be researched and adopted. To a question from the committee, he said the moratorium was a proactive measure to allow time for scientific review of the potential for fisheries, as the ice recedes.

[5:40:29 PM](#)

MR. OLIVER said that, although salmon are not managed directly by the council, there is a salmon fisheries management plan (FMP) in place. Recently litigation has been brought to scrutinize the jurisdiction authorization, that the FMP provides the state, regarding salmon in federal waters. Finally, Mr. Oliver reported that the 2010 U.S. Ocean Policy Task Force recommendation for a National Ocean Council (NOC) was supported by a presidential EO, which also envisions the establishment of several regional planning teams, including in Alaska, to create a comprehensive marine spatial planning initiative. The council is not opposed to this type of concept, but there is concern that the NOC may be means for circumventing the management authority already in place. He pointed out that the committee packet includes information regarding the council's attention to the Arctic, a booklet titled, "The North Pacific Council Process," as well as a brochure specific to the current issues being dealt with by the council.

[5:45:03 PM](#)

REPRESENTATIVE HERRON asked if a council seat should be reserved specifically for a subsistence member.

MR. OLIVER responded that council membership is dictated under the MSA.

REPRESENTATIVE HERRON said:

You mean a person that's truly just a subsistence user, ... they can't get on the council.

MR. OLIVER said the governor could make an appointment recommendation to the U.S. Secretary of Commerce, for a three year term; three names are submitted.

REPRESENTATIVE HERRON queried whether a subsistence person has ever served on the council.

MR. OLIVER answered not to his knowledge.

REPRESENTATIVE HERRON described the makeup of his district and the conflicts that continue to occur, particularly regarding bycatch.

MR. OLIVER indicated that relief should become apparent based on the measures that have been taken to reduce the bycatch in the area.

5:50:10 PM

REPRESENTATIVE AUSTERMAN noted that the halibut bycatch caps in the GOA are based upon the biomass, and asked whether the cap is a set poundage level or if it fluctuates with the biomass.

MR. OLIVER responded that it is set poundage.

REPRESENTATIVE AUSTERMAN inquired if a fluctuating cap is under discussion.

MR. OLIVER said not at the council level.

5:52:20 PM

STEFANIE MORELAND, Federal Fisheries Coordinator, Office of the Commissioner, Alaska Department of Fish & Game (ADF&G), added that the council is interested in learning how the bycatch and the cap interact with the halibut stock assessment received from the halibut commission. One step taken has been to request further information from the halibut commission.

5:52:57 PM

REPRESENTATIVE AUSTERMAN noted the reduction in discards, and asked if the percentage has been reduced because more catch is retained.

MR. OLIVER said it primarily reflects the groundfish retention program. A requirement was implemented that retention versus

discard be instituted, which is reflected in the reported percentage.

[5:54:37 PM](#)

MS. MORELAND explained the structure of the ADF&G staff that is organized to work specifically with the council and interact on the previously mentioned issues and coordination points.

HB 141-LOANS TO COMMUNITY QUOTA ENTITIES/PERMITS

The committee took an at-ease from 5:56 p.m. to 5:57 p.m.

[5:57:36 PM](#)

CHAIR THOMPSON announced that the final order of business would be HOUSE BILL NO. 141, "An Act relating to loans for the purchase of fishing quota shares by certain community quota entities; and providing for an effective date."

[5:57:51 PM](#)

REPRESENTATIVE AUSTERMAN, introduced HB 141, paraphrasing from the sponsor statement, which read as follows [original punctuation provided]:

The Community Quota Entity (CQE) program was developed in 2004 by the federal North Pacific Fishery Management Council to help communities maintain and build involvement in the halibut and black cod longline fisheries. The CQE program provided the legal opportunity for communities to form non-profit organizations to purchase individual fishing quota (IFQ), anchoring fishery participation in these coastal communities. In response, the 23rd Legislature modified the Commercial Fishing Revolving Loan Fund to provide authorization to finance fishing quota for CQEs.

Despite the Alaska Legislature's initial efforts to provide financing to the communities, only two of 42 eligible communities have procured quota share to date. In fact, small coastal communities continue to see a significant out-migration of fisherman and quota shares, leaving them with limited or no access to fisheries occurring just off their shores.

House Bill 141 will modify the financial instruments the state has previously provided, to assist communities to participate in the program and bolster their economies. By establishing an independent revolving loan fund modeled upon the existing Commercial Fishing Revolving Loan Fund, HB 141 will enable the state to structure a successful loan program that supports rural community development and strengthens Alaska's coastal regions.

An active commercial fishing fleet in a rural community employs residents, provides tax revenues, and spends income locally, which has a substantial multiplier effect in small communities. This piece of legislation is an important tool to support rural coastal communities and develop sustainable economies throughout the state.

6:02:23 PM

DUNCAN FIELDS, Vice President, Fisheries and Economic Development, Old Harbor Native Corporation, introduced himself as a fisheries advocate and active fisheries consultant.

6:03:08 PM

OLE OLSEN, Board Member, Gulf of Alaska Coastal Communities Coalition (GOAC3), stated that, being born into a Kodiak fishing family, he has a lifelong history with Alaskan fisheries, and has been involved with the Gulf of Alaska Coastal Communities Coalition (GOAC3) since it was formed.

6:03:44 PM

MR. FIELDS stated support for HB 141, and pointed out that the committee packet includes [five] pages of written testimony and supplemental material, which he submitted. He underscored that HB 141 is a culmination of six years of work; not a new concept.

6:04:49 PM

MR. OLSEN directed attention to the committee packet handouts titled "Community Quota Entities (CQEs)," dated 2/17-18/09, prepared by the Restricted Access Management (RAM) division of the National Oceanic & Atmospheric Administration (NOAA), which contain a history of CQEs and supporting statistical information. He described the development of individual fishing

quotas (IFQs), beginning with the inception of limited entry and the effect it has had on the coastal community fishing fleets, as a continual erosion of fishery access to these areas. In 1998 CQE's were created under federal law to address the situation and assist coastal communities to rebuild the local industry.

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MR. OLSEN provided an example of what occurred in Old Harbor and the effect that the IFQ has had through the rationalization program. The fleet has been significantly reduced, and every coastal community has felt similar effects. The CQE was seen as a means to level the playing field and regenerate opportunities. Forty-five coastal communities, with less than 1,500 inhabitants, and not connected to the road system were identified as eligible to organize into CQE's. He further explained how the CQEs were formed using a point system to distribute an equitable quota, and allow community governance.

MR. FIELDS interjected that the issue has been funding.

[6:12:17 PM](#)

MR. OLSEN stated that, in 2004, the opportunity to purchase CQEs was extended, but immediately met with the lack of a funding mechanism. Lending institutions could not be approached, federal sources were not a fit, and the state loan package requirements were prohibitive. In the case of Old Harbor, a fisherman was able to provide backing, and of the 20 CQE's that have formed, it is the only one operating, due to the funding issue.

[6:15:03 PM](#)

MR. FIELDS reviewed the provisions of the bill, stating that a long term loan is important for a CQE, as it is about quota share, in the community, in perpetuity. The second provision requires a down payment of five percent, which should be possible; a higher rate would be a barrier. The third provision is the interest rate of prime plus two percent, which is standard; however, he suggested, an incentive would be created if it were lowered to prime plus one percent. Finally, he said an essential provision is the ability, as stated in the bill, for a CQE to ask for postponement or deferment of the interest on the principle, for up to ten years. The deferment would eventually be paid back, but allowing this on the front end of

the loan, is critical to enable the CQE to build up reserves; necessary in a fluctuating fishery industry.

[6:17:26 PM](#)

TIM GREENE, Representative, Nanwalek IRA (Indian Reorganization Act) Village Council, stated support for HB 141, and said that the CQE has been a total failure, noting that only one is operational. He reported that the North Pacific Fisheries Management Council (NPFMC) has been unwilling to meet with the village council claiming exemption from EO 13175, which states that all federal agencies are to provide government to government consultation to tribal entities. Finally, he said:

I support HB 141. It gives a chance for a CQE to possibly make a purchase. ... But there's nothing to purchase. So that can be the next thing that can be resolved.

[6:21:14 PM](#)

BILL LUCEY, Coastal Planner, City and Borough of Yakutat, stated support for HB 141, and said there has been an active CQE in Yakutat for about four years. Periodically the cost is evaluated and the numbers do not pencil out. He predicted that HB 141 could help with the financial situation, and the program could be a huge benefit to the area, generating upwards of \$600,000 through the CQE non-profit. The infusion of the revenues would provide the community with a great deal of infrastructure security.

[6:23:45 PM](#)

GALE VICK, Executive Director, Gulf of Alaska Coastal Communities Coalition (GOAC3), stated support for HB 141, and said the CQE would be a viable, sustainable program, if provided with a financial mechanism. The bill will provide a positive economic stimulus.

[6:26:04 PM](#)

PATRICIA BROWN SCHWALENBERG, Executive Director, Chugach Regional Resources Commission (CRRC), stated support for HB 141, and indicated that the commission has been involved in the evolution of the CQE program. Two years ago a workshop was held on forming CQE's, but obtaining financing has not been possible.

Funding options are essential to get this program up and running.

[6:28:28 PM](#)

BOB HENRICKS, Board Member, Chugach Regional Resources Commission (CRRC), stated support for HB 141, and said this loan program is desperately needed to get the CQE groups off the ground. He said:

We're almost back to the days before statehood, when all of the fishermen, and all the processors, were from the south forty-eight, and controlled our resources.

[6:29:29 PM](#)

TONY GREGORIO, Fisherman, stated support for HB 141, and said that it will help the villagers to help themselves, and create an economic base.

[6:31:22 PM](#)

FREDDIE CHRISTIANSEN, Fisherman, stated support for HB 141, and said this would make CQE's plausible, and stressed that the program is needed in coastal communities.

CHAIR THOMPSON closed public testimony.

[6:35:42 PM](#)

REPRESENTATIVE JOHNSON stated support for HB 141, and said it is the type of legislation that provides people a means to help themselves.

REPRESENTATIVE PRUITT concurred and stated support for HB 141.

[6:36:59 PM](#)

REPRESENTATIVE JOHNSON moved to report HB 141 27-LS0158\I, out of committee, with individual recommendations and the accompanying fiscal notes. There being no objection, HB 141 was moved from the House Special Committee on Fisheries.

[6:37:25 PM](#)

CHAIR THOMPSON announced the agenda for the next meeting.

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 6:37 p.m.