SCOMM

147:22

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REPRESENTATIVE PAUL SEATON
DISTRICT 35

HB 16
SPONSOR STATEMENT

HB 16 extends the sunset on the vessel entry permit system established in 2002 by HB 206. This system authorized the issuance of limited entry permits to vessels as opposed to natural persons for the first time since the passage of the Limited Entry Act in 1973. This system currently applies only to the Bering Sea Hair Crab fishery and the Weathervane Scallop fishery.

There has been a high degree of consolidation in the respective fisheries under this program. There are currently only three vessels with a CFEC issued vessel based permit participating in the Weathervane Scallop fishery, down from a high of 14 permits on 12 vessels in 1994. Sixteen vessels qualify for the Bering Sea Hair Crab fishery, which has been closed since 2000 due to stock concerns.

HB 16 allows the legislature to analyze major policy questions surrounding the vessel based permitting system:

- The Limited Entry Act of 1973 established the policy that a limited entry permits go only to a natural person who is an active gear operator in a fishery. HB 206 established an alternative to the Limited Entry Act allowing limited entry permits to be issued to corporations. This has allowed for absentee ownership of state fisheries resources and no required active participation. Is the vessel permit system consistent with the intent of the Limited Entry Act?

- Should the state have two different standards for limited entry permits a) limited entry for participants, b) limited entry for vessels?

- HB 206 created a vessel-based permitting system that does not mandate but *allows* extreme consolidation of a fishery to be a consequence of the permitting system. Do we have a constitutional issue of special right of fishery if we create a system that allows for such consolidation?

- Are their any constitutional implications in allocating harvest privileges to non-natural persons – i.e. vessel owner/corporations?

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB16-ADFG-CFEC-3-30-07
Bill Version: HB 16
() Publish Date:

Revision Date/Time (Note if correction):
Dept. Affected: Fish and Game
Title: An Act providing for an effective date by delaying the effective date of repeal of the authority...
RDU: Comm Fisheries Entry Commission
Component: Comm Fisheries Entry Commission
Sponsor: Representative Seaton
Requester: House Fisheries
Component No.: 471

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CHANGE IN REVENUES ( )	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2007) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: *(Attach a separate page if necessary)*

No fiscal impacts associated with this bill.

Prepared by: Shirley Penrose, Administrative Officer
Phone: 790-6960
Division: Commercial Fisheries Entry Commission
Date/Time: 3/30/07 9:00 AM
Approved by: Frank M. Homan, Chairman
Date: 3/30/2007
Agency: Commercial Fisheries Entry Commission

(Revised 9/18/2006 OMB)

A LIMITED ENTRY PROGRAM FOR ALASKA'S FISHERIES

Report of the Governor's
Study Group on Limited Entry



STATE OF ALASKA
WILLIAM A. EGAN, Governor
FEBRUARY, 1973

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ACE 5451371

The Entry Permit System

Proceeding area by area, the first step in the commission's actions will be to set the level of gear for each type of gear in an area. Then it will begin the process of issuing permits. This process advances in separate stages to allow the commission to work carefully and to assure individuals of fair treatment.

First, the commission will issue interim entry permits. These are only temporary, and more people will hold them than will eventually hold permanent entry permits. The reason for issuing interim entry permits is to screen out the people who have held only "paper licenses" and to give the commission time to do its work without disrupting ongoing fishing seasons. Once interim permits are in effect, the commission will start the procedures for issuing permanent entry permits.

Entry Permits Required

Who must hold an entry permit in order to fish? Not everybody. Not every commercial fishing license holder in the state needs an entry permit to fish. The only people who need entry permits are gear license holders--who are in most cases also the vessel operators. The entry permits will be issued to people in a one-to-one correspondence with the number of units of each type of gear in an area. The bill requires that a holder of a valid entry permit be actively engaged in operating the unit of gear for which the permit was issued. Crewmen or assistants must hold commercial fishing licenses but do not need entry permits.

It is also important to remember that entry permits are going to fishermen and will not be attached to vessels or be issued only to vessel owners. By limiting the number of fishermen authorized to fish each type of gear, the amount of gear in an area will be directly regulated. Since most gear requires the use of a vessel, the number of fishing vessels in the fishery will also be stabilized indirectly. However, if a man holds an entry permit for more than one type of gear, he may naturally fish all his gear with the same vessel. By the same token, two fishermen who hold entry permits for different types of gear may go into partnership and fish with just one vessel. When a person owns a permit, he may fish a boat owned by another person or a company. This strengthens the bargaining position of those who own permits since those who own boats must hire the holder of an entry permit to operate their boats.

Establishing Qualifications for the Issuance of Entry Permits

Issuing permanent entry permits is a two-step operation, and it will take place on an area by area basis. In the first

ACE 5461383

step the commission must analyze each area and each type of gear within that area. Much information has already been developed, but additional study, including public hearings, will be necessary to give the commission a working knowledge of each separate fishery.

In this first step, the commission will not deal with individual fishermen by name. Instead it will develop information that shows, for example, the range of income in an area, and the approximate number of fishermen in various parts of that range. It will look at the number and value of the vessels. It will look at how much being a part of a particular fishery means to various types of people in the area. It will look at alternative opportunities for making a living. It will look at the various ways in which fishing contributes to the livelihood of all the fishermen who fish in that area.

When this type of study is done, it will draw up a series of proposed rules or regulations for deciding who will get entry permits and who will not. And to make sure that it has not overlooked something, it then must go into the area for which these regulations will apply and hold public hearings on them. That way the people in the area, who will be judged by these regulations in deciding who gets a permit, will have a chance to see them and comment on them before they take effect, so that changes can be made to make them as fair as possible.

Setting Specific Entry Permit Requirements

The commission has three basic standards that it must follow in setting up the specific requirements for entry permits. The commission must make certain that the requirements consider a person's degree of economic dependence on the fishery; his extent of past participation in the fishery, and his present ability and intent to participate actively in the fishery.

Let's discuss each of those just briefly. We think that there are good reasons for considering these fair tests for determining who will receive entry permits.

The first standard is the degree of economic dependence on the fishery. Now certainly that includes income, but the term "economic dependence" means more than just income. It allows the commission to consider, for example, that a person may own an expensive vessel, so that while he made, say, $6,000 profit from fishing, it must also consider his investment of past earnings in perhaps a $35,000 vessel and gear. It allows the commission to consider whether or not a person has alternate means of employment available to him. In other words, it looks at his total economic relationship to the commercial fishery in order to make its determination of degree of economic dependence.

It is also important to note that what is being con-

ACE 5451389

sidered is not a person's economic dependence on all fisheries, wherever they might be. The commission's consideration's will be on an area by area basis, so in considering economic dependence, it will look at how much a person depends on fishing in that specific area. Those who depend more on fishing in a particular area should be given a higher priority in deciding who will get entry permits for that area.

The commission will also consider the extent of a person's past participation in the fishery. Again, it is past participation in the particular area for which proposed regulations will be written. A person who fished for 10 years would get a higher priority consideration than a person who fished four weekends a year for 10 years.

Past participation as a commercial fisherman in any capacity will be considered, not just past participation as a licensed gear operator. Although anyone who has not held a gear license for some period may have difficulty qualifying under this standard, a crewman who has fished full-time for ten years and held a gear license for only two years has participated more than a casual weekender who may have held a gear license for four years.

The third thing the commission will consider is a person's present ability and intent to participate actively in the fishery. This provision will help the commission eliminate the possibility of speculators buying and holding permits. Entry permits must be held by fishermen.

For each area and for each type of gear the commission must spell out detailed proposed regulations that amplify and make specific these three general standards set out in the legislation. After public input, which may bring to the attention of the commission various points that it has overlooked, the commission will prepare final regulations for the area and the types of gear in the area. At this point every fisherman will have a fairly precise idea of where he stands, before the first application is taken.

Taking Applications for Entry Permits

Then and only then, as step two in issuing permanent entry permits, will the commission take applications for entry permits from an area. Before this, as the detailed regulations for each type of gear were being prepared, the commission did not have before it the names of individuals in the area. Now, once the people subject to the regulations have had a chance to publicly review and participate in the adoption of regulations, the commission will take applications from individual fishermen. This two-step procedure will help shield the commission from pressure by individuals who might want to see decisions made in their favor. It will also prevent the commission from acting arbitrarily on individual applications.

ACE 5451390

WHY IS "PRESENT ABILITY AND INTENT" TO FISH INCLUDED AS A STANDARD IN SENATE BILL 39?

This standard appears in two places: first as one of three factors in qualifying for an entry permit, and second as the sole requirement for someone buying or receiving an existing entry permit.

This requirement will insure that entry permits go to active fishermen.

It does not mean that an individual would lose his entry permit if illness or other unforseen circumstances kept him from fishing.

This standard was also included to prevent entry permits from being purchased by non-fishermen who might be trying to gain economic control over the fishery by holding a large number of permits, or speculating on a rise in value of entry permits.

HOW CAN I TELL IF I WILL STAY IN WHEN THOSE STANDARDS ARE SO GENERAL?

At this point you can start to size up your situation in relation to that of other commercial fishermen in the area. It should be clear in a number of cases that you will remain in.

The Limited Entry Study Group is exploring means of making these standards more specific so that every fisherman will know where he stands with more certainty when a bill is passed. However, if the standards were made too specific in the legislation, there is a serious risk that they would not be sensitive enough to the unique conditions in different areas of the state. The detailed elaboration of these standards for each area will be handled by the commission.

DOESN'T THE OPTIMUM GEAR TABLE IN THE GOVERNOR'S LETTER MEAN THAT 46% OF THE PRESENT GEAR WILL BE CUT OUT?

No. That table was an estimate made in 1965 based on only one out of four factors which the commission must consider in setting optimum gear levels. That table only shows the minimum amount of gear necessary to harvest the maximum runs

ACE 5451401

FROM GRUNERT V. STATE 2005

fundamentally inconsistent with the legislative intent underlying the controlling statute.[29] To determine whether the cooperative regulation is consistent with the Limited Entry Act, we look to the act's history and legislative purposes.

1. History of the Limited Entry Act

Before statehood, commercial salmon fishing in Alaska was dominated by large operators of fleets and fish traps, so much so that the drafters of the Alaska Constitution submitted an ordinance banning commercial fish traps to an Alaska-wide vote.[30] Doing so reflected the drafters' belief that Alaska's salmon should belong to all Alaskans.[31] The drafters consequently also proposed the common use provisions of the Alaska Constitution.[32]

These common use provisions caused early attempts to limit participation in fisheries to be deemed unconstitutional. The legislature made one such attempt in

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[29] *Madison v. Alaska Dep't of Fish & Game*, 696 P.2d 168, 178 (Alaska 1985) (concluding board's regulation interpreting words "customary and traditional" was inconsistent with legislative intent behind Alaska's 1978 subsistence law).

[30] *Brooks v. Wright*, 971 P.2d 1025, 1030 (Alaska 1999).

[31] *Id.* at 1030 n.31.

[32] *Metlakatla Indian Cmty., Annette Island Reserve v. Egan*, 362 P.2d 901, 905 (Alaska 1961), *vacated on other grounds*, 369 U.S. 45 (1962). Article VIII, section 3 of the Alaska Constitution states: "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Section 4 provides: "Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses." Section 15 states: "No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State." Article VIII, section 17 provides: "Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation."

1961 when it enacted a statute authorizing the Board of Fish and Game to promulgate regulations temporarily closing salmon fishing areas to nonresidents when yearly runs proved to be inadequate to sustain Alaska resident commercial fishers.[33] A law enacted in 1968 attempted to limit the issuance of salmon net gear licenses for particular salmon registration areas to persons previously holding either a salmon gear license or a commercial license during three years of active engagement in commercial fishing.[34] Both of these acts ultimately faced legal challenges based on equal protection and other constitutional grounds.[35] In 1971 the Alaska Superior Court held that the 1968 law violated article VIII, section 15, of the Alaska Constitution, which provides that "[n]o exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State."[36]

To address the constitutional concerns identified by the superior court in 1971 in *Bozanich v. Norenberg*, the Alaska Legislature in 1972 proposed a constitutional amendment to add this language to article VIII, section 15:

> This section does not restrict the power of the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those

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[33] Ch. 62, SLA 1961.

[34] Ch. 186, SLA 1968.

[35] *Bozanich v. Reetz*, 297 F. Supp. 300, 304 (D. Alaska 1969), *vacated*, 397 U.S. 82 (1970); *Brown v. Anderson*, 202 F. Supp. 96, 103 (D. Alaska 1962) (declaring 1961 law to be invalid as violating United States Constitution's privileges and immunities and commerce clauses, as well as Alaska Constitution's equal protection and due process clauses).

[36] *Commercial Fisheries Entry Comm'n v. Apokedak*, 606 P.2d 1255, 1259 (Alaska 1980) (citing *Bozanich v. Norenberg*, Civil Case No. 70-389 (Alaska Super., Mar. 8, 1971).

> dependent on them for a livelihood and to promote the efficient development of aquaculture in the State.[37]

The voters approved the amendment in 1972.[38]

The legislature then enacted the Limited Entry Act, effective as of 1974.[39] The stated purposes of the Act included promoting "the conservation and the sustained yield management of Alaska's fishery resource and the economic health and stability of commercial fishing in Alaska by regulating and controlling entry of participants and vessels into the commercial fisheries in the public interest and without unjust discrimination."[40]

One method the legislature used to limit entry into the commercial fisheries was restricting eligibility for permits under the new system. Under the Limited Entry Act, the Commercial Fisheries Entry Commission determines who is eligible to take fish.[41] The CFEC is authorized by statute to accept applications from only those persons "who have harvested fishery resources commercially while participating in the fishery

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[37] 1971 Senate Joint Resolution No. 10 (HCS CSSJR 10). Alaska Const. art. VIII, § 15; *State v. Ostrosky*, 667 P.2d 1184, 1189 (Alaska 1983) ("[T]he conclusion is inescapable that the purpose of the amendment was to authorize, so far as the state constitution is concerned, a limited entry system.").

[38] GORDON SCOTT HARRISON, ALASKA'S CONSTITUTION: A CITIZEN'S GUIDE app. (3d ed. 1992).

[39] Ch. 79, § 1, SLA 1973.

[40] AS 16.43.010.

[41] *See, e.g.*, AS 16.05.251(a)(11) (explicitly denying board authority to establish times and dates for issuance and transfer of limited entry permits).

as holders of gear licenses."[42] When the legislature enacted the Limited Entry Act, a gear license was a personal license and gear could only be fished in the presence of the named licensee.[43] A gear license could be transferred only in cases of hardship if the original licensee became unable to fish.[44] Only individuals who had held gear licenses, as opposed to their partners, could apply for limited entry permits.[45] Hence even commercial fishers who were crew members and who fished with gear license holders but who did not themselves hold licenses were ineligible to receive entry permits under the new limited system.[46] These features of the limited entry system reflect an intention that permit holders be, at minimum, individuals who were actively fishing.

The Limited Entry Act also commands the CFEC to establish a standard for the initial issuance of limited entry permits.[47] To prevent unjust discrimination, the CFEC is to adopt regulations that take into account the hardship imposed on the

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[42] AS 16.43.260(a).

[43] *Commercial Fisheries Entry Comm'n v. Apokedak*, 680 P.2d 486, 488 (Alaska 1984).

[44] *Id.*

[45] *Id.*; *see also Simpson v. State, Commercial Fisheries Entry Comm'n*, 101 P.3d 605, 615 (Alaska 2004) (reaffirming that non-licensed fishers cannot receive past participation points); *Crivello v. State*, 59 P.3d 741, 745-46 (Alaska 2002) (prohibiting partners from distributing points between themselves, even if one partner does not need points himself to obtain his limited entry permit).

[46] *Grunert v. State, Commercial Fisheries Entry Comm'n*, 735 P.2d 118, 119, 121-22 (Alaska 1987) (holding that operating under father's gear license while father was ill did not qualify as harvesting fishery resources commercially while participating in fishery as gear license holder); *Ostrosky*, 667 P.2d at 1188.

[47] AS 16.43.250(a).

applicant upon exclusion from the limited entry fishery and assign priority classifications for similarly situated applicants based on the following factors:[48]

> (1) degree of economic dependence upon the fishery, including, when reasonable for the fishery, the percentage of income derived from the fishery, reliance on alternative occupations, availability of alternative occupations, investment in vessels and gear;
>
> (2) extent of past participation in the fishery, including, when reasonable for the fishery, the number of years of participation in the fishery, and the consistency of participation during each year.[49]

In recognizing actual dependence on the fisheries and actual participation, these ranking factors protect those who actually take fish.[50]

Actual participation also matters when it comes to the issuance of subsequent limited entry permits. Under AS 16.43.330(a), when the number of permits issued for a fishery drops below the optimum number established by the CFEC, it issues new entry permits to applicants "presently able to engage actively in the fishery." Alaska Statute 16.43.255(e) requires that applicants for interim-use permits for a fishery under a moratorium establish "the present ability and intent to participate actively in the fishery." During the period of time between the establishment of the maximum number

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[48] *Commercial Fisheries Entry Comm'n v. Apokedak*, 606 P.2d 1255, 1261 (Alaska 1980); *State, Commercial Fisheries Entry Comm'n v. Templeton*, 598 P.2d 77, 78 (Alaska 1979).

[49] AS 16.43.250(1)-(2).

[50] *Younker v. Alaska Commercial Fisheries Entry Comm'n*, 598 P.2d 917, 920 (Alaska 1979) (declining to consider preparatory efforts to fish as past participation because "past participation coincides with the legislative view that hardship be measured according to the actual taking of fish in the past").

of entry permits and the initial issuance of permits, interim-use permit applicants similarly must establish "their present ability to participate actively in the fishery."[51]

Other provisions in the Limited Entry Act also emphasize economic dependence and participation. The Act authorizes the CFEC, not the board, to establish the optimum number of entry permits for each fishery based on what "will result in a reasonable average rate of economic return to the fishermen participating in that fishery, considering time fished and necessary investments in vessels and gear."[52] Another factor to be considered in determining the optimum number is the "number of entry permits sufficient to avoid serious economic hardship to those currently engaged in the fishery, considering other economic opportunities reasonably available to them."[53] Again, these provisions in the Act contemplate economically dependent individuals who invest time and money in actually fishing.

The repeated references to participation and dependence throughout the Limited Entry Act demonstrate that a central premise of the statutory scheme is that the permit holder is an individual who will fish. Accordingly, the act prohibits permit holders from leasing their permits.[54] It also requires crew members to fish only in the presence of a permit holder who is "actively engaged in the operation of the gear."[55]

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51 AS 16.43.210(a).

52 AS 16.43.290(1).

53 AS 16.43.290(3).

54 AS 16.43.150(g)(1).

55 AS 16.43.140(b).

Moreover, the Act limits operation of gear to persons with valid entry permits,[56] while defining "person" as a natural person, excluding corporations, companies, partnerships, firms, associations, organizations, joint ventures, trusts, societies, or any other legal entity other than a natural person.[57] These provisions reinforce the point we explained in *Johns v. Commercial Fisheries Entry Commission*: "[T]he legislature intended the number of permits initially issued to reflect actual use . . . . 'The Act was designed to protect the reliance interests of all individuals using the fishery as well as aiding the dependent fishermen.' "[58]

2. The cooperative fishery

The board argues that nothing in the Limited Entry Act explicitly requires active participation in the fishery by Chignik co-op fishers. For example, it contends that although AS 16.43.140(a) requires gear operators to be permit holders, the statute does not require permit holders themselves to operate gear. With respect to statutes requiring transferees and interim use applicants to demonstrate a "present ability to participate actively in the fishery," the board argues that the "ability" to participate differs from actual participation.[59]

To read these provisions so restrictively, however, is to read permit requirements as though they are completely divorced from the permits themselves. Participation by the individual is inherent in the limited entry permit system. The

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[56] AS 16.43.140(a).

[57] AS 16.43.990(7).

[58] *Johns v. Commercial Fisheries Entry Comm'n*, 758 P.2d 1256, 1262 (Alaska 1988) (quoting *Rutter v. State*, 668 P.2d 1343, 1347 (Alaska 1983)).

[59] AS 16.43.170(b); AS 16.43.210(a).

Chignik cooperative fishery scheme is fundamentally at odds with this premise because it allows people who are not actually fishing to benefit from the fishery resource. That the statutes frequently refer to only the "ability" to participate actively in the fishery rather than actual participation is not unexpected because transferees and interim use permit applicants cannot actually participate in the fishery until permits are in fact issued.

The board's argument that the Chignik co-op regulation itself does not prevent co-op fishers from participating actively is also unpersuasive. If every co-op fisher decided to fish, the stated goals of the regulation — reducing overhead costs and improving fish quality through controlled harvesting — would be defeated, and it would be as if no cooperative existed. Integral to the co-op regulation is an assumption that in practice not every individual co-op member will fish, as demonstrated in 2002 when only eighteen vessels fished on behalf of the seventy-seven members of the cooperative. Because the regulation allows co-op members to benefit and receive remuneration from the fishery without actual participation, it actually discourages active participation.

The co-op system makes it possible for permit holders without gear or vessels to have someone else fish on their behalf, leaving them free to pursue other occupations. A member of the co-op, for example, theoretically can indirectly "fish" while holding down an office job or sitting at home because the regulation allows another co-op member to fish the absentee member's entire quota for him or her. The co-op fisher in this scenario sharply diverges from the model of the economically dependent fisher whom the Limited Entry Act was intended to protect.[60] In fact, many

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[60] AS 16.43.250(a)(1) (measuring economic dependence by "percentage of income derived from the fishery, reliance on alternative occupations, availability of alternative occupations, investment in vessels and gear"); AS 16.43.290 (establishing optimum number of permits based on "reasonable average rate of economic return to the (continued...)

economically dependent fishers may suffer greater economic distress as a result of the cooperative fishery. Crew members, who depend on permit holders for employment, would also lose income because the cooperative fishery requires fewer vessels and fewer crew to take fish.[61]

The working assumption since Alaska became a state has been that individuals operate Alaska's commercial salmon fisheries. The co-op regulation in contrast transforms the limited entry permit from what used to be a personal gear license into a mere ownership share in a cooperative organization. As the parties conceded at oral argument, if the Board of Fisheries can create this regulatory scheme for the Chignik fishery, it can do the same thing for every salmon fishery in Alaska. Before this regulatory scheme accomplishes such radical departure from the historical model of limited entry fisheries in Alaska and the spirit of the Limited Entry Act, however, we

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[60](...continued)
fishermen participating in that fishery, considering time fished and necessary investments in vessels and gear" and avoidance of "serious economic hardship to those currently engaged in the fishery, considering other economic opportunities reasonably available to them").

[61] 5 AAC 15.359(g)(1) (referring to reduction of number of vessels and decrease in overhead expenses associated with commercial fishing). To the extent the regulation reduces the number of CFEC permits actually fished, it may also interfere with the CFEC's ability to determine the optimum number of permits per fishery, which is partly based on time spent fishing and investment in vessels and gear. AS 16.43.290. Because the co-op regulation allows any number of permit holders to fish on behalf of other permit holders in the cooperative, it destroys any relation between the number of permits issued per fishery and the ultimate number of participating vessels and units of gear.

conclude that the legislature must first authorize the board to approve cooperative salmon fisheries.[62]

The legislature might well conclude that it is necessary to amend the Limited Entry Act to allow the creation of cooperative fisheries, perhaps by the board if not by the CFEC, to advance the same purposes relied upon by the board in promulgating 5 AAC 15.359. But because it has not yet done so, we must hold that the regulation is invalid.

IV. CONCLUSION

Because 5 AAC 15.359 conflicts with both the Limited Entry Act's definition of "fishery" and stated purposes, we need not reach Grunert's constitutional claims. We REVERSE the superior court's grant of summary judgment to the board and REMAND for further proceedings consistent with this opinion.

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[62] *Baldridge v. State*, 382 P.2d 903, 905 (Alaska 1963) ("[The Board of Fish and Game's] regulation to be valid must be in harmony and not in conflict with the policy established by the legislature.").

Figure 2 : Percentage of Crab Bycatch Limit Landed in Dual Priority Areas: 1998/99 - 2004/05

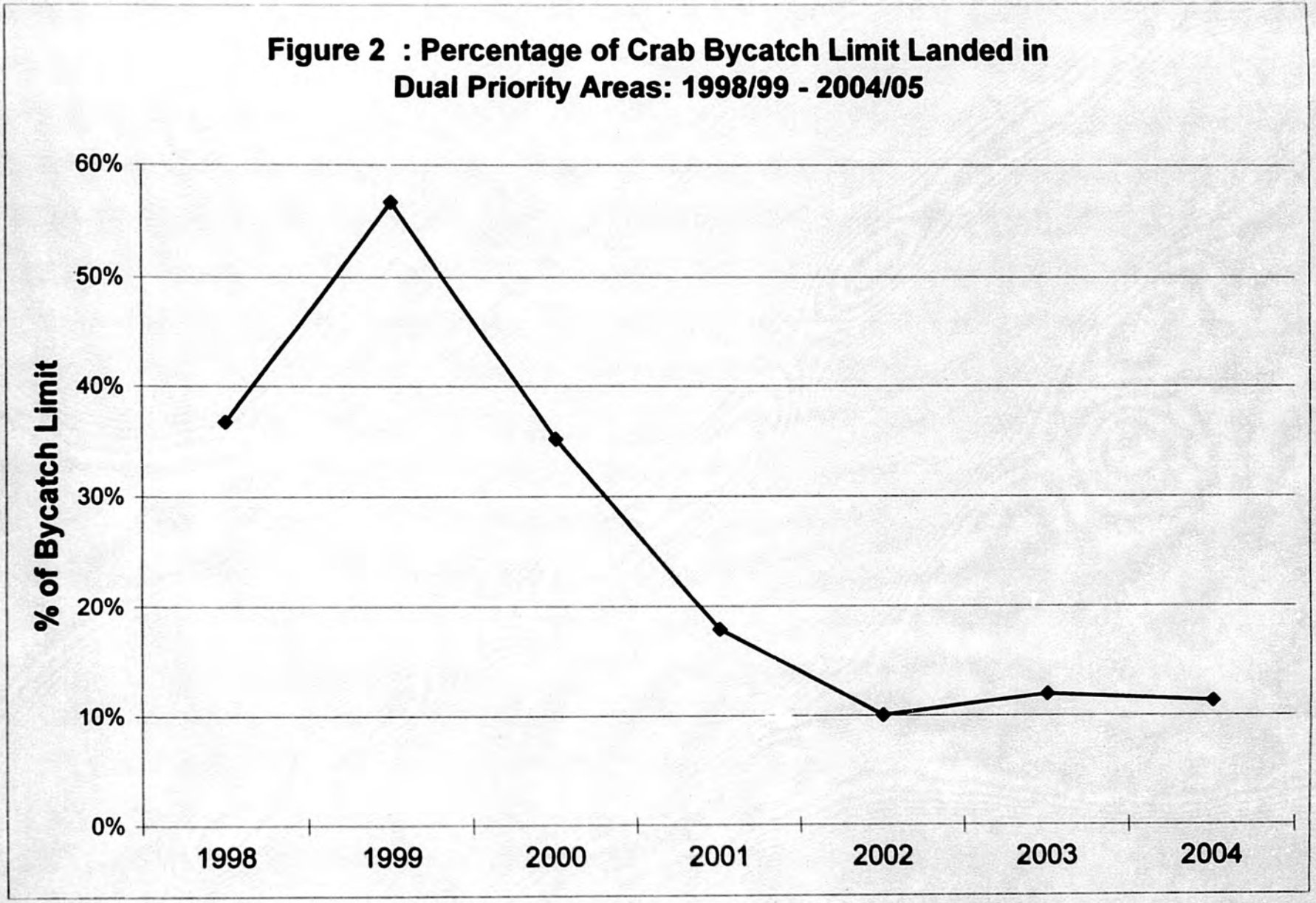


Figure 3: *C. Opilio* Crab Bycatch For Bering Sea
1998/99 - 2005/06

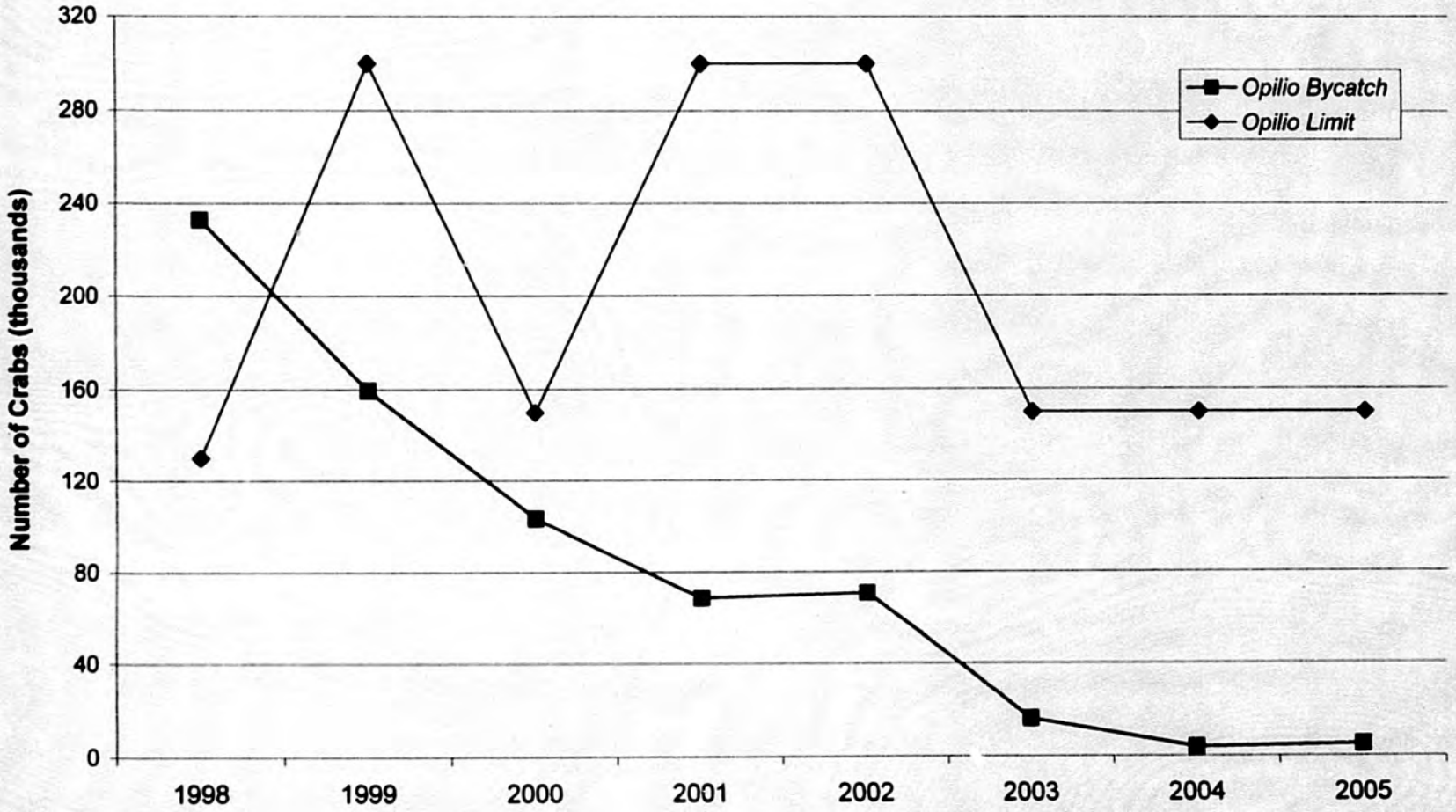


Figure 4: *C. Bairdi* Crab Bycatch For Bering Sea
1998/99 - 2005/06

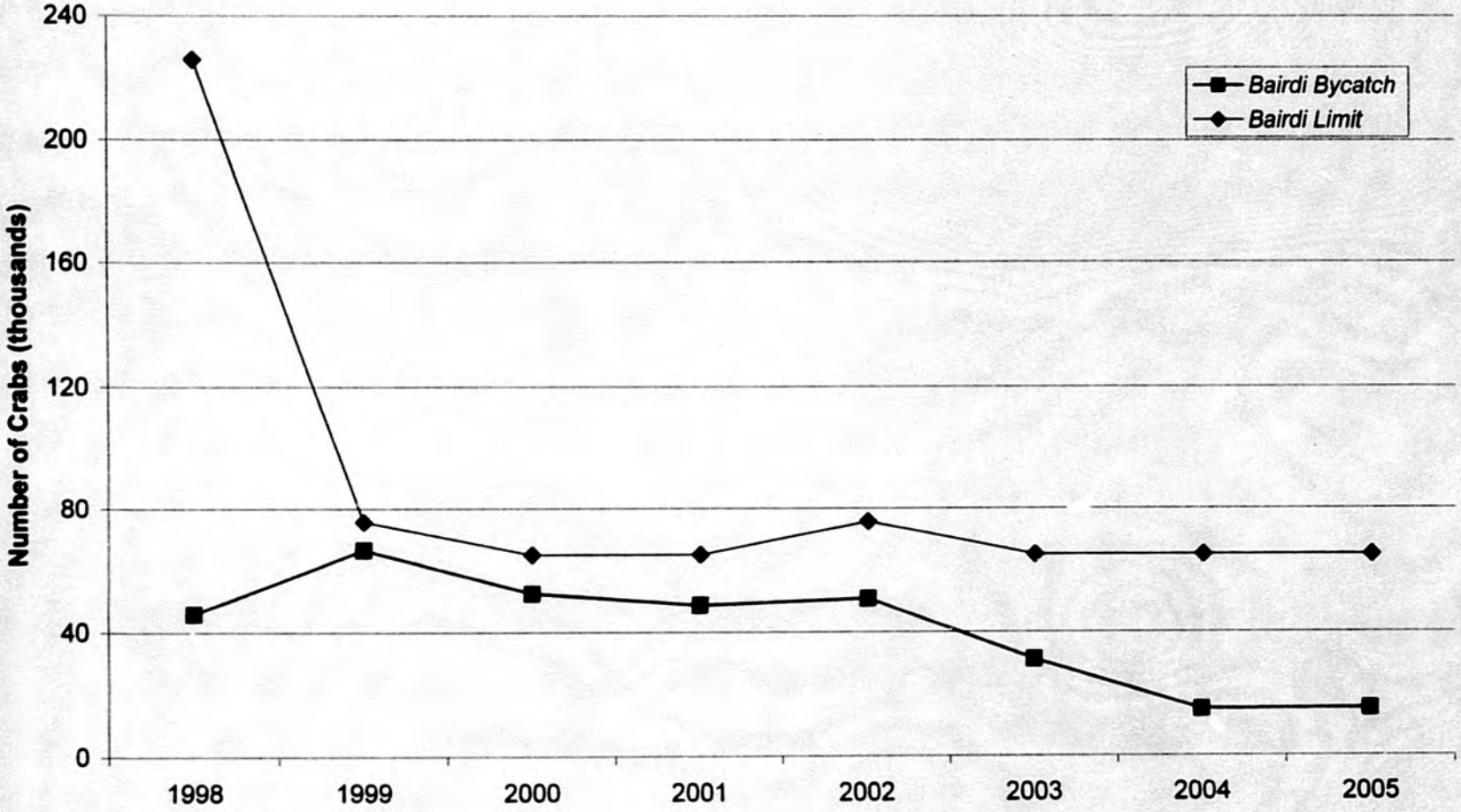


Figure 5 : Dual Priority Areas
Percentage of Upper Limit of Scallop GHR 1998/99 - 2005/06

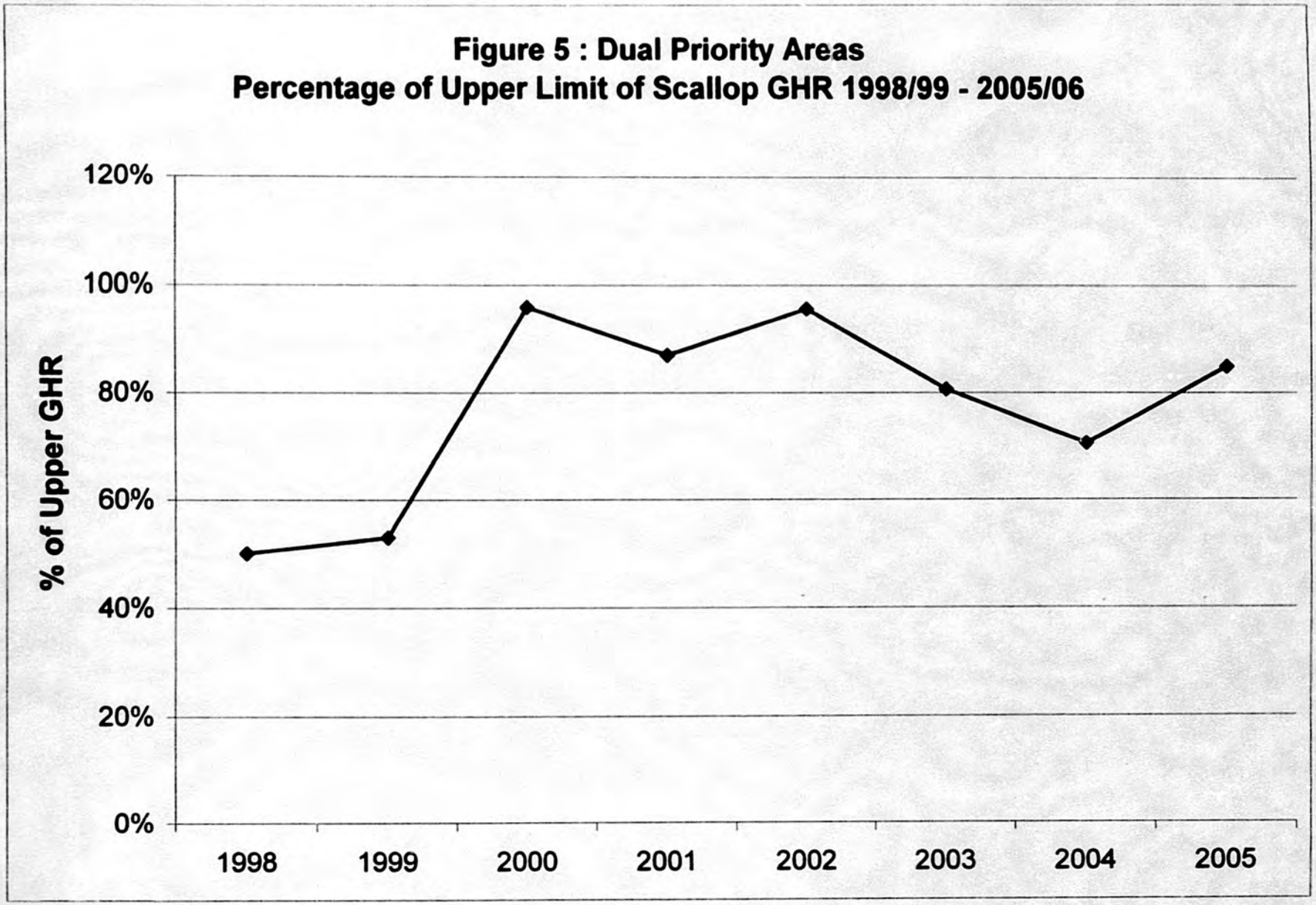


Figure 6: Dual Priority Areas
Percentage of Crab Bycatch Limit Landed: 1998/99 - 2004/05
Percentage of Upper Limit of Scallop GHR Landed: 1998/99 - 2004/05

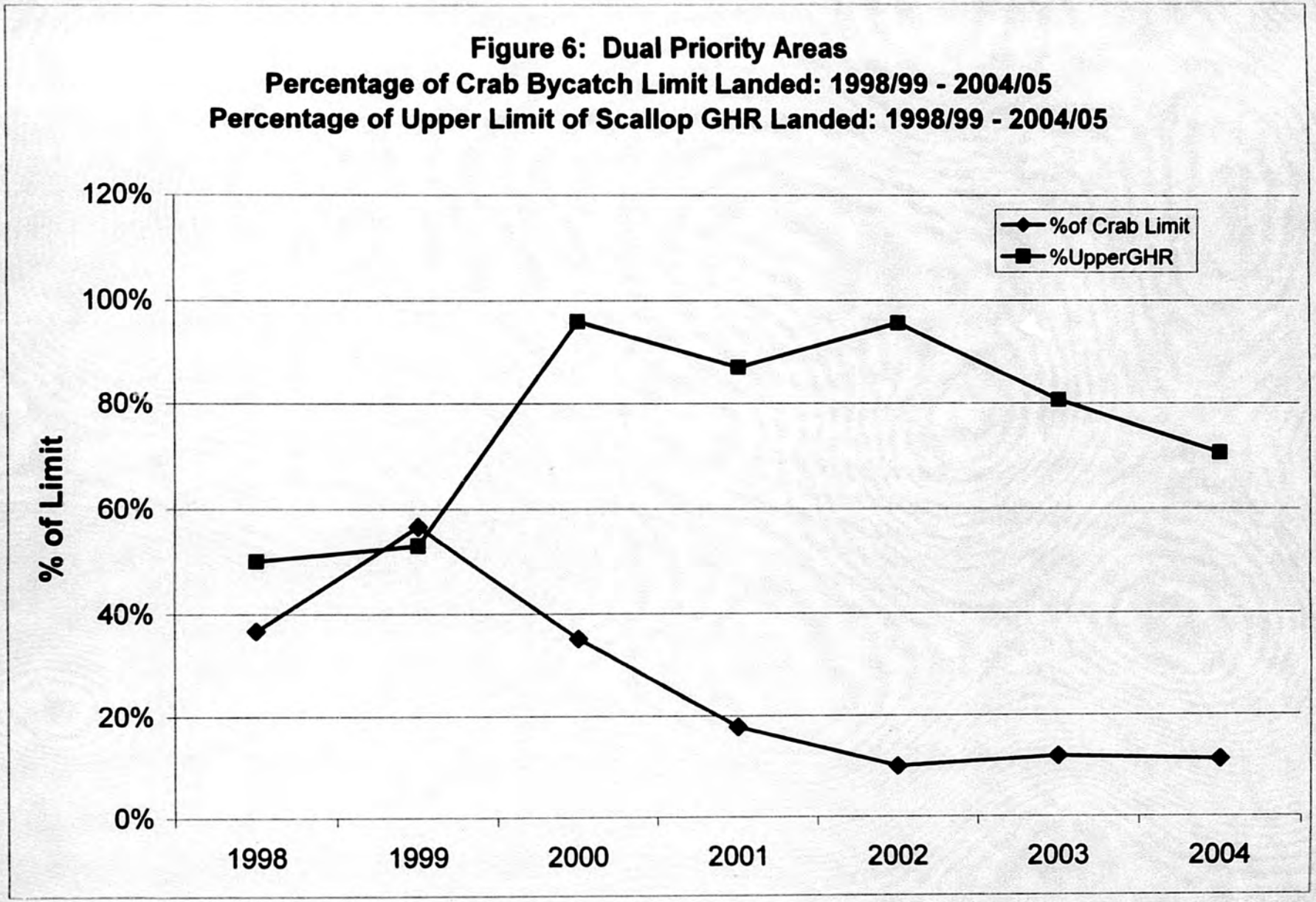


Figure 7 : Weathervane Scallop Season Length for all Areas 1998/99 - 2004/05

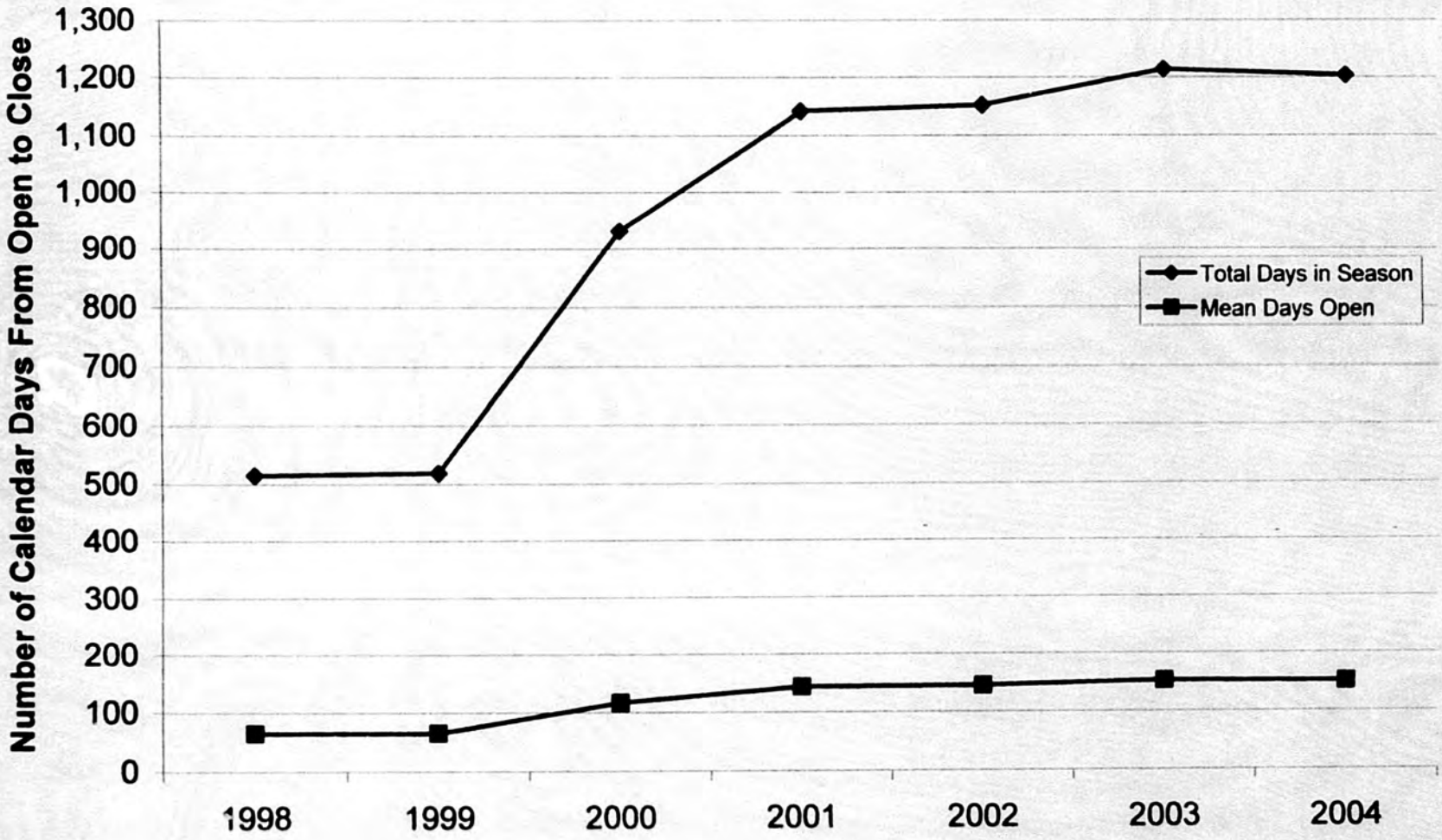
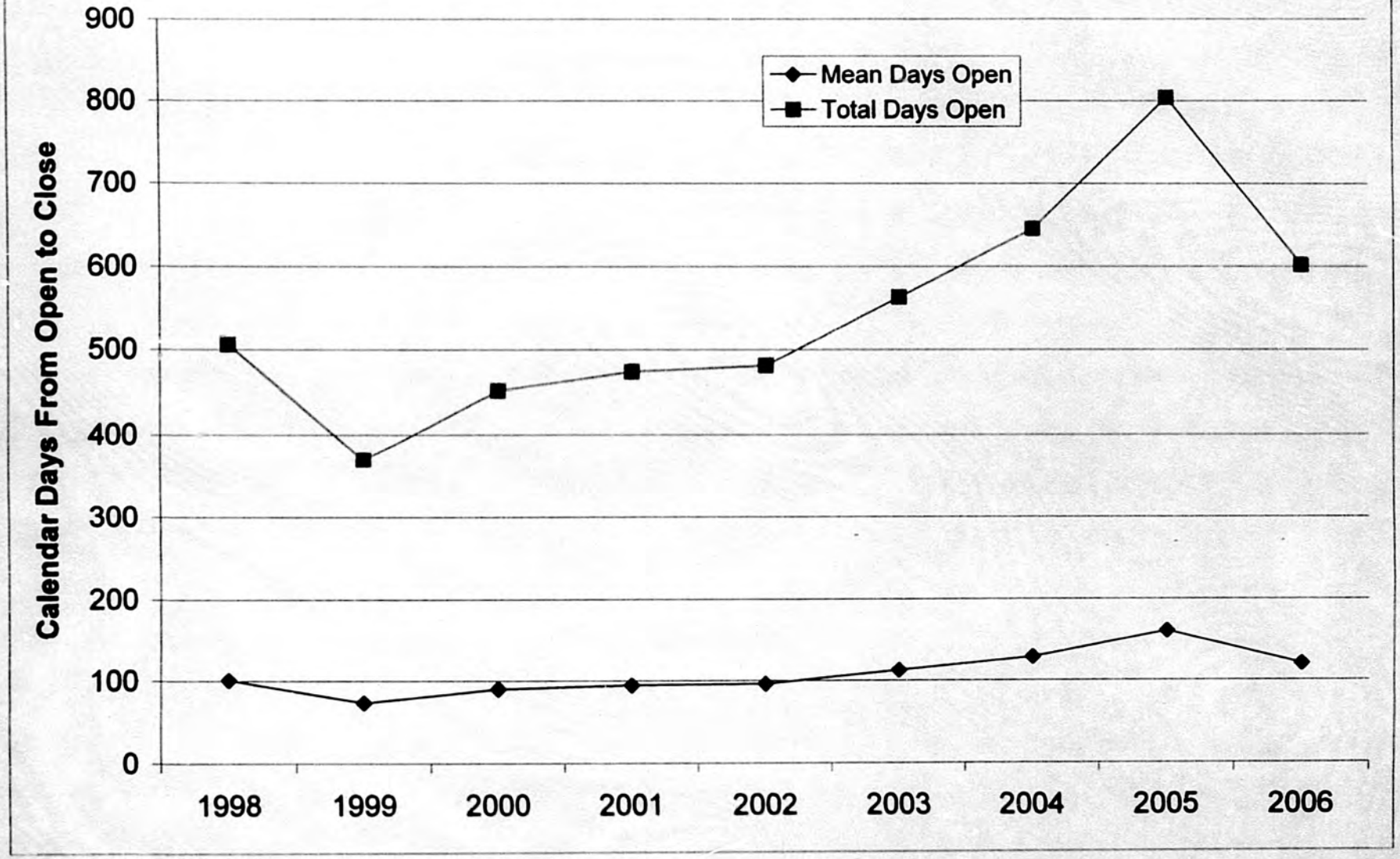


Figure 8: Dual Priority Area Season Length 1998 to 2006



State of Alaska

Sarah Palin, Governor

Commercial Fisheries Entry Commission
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MEMORANDUM

To: HOUSE SPECIAL COMMITTEE ON FISHERIES
Representative Paul Seaton, Chair
Representative Kyle Johansen
Representative Craig Johnson
Representative Gabrielle LeDoux
Representative Peggy Wilson
Representative Bryce Edgmon
Representative Lindsey Holmes

Date: March 28, 2007

Phone: (907) 789-6933 VOICE
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From: Commercial Fisheries Entry Commission
Frank Homan, Chairman
Peter Froehlich, Commissioner
Bruce Twomley, Commissioner

Subject: HB 16 - Background

INTRODUCTION

As an alternative to its traditional license limitation program designed in 1973 for Alaska salmon fisheries, in 2002, the Alaska Legislature provided the Commercial Fisheries Entry Commission (the commission or CFEC) with an alternative vessel permit system which could be applied to only two fisheries: the Bering Sea hair crab fishery and the weathervane scallop fishery. AS 16.43.450(a) authorized the commission to employ the vessel permit system, if (among other things) "limiting the number of participants under [the traditional license limitation program designed for salmon] would not achieve the purposes of [the Limited Entry Act]".

A primary purpose of the Limited Entry Act is to serve conservation of the fisheries. *Simpson v. State, CFEC*, 101 P.3d 605 (Alaska 2004). Consequently, in 2004, for compelling conservation reasons, the Alaska Commercial Fisheries Entry Commission employed a vessel limitation system to limit entry into the Bering Sea hair crab fishery and the weathervane scallop fishery. Conservation needs in both fisheries weighed heavily against employing a limitation system that created a risk of increasing the number of participating vessels even for a limited time. However, the only alternative available to the

commission was the traditional license limitation program designed in 1973 for Alaska salmon fisheries. Over time, the number of licensed vessel operators in each fishery was much greater than the number of vessels. Under the traditional license limitation system, each licensed vessel operator would have been eligible to apply for a permanent entry permit and could have continued to operate a vessel in the fishery until their applications were finally adjudicated. In fact, as explained in more detail below, a traditional license limitation program created the risk of more than doubling the number of vessels in each fishery for some time following limitation.

BERING SEA HAIR CRAB FISHERY

The conservation crisis faced by the Bering Sea hair crab fishery (closed by managers since 2000) made it critical for CFEC to restrict the number of vessels as low as possible.

CFEC employed the Vessel Limited Entry Program authorized by the Alaska Legislature, and the owners of only 20 vessels applied for permanent entry permits.[1] Today, two applications have been finally denied, two remain pending before the commission, and 16 permanent vessel entry permits have been issued.[2]

If CFEC had employed traditional license limitation, each of the estimated 47 licensed vessel operators who had participated in the fishery[3] would have been eligible to apply for permanent entry permits and to operate a vessel in the fishery until a final determination of their claims. Therefore, traditional license limitation created the risk of allowing 47 vessels into the fishery (more than twice the number of vessels that had ever participated in the fishery).[4]

Furthermore, considerable time would have been required to adjudicate the claims of 47 eligible applicants to reach the maximum number of 21. Under the most favorable assumptions, claims by

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[1] *A Brief Overview of the Bering Sea Hair Crab Fishery and the Vessel Limited Entry Program* (February 2007 CFEC Report No. 07-1N at 5).

[2] *Id.*

[3] *Rationale for Limiting Entry in the Bering Sea Hair Crab Fishery* (CFEC, March 25, 2004 at 6).

[4] For a historic example of this unfortunate effect of the traditional License Limitation Program, in the Northern Southeast Inside sablefish fishery, CFEC established a maximum number of 73 (representing the highest number of vessels to have ever participated in the fishery), but 167 individuals applied for entry permits in the fishery. Consequently, soon after limiting entry, 161 vessels participated in the fishery representing well over twice the number of vessels the fishery had ever supported.

applicants would have required at least one year for commission staff and hearing officers to adjudicate; at least an additional year for the commissioners; at least an additional year and one-half before the Alaska Superior Court; and, finally, at least an additional year and one-half before the Alaska Supreme Court. In other words, under the most optimistic estimates, **at least five years** would have been required to reduce the number of eligible participants to the maximum number of 21. The commission was not willing to assume this risk.

To conserve the fishery, CFEC could not have employed the traditional limited entry program without assuming the risk of violating its constitutional and statutory duty to conserve the fishery. Instead, after research and public hearings, CFEC found that it had a duty to employ the vessel limitation alternative in order to limit promptly the number of participating vessels. As noted, the owners of 20 vessels applied for permanent entry permits.

WEATHERVANE SCALLOP FISHERY

Similar conservation concerns weighed heavily on the weathervane scallop fishery, where managers of the fishery did not want to risk authorizing the operation of additional scallop dredges. By employing the vessel license limitation system over the qualifying years (1991-2003),[5] the commission was promptly able to limit the number of participating vessels to a representative historic level of 9 vessels.[6]

In the alternative, over the shortest possible qualifying period,[7] at least 27 vessel operators would have been eligible to apply for permanent entry permits under the traditional license limitation system. If, instead of this limited four-year period, CFEC had employed the same qualifying years it did for vessels, some 43 vessel operators would have been eligible to apply for permanent entry permits.

As with the hair crab fishery, CFEC again considered the time required to adjudicate these potential claims to reduce them to a maximum number representing the historic level of participation.[8] The adjudication process would have taken at least five years under the most favorable of assumptions.

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[5] 20 AAC 05.1430.

[6] *A Brief Overview of the Alaska Weathervane Scallop Fishery and the Vessel Permit Limited Entry Program* (February 2007 CFEC Report 07-2N at 7).

[7] The four years immediately preceding the 1997 moratorium. CFEC February 4, 2004 memo to Commissioner of ADF&G at 2 n2.

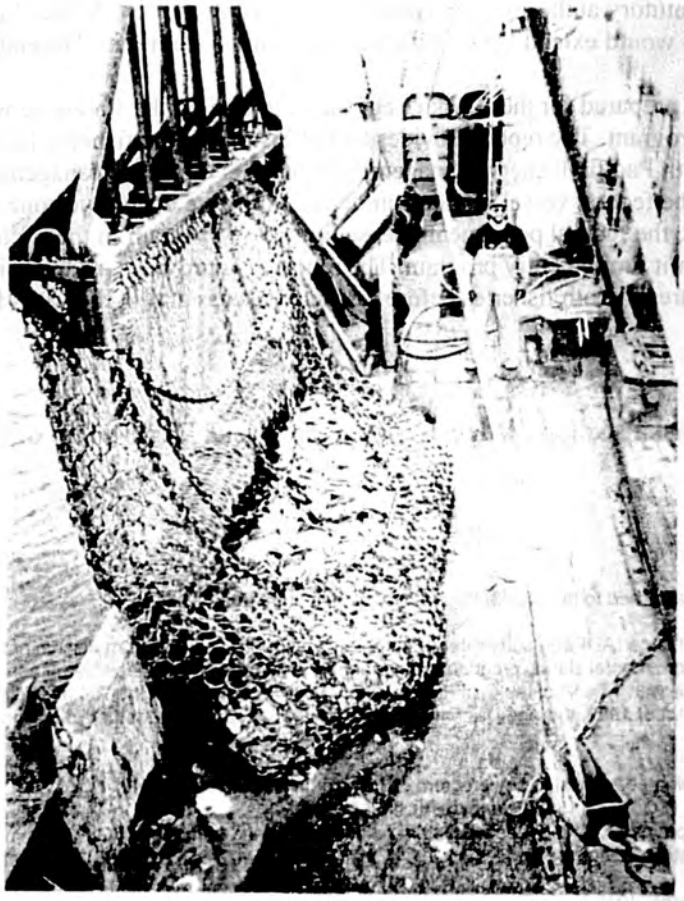
[8] The maximum number based on vessels would likely have been 12.

Consequently, the commission chose the vessel limitation alternative. The commission did not want to assume the risk of visiting on a fishery with critical conservation needs as many as three times the number of vessels that the fishery had ever supported in a particular year.

CONCLUSION

As we have attempted to explain, the legislature helped the commission meet the conservation needs of the two fisheries at issue by providing the commission with a vessel license limitation alternative to the traditional license limitation program designed in 1973 for salmon. The vessel license limitation alternative helped the commission to meet its duty to conserve these fisheries. *Simpson v. State, CFEC*, 101 P.3d 605 (Alaska 2004).

A Brief Overview of the Alaska Weathervane Scallop Fishery and the Vessel Permit Limited Entry Program



CFEC Report 07-2N
February 2007
Prepared by Nancy Free-Sloan

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A Brief Overview of the Alaska Weathervane Scallop Fishery and the Vessel Permit Limited Entry Program

CFEC Report 07-2N
February 2007
Prepared by Nancy Free-Sloan

Passage of the vessel permit system bill (CSHB206 (RLS) am S) during the 2002 legislative session authorized creation of a vessel-based limited entry program in the statewide weathervane scallop and Bering Sea hair crab fisheries. Under AS 16.43.450-520, the current vessel permit system will expire on December 30, 2008 unless statutory authority is extended. Introduced in the 25th Alaska Legislature in January, 2007, House Bill 16 would extend the existing vessel permit system until December 30, 2013.

This briefing report has been prepared for the Alaska Legislature to review the statewide weathervane scallop vessel entry permit program. The report provides a brief history of the fishery. The history includes development of North Pacific Fishery Management Council's Fishery Management Plan for the Scallop Fishery off Alaska, the federal vessel moratorium in the exclusive economic zone, the state vessel moratorium in Alaska waters, the federal permanent license limitation program in the exclusive economic zone and the state vessel permit limited entry program. The report also provides an analysis of vessel participation and harvest figures in both fisheries before restricted access and in the years following restricted access.

Cover Photo: A typical Alaska scallop dredge. Courtesy of Alaska Department of Fish and Game

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Alaska Weathervane Scallop Fishery

Alaskan weathervane scallop *Patinopecten caurinus* fishing grounds off Alaska lie in state waters and in waters of the federal Exclusive Economic Zone (EEZ).[1] Weathervane scallops are the largest scallops in the world and currently the only scallop species targeted for commercial harvest in Alaska. Most of the commercial Alaska weathervane scallop resource is sold to domestic markets.

Commercial fishing for weathervane scallops occurs in the Gulf of Alaska, Bering Sea and Aleutian Islands. Scallops are usually found on the continental shelf in elongated sand, silt or clay "beds" at depths of 120 to 750 feet that are oriented in the direction of the prevailing currents. Commercial scallop beds are located in the vicinity of Yakutat, Kayak Island at the southeast end of Prince William Sound, Kamishak Bay in lower Cook Inlet, the east side of Kodiak Island, Shelikof Strait, the south side of the Alaska Peninsula, Umnak Island in the eastern Aleutian Islands and north of Unimak Island in the Bering Sea. The regulatory fishing season runs from July 1 to February 15 in all registration areas except in Cook Inlet, where the season is August 15 to October 31 in the Kamishak district.[2] In all other districts of Cook Inlet, fishing occurs on an exploratory basis only. The season for exploratory fishing within Cook Inlet runs from January 1 through December 31.

Background

The commercial scallop fishery in Alaska began in 1967 with two vessels harvesting weathervane scallops from fishing grounds off the east side of Kodiak Island. The fishery expanded to the Yakutat area in 1968 with a total of 19 vessels participating. Further expansion to the Alaska Peninsula occurred in 1975, to Cook Inlet in 1983, to the Bering Sea in 1987, and to Prince William Sound in 1992. The rapid expansion of this fishery was due in large part to declining catches of scallops on the east coast of the United States and Canada.

The scallop fishery changed during the early 1990s as vessels converted from icing to freezing of shucked product. The fishery changed from a short trip fishery to a long trip fishery with fewer deliveries. By 1996, all vessels in this fishery had been converted to catcher-processors capable of producing frozen products at sea.[3]

The Alaska Department of Fish and Game (ADF&G) was responsible for management of the fishery, defining specific areas, gear and reporting requirements. Due to the absence of a federal fishery management plan (FMP), ADF&G extended their jurisdiction into the EEZ as allowed by the Magnuson Fishery Conservation and Management Act.[4]

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[1] Waters under state jurisdiction include internal waters and 0 to 3 miles from the baseline of the territorial sea. The EEZ is contiguous to the territorial sea and extends seaward from 3 to 200 miles from the baseline.

[2] ADF&G Special Publication No. 05-09. *Commercial Fisheries of Alaska , Scallop Fishery, June 2005.*

[3] Barnhart, J.P. (2000). *Annual Management Report for the Weathervane Scallop Fisheries of the Westward Region, 1999/00.* Pages 262-300. ADF&G, Div. of Commercial Fisheries, Regional Information Report No. 4K00-55,Kodiak.

[4] Major amendments, including the Sustainable Fisheries Act, were enacted on October 11, 1996. The Act was retitled the Magnuson-Stevens Fishery Conservation and Management Act. The Act was recently revised and reauthorized.

From 1967 through mid-May 1993, passive management measures were employed by ADF&G. Crab species and habitat were protected by establishing fishing seasons and closing area waters when necessary to protect stocks. When catches of scallops declined in one area, vessels would move on to other exploitable beds. An influx of larger, more efficient vessels in the early 1990s led to increased harvests and changed the low-intensity nature of the fishery. As a result of increased effort and fleet efficiency, harvest levels nearly tripled from those of years prior to 1990. Amid concerns about crab bycatch and overharvest of the scallop resource, on May 21, 1993, the Commissioner of ADF&G declared the scallop fishery a "high impact emerging fishery". This State of Alaska designation applies to a fishery when at least one of four conditions are met: (1) harvesting effort recently increased beyond a low sporadic level; (2) the resource is harvested by more than one user group; (3) harvests approach levels that may not be sustainable; or (4) the Alaska Board of Fisheries (BOF) has not developed comprehensive regulations to address conservation and allocation issues. In 1993, ADF&G determined the scallop fishery fit the classification. Under 5 AAC 39.210, ADF&G was required to close the fishery and implement an interim management plan with associated regulations prior to reopening.

On June 17, 1993, the commissioner adopted the regulations and opened the fishery. The state fishery interim management plan required 100% observer coverage, a limit of 12 crew members per vessel, a ban on the use of automatic shucking machines, crab bycatch limits, dredge gear specifications and limits on the number of dredges to be deployed per vessel (a maximum of one or two depending on the area). Critical to sustained management of the fishery was the establishment of scallop guideline harvest ranges (GHRs). In March, 1994, the Alaska Scallop Fishery Management Plan (5 AAC 38.076) was adopted by the Alaska Board of Fisheries (BOF).[5]

Until early 1995, all vessels participating in the Alaska weathervane scallop fishery were licensed under the laws of the State of Alaska. The state had jurisdiction over scallop fishing in both state and federal waters for vessels licensed under Alaska laws. In January 1995, the captain of an unlicensed scallop fishing vessel elected to return his scallop interim use permit card to the State of Alaska Commercial Fisheries Entry Commission (CFEC or commission) in Juneau. With an unlicensed vessel and no interim use permit, the skipper proceeded to harvest scallops in the EEZ, ignoring not only harvest limits, but observer coverage and other management regulations as well. The unregulated action by this vessel and skipper resulted in closure of federal waters in the EEZ to scallop fishing by National Marine Fisheries Service (NMFS) emergency order (EO) from February 23, 1995, until May 30, 1995.[6] The initial EO was extended an additional ninety days to August 28, 1995. Prior to the August expiration of the EO, North Pacific Fishery Management Council (NPFMC) submitted a proposed fishery management plan (FMP) under the Magnuson-Stevens Act that would close the EEZ to scallop fishing for a maximum of one year (August 28, 1995-August 28, 1996). The proposed FMP was approved by NMFS on July 26, 1995.

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[5] NPFMC (North Pacific Fishery Management Council) *Stock Assessment and Fishery Evaluation Report for the Weathervane Scallop Fishery Off Alaska,* March 2006.

[6] Although the EEZ was closed to scallop fishing by emergency order during this time, the state waters portion of the fishery remained open. Harvest and earnings from 1995 fish tickets show landings in the EEZ and state waters in January and February, 1995, and landings in state waters only during July and August, 1995.

With the exception of license limitation in the EEZ, the scallop FMP delegated management authority to the State of Alaska. In March 1997, NMFS approved Amendment 2 to the FMP establishing a three-year vessel moratorium in federal waters. Eighteen vessel owners qualified to fish during the federal moratorium. Fourteen owners received endorsements for the statewide area (all waters except those waters defined in the Cook Inlet area), three owners received endorsements for Cook Inlet 'only' and one owner received endorsements for both the statewide and Cook Inlet areas.

Federal Moratorium and License Limitation Program

By February 1999, the NPFMC recommended replacing the temporary federal moratorium program in the EEZ with a permanent license limitation program (LLP).

This action became Amendment 4 to the scallop FMP. The federal moratorium expired June 30, 2000. The moratorium was replaced by the LLP that became effective on January 16, 2001. Between June 30, 2000, and January 16, 2001, the fishery was temporarily in open access status, although no additional vessels entered the fishery. Initial issuance of scallop LLP (SLLP) licenses by National Marine Fisheries Service occurred in April, 2001. Eight vessels received permanent scallop LLP licenses and two vessels initially received interim licenses pending adjudications. Interim SLLP 002 belonging to Forum Star Inc. was later adjudicated to be eligible for a permanent license. Interim SLLP 001 was eventually denied. A total of nine permanent licenses have been issued in the federal scallop LLP program. Table 1 shows vessel entities associated with the scallop License Limitation Program licenses that were initially issued.

Table 1. Federal Scallop License Limitation Permits Issued by National Marine Fisheries Service - Restricted Access Management as of April, 2001 (Initial Issuance).

License	License Holder	MLOA	Transferable	Gear Restrictions
001	Asp, Svend and Maxine	98'	No - Interim	Single 6ft scallop dredge[7]
002	Forum Star, Inc.	98'	No - Interim	None
003	Hogan, Thomas C.	75'	Yes	None
004	Hulse, Max et al.	79'	Yes	Single 6ft scallop dredge
005	Ocean Fisheries LLC	100'	Yes	None
006	Oceanic Research Services, Inc.	70'	Yes	None
007	Pursuit, Inc.	101'	Yes	None
008	Provider, Inc.	124'	Yes	None
009	Carolina Boy, Inc.	95'	Yes	None
010	Carolina Girl II, Inc.	96'	Yes	None

[7] There are two permits in this list with a six-foot dredge restriction. These vessels originally qualified with landings in the Cook Inlet registration area only. To prevent further increases in fishing capacity, these vessels were restricted to a dredge capacity no greater than what was used during the qualifying years. They could fish outside Cook Inlet, but only with a six-foot dredge. All LLPs were restricted by vessel length constraints no greater than what was used during the qualifying years.

Transfers of Federal Scallop LLP Licenses

Three transfers of federal scallop LLP licenses have occurred since initial issuance.

- Oceanic Research Services, Inc. (F/V Northern Explorer , ADFG#64572) sold SLLP 006 to Thomas J. Gilmartin (F/V Arctic Storm, ADFG#66700) April 18, 2001.
- Carolina Girl II, Inc. (F/V Carolina Girl, ADFG#64111) transferred SLLP 010 to Alaska Scallop, LLC in an apparent effort to consolidate. On December 23, 2002 Carolina Girl II, Inc. relinquished all eligibility rights to a weathervane scallop state moratorium vessel permit and limited entry vessel permit. SLLP 010 is not being fished.
- Carolina Boy, Inc. (F/V Carolina Boy, ADFG#64110) transferred SLLP 009 to Ocean Fisheries, LLC on August 21, 2003 in an apparent effort to consolidate. SLLP 009 is not being fished.

Table 2 lists federal scallop LLP licenses as of November, 2005.

Table 2. Federal Scallop License Limitation Permits Issued by National Marine Fisheries Service - Restricted Access Management as of November, 2005.

License	License Holder	MLOA	Transferable	Gear Restrictions
002	Forum Star, LLC	97	Yes	None
003	Hogan, Thomas C.	75'	Yes	2 Scallop Dredges with a combined width of no more than 20 feet (6.1m)
004	Hulse, Max et al.	79'	Yes	2 Scallop Dredges with a combined width of no more than 20 feet (6.1m)
005	Ocean Fisheries, LLC	100'	Yes	None
006	Gilmartin, Thomas	70'	Yes	None
007	Pursuit, Inc.	101'	Yes	None
008	Provider, Inc.	124'	Yes	None
009	Ocean Fisheries, LLC	95'	Yes	None
010	Alaska Scallop, LLC	96'	Yes	None

State Moratorium and Vessel Limited Entry Permit Program

In 1997, a four-year vessel moratorium (AS 16.43.906) was enacted in state waters by the Alaska Legislature. The state moratorium, originally set to expire June 30, 2001, was extended an additional three years by the Alaska Legislature until June 30, 2004.

Both federal and state moratoria established two fishery areas: the Cook Inlet area and a "statewide" area encompassing waters in the Gulf of Alaska and the Bering Sea, except those defined in the Cook Inlet area. Nineteen vessels were originally covered under either the state or federal moratorium. Eighteen vessels were associated with permits at initial issuance under the federal moratorium.

Table 3 lists vessels that qualified for state moratorium permits. Ten vessels qualified under the state moratorium for the statewide area, with three vessels also qualifying for a Cook Inlet permit.

Table 3. Vessels qualified for state moratorium by fishery area

Vessel Name	Statewide	Cook Inlet
Alaska Beauty	Yes	Yes
Arctic Queen	Yes	
Carolina Boy	Yes	
Carolina Girl II	Yes	
La Brisa	Yes	Yes
Northern Explorer	Yes	Yes
Provider	Yes	
Pursuit	Yes	
Rush	Yes	
Trade Wind	Yes	

Nine vessels were associated with permits for both the federal and state moratoria. In 1997, two unique vessels obtained vessel permits under the state's moratorium for the Cook Inlet registration area as defined in AS 16.43.906 (o) (1). The Cook Inlet registration area included both state waters and EEZ waters. In 1998, only one vessel obtained a Cook Inlet moratorium vessel permit. From the 1999 license year through expiration of the state moratorium in 2004, no permits were issued for the Cook Inlet area.

According to commission license data, from 1997-2000, eight unique vessels obtained vessel permits under the State's moratorium for the statewide registration area as defined in AS 16.43.906 (o) (3). Based on CFEC license data, the eight vessels ranged in size from 63 feet to 124 feet in overall length. The statewide registration area included state waters and EEZ waters. Under the State moratorium, vessels eligible for permits in the Cook Inlet registration area were also eligible for permits in the statewide registration area, although no vessels obtained permits for both areas in the same year.

State Limited Entry Vessel Permit Program

Passage of the vessel permit system bill (CSHB206 (RLS) am S) during the 2002 legislative session resulted in significant changes to the state's limited entry statutes. The changes authorized creation of a vessel-based limited entry program in the state's weathervane scallop and hair crab fisheries (AS 16.43.450-520). However, a sunset provision was included in the legislation. The vessel entry permits issued for the statewide weathervane scallop and hair crab fisheries will expire on December 30, 2008, unless statutory authority is extended.

On May 6, 2004, the Commission adopted regulations 20 AAC 05.1425 – 20 AAC 05.1444 establishing a vessel permit system for the statewide weathervane scallop fishery.

Based on those regulations, the nine vessels listed in Table 4 below were eligible for a state limited entry vessel permit. All nine vessels are associated with initial or current holders of federal scallop LLP licenses. However, one of the nine vessels had already relinquished its eligibility rights by request. Owners of the eight remaining vessels applied for and received weathervane scallop limited entry vessel permits.

Table 4. Vessels Eligible to Apply for a Limited Entry Vessel Permit

Vessel Name	ADFG#	Federal Scallop LLP License	State Waters Vessel Limited Entry Permit
F/V Carolina Boy	64110	Initial Issue of SLLP license 009 (sold 8/21/2003)	Initial Issue of State Vessel LEP W 2ABV 85013W (12/3/2004)
F/V Forum Star	59687	Initial Issue of SLLP license 002 (still holds)	Initial Issue of State Vessel LEP W 2ABV 85014O (12/6/2004)
F/V Kilkenny	54966	Initial Issue of SLLP license 003 (still holds)	Initial Issue of State Vessel LEP W 2BBV 85015J (12/6/2004)
F/V La Brisa	23574	Initial Issue of SLLP license 004 (still holds)	Initial Issue of State Vessel LEP W 2BBV 85012H (9/23/2004) (Permanent vessel substitution from 60773 (La Brisa)9/23/2004)
F/V Carolina Girl II	64111	Initial Issue of SLLP license 010 (sold 12/23/2002)	(relinquished moratorium/limited entry eligibility rights, 1/2003)
F/V Arctic Storm	66700	Purchased SLLP license 006 (4/18/01) (still holds)	Initial Issue of State Vessel LEP W 2BBV 85018L (1/6/2005)
F/V Ocean Hunter	40924	Initial Issue of SLLP license 005 (still holds plus SLLP 009)	Initial Issue of State Vessel LEP W 2ABV 85007S (6/17/2004)
F/V Provider	58200	Initial Issue of SLLP license 008 (still holds plus SLLP 010)	Initial Issue of State Vessel LEP W 2ABV 85008L (6/28/2004)
F/V Pursuit	40312	Initial Issue of SLLP license 007 (still holds)	Initial Issue of State Vessel LEP W 2ABV 85016Z (12/6/2004)

CFEC regulations established two length categories for vessel entry permit issuance based on the maximum length overall (LOA) of the vessel initially used to qualify for the fishery. W2ABV vessel entry permits were issued to owners of vessels greater than 80 feet. W2BBV vessel entry permits were issued to owners of vessels 80 feet or less. The F/V Arctic Storm, F/V Kilkenny and F/V La Brisa were issued W2BBV permits based on a vessel length of 80 feet or less. The owners of all three W2BBV vessel entry permits list Alaska mailing addresses. The F/V Carolina Boy, F/V Forum Star, F/V Ocean Hunter, F/V Provider and F/V Pursuit were issued W2ABV permits based on a vessel length greater than 80 feet. The current owners of all W2ABV vessel entry permits list non-Alaska mailing addresses. However, one W2ABV limited entry vessel permit is in the process of being transferred as of this writing to an entity with an Alaskan mailing address. One W2BBV vessel permit, vessel and federal scallop LLP has been advertised for sale. At initial issuance on September 23, 2004, the owners of La Brisa, Inc.

requested and were granted a permanent vessel substitution from the F/V La Brisa to the F/V Billy D. On May 6, 2005, the owners of La Brisa, Inc. requested and were granted a vessel name change from the F/V Billy D to the F/V Wayward Wind.

Fishery Description

Alaska weathervane scallops are harvested using 'New Bedford' style scallop dredges (Figure 1). State regulations limit all vessels fishing inside the Cook Inlet Registration Area to the use of a single dredge not more than 6 feet wide. Unless restricted by federal LLP permit endorsements, vessels fishing outside of Cook Inlet and elsewhere in state and federal waters are allowed two dredges, each not more than 15 feet wide. Vessel lengths in this fishery range from 58 feet to 124 feet LOA. An average 15-foot dredge weighs about 2,600 pounds, while a 6-foot dredge weighs about 900 pounds.[8] In addition to any restrictions due to state regulations and/or federal endorsements, vessel length, horsepower and available deck space may also be factored into determining an optimum dredge size for a particular vessel to use.

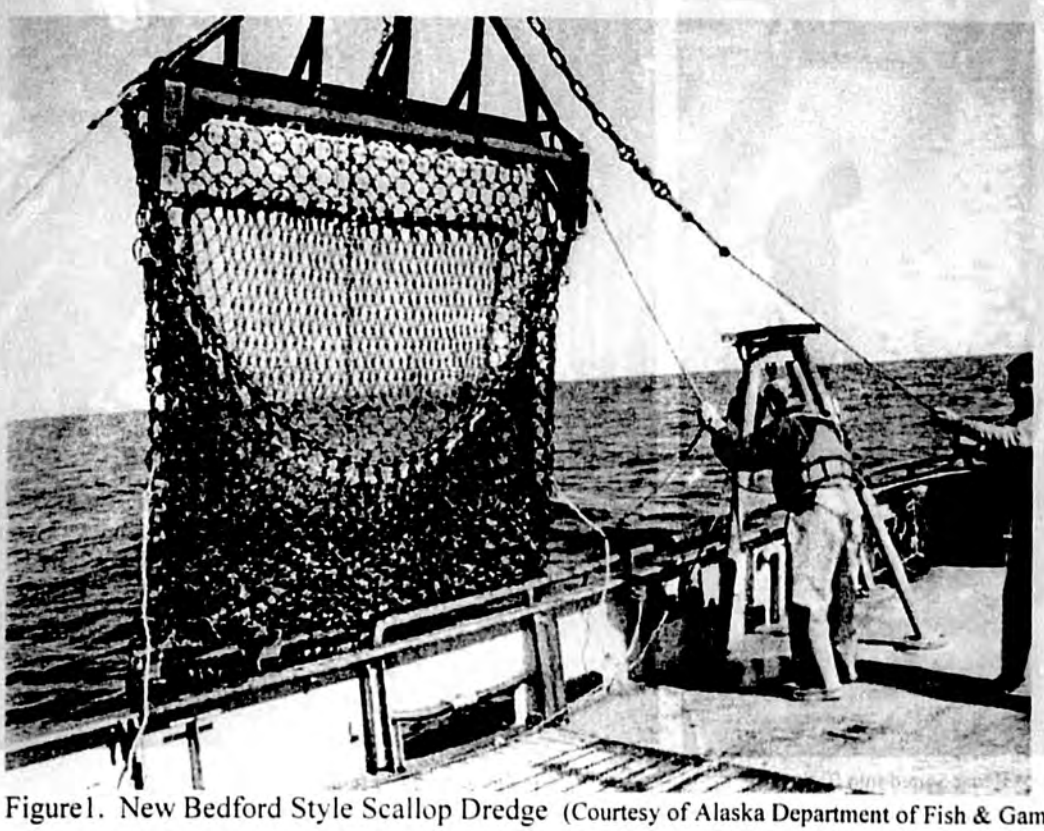


Figure1. New Bedford Style Scallop Dredge (Courtesy of Alaska Department of Fish & Game)

[8] NPFMC, *Stock Assessment and Fishery Evaluation Report,* 2006.

The Alaska weathervane scallop fishery is executed using the following steps:[9]

- dredge is prepared and deployed (set)
- dredge is towed slowly (avg. 5 mph) on the ocean bottom for 50 to 60 minutes
- dredge is retrieved
- dredge contents are emptied on the deck
- scallops are sorted into baskets and bycatch is discarded overboard (Figure 2)
- baskets of scallops are moved from the deck to the shucking area on board the vessel
- dredge gear is prepared for the next set and deployed
- scallops are hand-shucked, washed, graded as to size, packaged and frozen (Figure 3)



Figure 2. Scallops Being Sorted Into Baskets

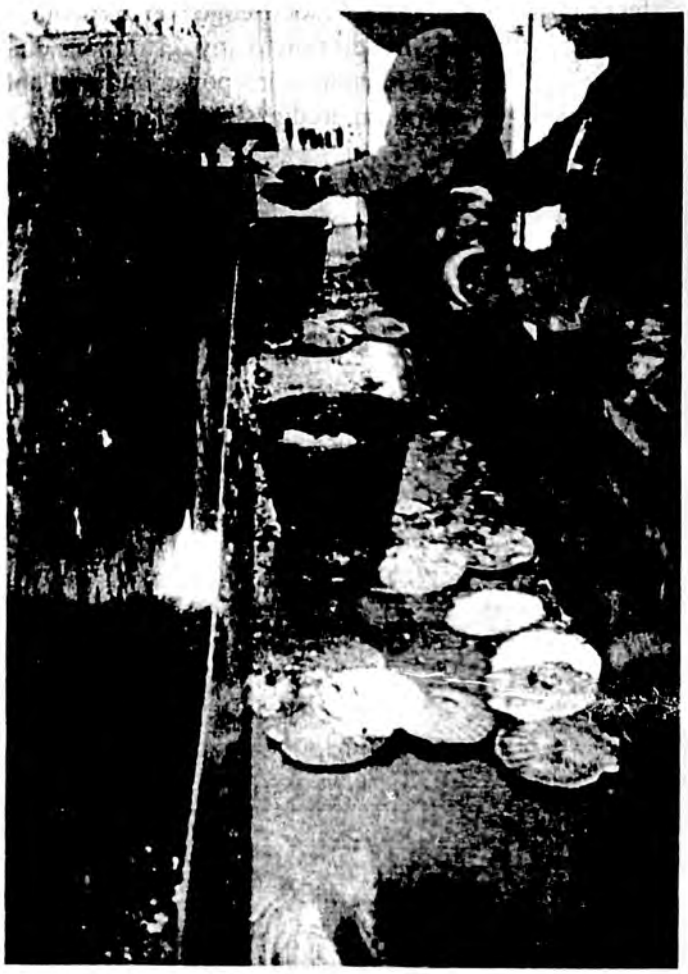


Figure 3. Scallops Being Hand Shucked

(photos courtesy of Saltwater Inc., Anchorage, Alaska)

[9] NPFMC, *Stock Assessment and Fishery Evaluation Report*, 2006.

Onboard Observer Program

Under the Alaska Scallop Fishery Management Plan (5 AAC 38.076 (g)), all vessels participating in this fishery are required to carry an onboard observer. Onboard observers are tasked with collecting biological and fishery-based data, monitoring bycatch and providing regulatory enforcement. This oversight is especially important in fisheries like the scallop fishery, where vessels operate as catcher-processors. Specific information collected includes data on crab and halibut bycatch (both prohibited species), discarded scallop catch, retained scallop catch, catch composition, weight of scallop meat recovered, location and general area of catch, dredge depth and amount of catch per tow (catch per unit effort or CPUE).

Observers report information to local ADF&G offices during the season. Amount of scallops harvested, number of tows, area fished and crab bycatch are examples of data reported to ADF&G up to three times weekly. These data are used to help manage the inseason fishery. Based on observer reporting, areas may be closed by emergency order (EO) at any time during the season when established crab bycatch limits have been met or exceeded. Observer data are also used to help set guideline harvest ranges (GHRs) for future seasons. ADF&G does not conduct scallop stock assessments in most areas of the state, so observer collected data are essential to fishery resource management.[10]

Onboard observer coverage is funded at vessel owners' expense through direct payments to independent contracting agents. These independent agents provide the onboard observers who are trained at the University of Alaska's North Pacific Fisheries Observer Training Center in Anchorage, Alaska. Onboard observer coverage is paid for by industry. Observer training is funded by a federal grant. Federal assistance is provided to the State of Alaska by a NOAA grant award to cover additional costs incurred to meet federal oversight.[11]

Crab Bycatch

Under the federal scallop FMP, most management measures have been delegated to the State of Alaska for implementation. Setting of prohibited species and crab bycatch limits are included in the management measures delegated to the State.

Specific concerns about overfishing and bycatch have directed State management of the scallop fishery to be intentionally conservative. In response to concerns about damage done to habitat by dredging, ADF&G has intentionally closed known scallop beds in critical crab or juvenile fish habitats to protect the nurseries. Some of these areas have remained closed for upwards of thirty years.

Bycatch of crab in the scallop fishery is controlled through the implementation of crab bycatch limits. First instituted by the state in July 1993, crab bycatch limits are based on individual crab stock abundance information. Bycatch limits can be set to a specific number of crabs or as a percentage of the estimated available stock abundance, depending on district and/or registration area.

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[10] NPFMC, *Stock Assessment and Fishery Evaluation Report*, 2006.
[11] Ibid.

A number of vessel owners formed a private cooperative in May, 2000.[12] The cooperative hired an independent consulting firm to review data provided by participating co-op vessel skippers on bycatch, amounts of scallop harvest and locations. The consulting firm, Sea State Inc. of Vashon, WA, reports back to the cooperative on areas of high bycatch concentrations.[13] The co-op can then direct its vessels away from those areas.

Crab bycatch limit-based closures have decreased over the years since 1993. Factors that may have contributed to this positive development include a reduction in the number of fishing vessels, input from the observer program and consulting firms and decreased crab abundance in general. During the 1993 season, four statewide areas were closed due to crab bycatch. Since the 2000 season, only one area has been closed due to crab bycatch.[14]

Historic Scallop Harvests

Table 5 lists Alaska weathervane scallop harvests from 1980 through the 2005 and preliminary 2006 harvest figures. Year 1980 through 1996 show harvest figures prior to federal and state waters moratoria. The state waters moratorium was in effect from July 1, 1997 through June 30, 2004. The three year federal waters moratorium was adopted in March, 1997 and expired June 30, 2000. The moratorium was replaced by the LLP that became effective on January 16, 2001. Between June 30, 2000 and January 16, 2001 the fishery in the EEZ was temporarily in open access status, although no additional vessels entered the fishery. Initial issuance of federal scallop LLP licenses by NMFS occurred in April, 2001. The state waters moratorium was replaced by the limited entry vessel permit program beginning in September, 2004.

Participation, harvest and earnings in this fishery trended upwards from 1980 until 1983 when a sharp downturn occurred. From 1984 through the mid 1990s, an upward trend in participation, harvest and earnings occurred. Participation in the fishery since 1997 has been limited by moratorium programs in both state and federal waters, followed by limitation. In the years since 1997, harvest figures have ranged between 420,000 and 840,000 pounds of shucked meat.

Earnings figures in this time period have ranged between 1.8 and 4.4 million dollars annually. It has been suggested that market prices in the Alaska scallop fishery are influenced by U.S. east coast and Canadian scallop stock conditions and related market prices.[15] Regardless, revenues in this fishery as well as harvest and participation have varied widely over the years.

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[12] North Pacific Scallop Cooperative, formed in May 2000 just prior to initial issuance of federal scallop license limitation permits by six of the licensed vessel owners.

[13] Personal communication with Jeffrey P. Barnhart, statewide scallop observer program coordinator and biologist for the Alaska Department of Fish and Game, Division of Commercial Fisheries, Kodiak, Alaska.

[14] NPFMC, *Stock Assessment and Fishery Evaluation Report,* 2006.

[15] Ibid.

Table 5. Weathervane Scallop Harvests 1980 – 2006

	State Waters						Federal Waters						All Waters				
Year	Vessels	Pounds	%	Estimated Earnings	%	#IUPs	Vessels	Pounds	%	Estimated Earnings	%	#IUPs	Unique Vessels	Total Pounds	Total Est. Earnings	Unique IUPs	Average Price/ lb
1980	4	113,193	20.7	$433,618	21.4	7	6	432,741	79.3	$1,590,864	78.6	10	6	545,934	$2,024,482	11	$3.71
1981	12	354,770	42.2	$1,481,395	42.1	14	16	486,610	57.8	$2,039,585	57.9	19	17	841,380	$3,520,980	22	$4.18
1982	10	288,706	31.6	$890,371	28.0	13	11	623,590	68.4	$2,293,017	72.0	17	12	912,296	$3,183,388	18	$3.49
1983	4	***	***	***	***	5	3	***	***	***	***	3	6	194,116	$900,837	7	$4.64
1984	5	145,089	38.2	$641,803	38.1	6	8	235,134	61.8	$1,042,179	61.9	9	8	380,223	$1,683,983	9	$4.43
1985	7	439,600	67.0	$1,576,598	66.9	9	4	216,989	33.0	$778,995	33.1	6	8	656,589	$2,355,592	10	$3.59
1986	5	293,782	41.9	$1,045,749	43.7	9	7	407,337	58.1	$1,345,163	56.3	11	8	701,119	$2,390,912	14	$3.41
1987	4	334,700	57.4	$1,240,684	59.0	4	4	248,343	42.6	$862,635	41.0	6	4	583,043	$2,103,319	6	$3.61
1988	1	***	***	***	***	2	4	***	***	***	***	5	4	341,070	$1,201,201	5	$3.52
1989	5	80,057	15.0	$313,783	15.6	7	7	454,706	85.0	$1,696,768	84.4	10	7	534,763	$2,010,551	10	$3.76
1990	9	596,254	40.1	$2,020,051	39.8	12	9	892,483	59.9	$3,053,521	60.2	13	9	1,488,737	$5,073,572	15	$3.41
1991	6	274,453	24.1	$979,297	22.9	6	5	862,196	75.9	$3,299,903	77.1	6	6	1,136,649	$4,279,200	7	$3.76
1992	7	227,920	13.0	$886,890	13.0	8	7	1,525,953	87.0	$5,909,809	87.0	11	8	1,753,873	$6,796,699	12	$3.88
1993	10	100,226	6.6	$455,502	6.5	10	15	1,411,313	93.4	$6,525,913	93.5	22	15	1,511,539	$6,981,415	22	$4.62
1994	12	204,746	16.3	$1,156,258	16.4	14	16	1,051,990	83.7	$5,883,004	83.6	20	17	1,256,736	$7,039,263	22	$5.60
1995*	9	114,821	32.7	$617,290	33.4	9	9	236,202	67.3	$1,230,376	66.6	9	10	351,023	$1,847,667	10	$5.26
1996	4	198,886	27.3	$1,250,207	26.8	5	9	529,538	72.7	$3,420,308	73.2	9	9	728,424	$4,670,516	10	$6.41
1997	7	253,134	31.5	$1,348,634	31.1	7	9	549,249	68.5	$2,981,118	68.9	11	9	802,383	$4,329,752	11	$5.40
1998	6	210,547	25.3	$937,959	23.7	6	8	622,834	74.7	$3,013,051	76.3	10	8	833,381	$3,951,010	10	$4.74
1999	6	145,588	17.4	$502,454	16.8	6	10	692,226	82.6	$2,479,880	83.2	11	10	837,814	$2,982,334	11	$3.56
2000	3	***	***	***	***	3	8	***	***	***	***	10	8	714,285	$2,814,997	10	$3.94
2001	2	***	***	***	***	2	6	***	***	***	***	6	6	552,240	$2,153,876	6	$3.90
2002	1	***	***	***	***	1	6	***	***	***	***	6	6	492,287	$3,144,237	6	$6.39
2003	1	***	***	***	***	1	4	***	***	***	***	4	4	526,262	$1,849,214	4	$3.51
2004	2	***	***	***	***	2	5	***	***	***	***	5	5	424,543	$2,004,504	5	$4.72
2005	3	***	***	***	***	5	5	***	***	***	***	7	5	525,086	$4,212,304	7	$8.02
2006**	3	***	***	***	***	5	3	***	***	***	***	5	3	***	***	5	$7.78

Note: * From February 23, 1995, until August, 1996, the EEZ was closed to fishing. 1995 federal waters harvest and earnings occurred in January and February prior to closure.
** 2006 harvest and earnings figures are preliminary and incomplete.
*** Data are masked to preserve confidentiality under AS 16.05.815

Expiration of the State Vessel Limited Entry Permit Program

20 AAC 05.1425 – 20 AAC 05.1444 (adopted May 6, 2004) established a vessel permit system for the statewide weathervane scallop fishery. However, a sunset provision was added to the legislation. Under 20 AAC 05.1443, vessel entry permits issued for this fishery will expire on December 30, 2008, unless statutory authority is extended. Could the state of Alaska be faced with potential management and conservation issues if the state waters fishery was again opened to unrestricted fishing capacity?

Implementation of the federal scallop license limitation program and state waters vessel limited entry permit systems created a reduction in the number of participants in this fishery. Combined with the onboard observer program, gear and crew restrictions, vessel length restrictions and establishment of conservative guideline harvest ranges, scallop stocks in general appear to be healthy and not overfished.[16] Formation of the voluntary scallop cooperative and removal of some co-op boats from active participation has further reduced effort.

The state waters vessel limited entry permit system has established two vessel length categories. Permits are issued to owners of vessels 80 feet and less and to owners of vessels greater than 80 feet. If vessel size were not restricted, it is likely that permit owners with smaller boats would upgrade to larger boats and larger dredges and fish in areas previously restricted by their size. Greater or unrestricted fishing capacity could lead to shorter seasons, exceeding guideline harvest ranges and potentially causing early area closures due to reaching or exceeding crab bycatch limits. Because of the onboard observer program in this fishery, however, the risk of exceeding guideline harvest ranges and bycatch limits is low.

Many scallop beds straddle the three-mile state waters boundary, with a larger portion of the bed located in federal waters and a smaller portion in state waters. The federal license limitation program has no sunset clause associated with it and will therefore remain in place. If access was not limited on the state waters side and a number of vessels with unrestricted capacity began harvesting in state waters only, localized depletion of beds on the state waters side could occur. The fishery is managed as a single fishery with respect to establishment of guideline harvest ranges. Guideline harvest ranges are established by management areas irrespective of whether they lie within state and/or federal waters. In the example just mentioned where localized depletion might occur in state waters, the entire bed and surrounding area could potentially be closed indefinitely to protect the resource. This scenario would impact not only the state waters portion of the fishery, but also the federal fishery. Since implementation of the federal LLP program in 2001 and the state waters vessel limited entry permit system in 2004, a closure of this nature has not occurred.[17]

[16] Kevin Duffy, Commissioner ADF&G, Response to CFEC information request on scallop fishery, Feb. 23, 2004.
[17] Personal communication with Jeffrey P. Barnhart

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

DIVISION OF COMMERCIAL FISHERIES

SARAH PALIN, GOVERNOR

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July 7, 2007

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

Dear Representative Seaton:

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

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

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

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

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

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

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

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

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

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

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

4. **Trip limits**. Suggestions included a 1,000 pound trip limit per calendar day or twice per week on all trips for small vessel operations, a 1,000 pound possession limit for small scallop boats, and a 15,000 pound trip limit for boats with federal licenses. Setting different trip limits for different size boats (especially given the differential suggested) would constitute allocation within a fishery, which would require legislation to accomplish. The board would have to consider the economic effects of various sizes of trip limits and how they could be enforced. Issues with implementing trip limits as a management tool might include difficulty in distinguishing scallops caught outside three miles from scallops caught inside three miles, since trip limits could either be different or non-existent outside three miles. Enforcing a limit in state waters would likely require regulations preventing boats from fishing both inside and outside three miles during the same trip. This might be accomplished through different seasons or area registration requirements. The board would have to consider trip limits in the context of maintaining an economically viable fishery, which would include observer costs as well as other expenses such as crew, fuel, and food. Adding pounds to trip limits (as suggested in point seven below) to pay for observers would not change the overall revenue from the fishery since the total allowable harvest per bed is also limited.

5. **Require VMS** on all scallop vessels fishing in state waters. The state is currently not set up to utilize VMS data. Establishing VMS in state fisheries would require additional funding, especially if vessels are allowed to tow across the three mile boundary. It is not clear that data on vessel location could be correlated to catch inside or outside three miles, or be used to determine whether the vessel was fishing or not while in a given location. A vessel engaged in fishing would be indistinguishable from a vessel merely motoring along at fishing speed. It appears that direct observation by an airplane or an onboard observer would still be required in order to substantiate location of fishing.

6. **Require digital cameras**. Under this suggestion, video monitoring would replace observers. Video monitoring is an unproven technology to replace observers for the scallop fishery. It is not used in any federal groundfish fishery or state fishery in Alaska, but apparently is used in some groundfish and shellfish fisheries in Canada. In the scallop fishery, many tows contain thick mud and silt that obscures scallops, crabs, and other bycatch from view when the dredge contents are dumped on deck. Observers sort through the mud by hand or use the deck hose to remove the majority of mud before sampling. Because of this problem, it is unlikely that cameras would capture images of all crabs and other bycatch. Cameras would not be an effective substitute for the sampling carried out by scallop observers, whose primary purpose is to collect biological data including samples for determining scallop size and age and bycatch of crabs. Cameras may, however, provide useful data for those areas where observers are not currently required, such as Kamishak Bay. Assuming the cameras captured images of all crabs caught, the tapes would have to be subsampled and the numbers of crabs estimated. Research would need to be done to determine the accuracy of such methods. Maintenance, reliability, and cost of the cameras would also be issues the board would have to consider.

7. **Reduce observer coverage.** Suggestions ranged from requiring only 10 percent observer coverage funded by adding extra pounds to each trip limit up to requiring only 33% observer coverage. Under the Alaska Scallop Fishery Management Plan (5 AAC 38.076(e)(4)), the department currently requires full observer coverage for all scallop fisheries in the state, except in Cook Inlet. This coverage helps ensure guideline harvest levels and crab bycatch limits are not exceeded, and fishery based data is collected. Reducing this coverage to 10% would jeopardize management of the fishery and likely require more conservative management measures to help ensure scallop stocks remain viable. The department does not support reducing observer coverage until a proven substitute is developed.

8. **Stop training observers for regulatory compliance and have them deal solely with biology.** The primary purpose of observers is to collect biological information that includes data to enforce crab bycatch caps. Observers need to be aware of the fishery regulations and other requirements, such as crab bycatch limits in order to adequately do their job and to improve regulatory compliance. Sending observers out without training in this aspect of fishery management is not wise. Some of the public suggestions discussed above (such as trip limits, reduced gear size, and limiting where boats may fish during a single trip) actually increase the need for observers and the need for them to deal with enforcement and management issues.

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

SCALLOP MANAGEMENT DURING 2007 AND AFTER

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

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

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

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

Sincerely,

John Hilsinger

John Hilsinger
Director
Commercial Fisheries Division

Talking Points for HB 16 - Scallops
John Hilsinger January 30, 2008

1. Alaska Department of Fish and Game (ADF&G) supported the vessel based limited entry system for scallops and Korean hair crab when it was adopted in 2004 because it provided conservation benefits, both for scallops and for crabs, that were not provided by an individual based limited entry system (9 scallop boats versus at least 27; 18 hair crab boats versus 47). We continue to support the vessel-based limited entry system because it is an effective way to limit the number of vessels and provide for a sustainable fishery.

2. The vessel-based limited entry program works together with the guideline harvest ranges, observer data, other sampling, closed areas, seasons, and gear limitations to provide a sustainable management program for scallops.

3. If the vessel-based limited entry system goes away as of December 31, 2008, there will be no limit on the number of boats that can fish for scallops in state waters unless the Commercial Fisheries Entry Commission conducts another study and implements a different form of limited entry.

4. Fishing in federal waters, (outside three miles) will continue to be subject to the federal license limitation program. At the current time, the Department cannot make a good estimate of how many vessels may decide to fish in state waters if those waters are open to entry.

5. However, in anticipation that HB 16 may not pass, the Department asked the Alaska Board of Fisheries to consider changes to scallop management in state waters. Those changes will be considered during the March 3 – 9, 2008, meeting in Anchorage.

    a. ADF&G approach developed by shellfish management and research staff statewide.
    b. Besides ADF&G proposals, the public may also submit ideas for management to the Board.
    c. The difficulty in managing the state waters fishery under an open-entry scenario stems from the fact that boundary line cuts across three of the centrally located scallop beds (Shelikof Strait, Kayak Is., and Yakutat). This will require the state to essentially manage each of these areas as two separate scallop beds.

6. Anticipated management for open-entry fishery under state proposals.
    a. No changes to 5 AAC 38.076 Alaska Scallop Fishery Management Plan. This is the basic statewide scallop management plan that provides the ability to require observers and set bycatch limits. This plan also sets dredge size and number limitations, crew member limits, and requires hand shucking. We will continue to set and manage for Guideline Harvest Levels by area.

b. ADF&G will propose regional management plans. There may end up being some regional differences among these plans, but all the regions are in agreement on these basic concepts:
    i. Registration year: April 1 through March 31
    ii. Registration deadline on April 1
        1. Deadline required for two reasons
            a. give staff opportunity to assess effort to determine if a fishery can be opened or not.
            b. give staff time to work with observer contractors to identify and train adequate number of observers (one for each boat plus spares). To do this requires identifying and approving available observers and then giving them the scallop training, which takes about 2 weeks.
    iii. Vessels will register for state or federal waters and must fish in those waters for which they are registered. A vessel would, for example, register for the state waters of the Shelikof District or they could register for the federal waters of the Shelikof District, if they have a federal permit.
    iv. Set separate GHLs for state and federal waters. Manage separately; close areas separately when GHLs are reached.
        1. initially, GHLs will be based on historical catch distribution in for Shelikof Strait and Yakutat. For Kayak Island, the separate GHLs could be based on dredge survey data. Eventually, we anticpate being able to use stock assessment data to set GHLs for state and federal waters in all regions.
    v. Set separate crab bycatch limits for state and federal waters based on information from crab surveys where available.
    vi. Vessel can change registration with 12 hours notice. Vessel would be required to shuck and weigh all scallops on board, make out fish ticket, and report catch to department before fishing the other side of boundary line.
    vii. Daily reporting if necessary (catch, bycatch, other information). We anticipate starting with daily reporting and then relaxing that if it turns out not to be necessary.
    viii. VMS requirement using NMFS approved equipment.
    ix. Adjustments to closed waters if necessary.

Scallop Management

- Agenda Change Request will be taken up March 3-9
- Draft management plans for each region
  - retain observer requirement
  - registration year and deadline
  - register for state or federal waters
  - separate state management
  - open/close by E.O
  - daily reporting
  - considering VMS

Shellfish

Scallops

ALASKA COMMERCIAL FISHERIES

Weathervane Scallop Management Activities

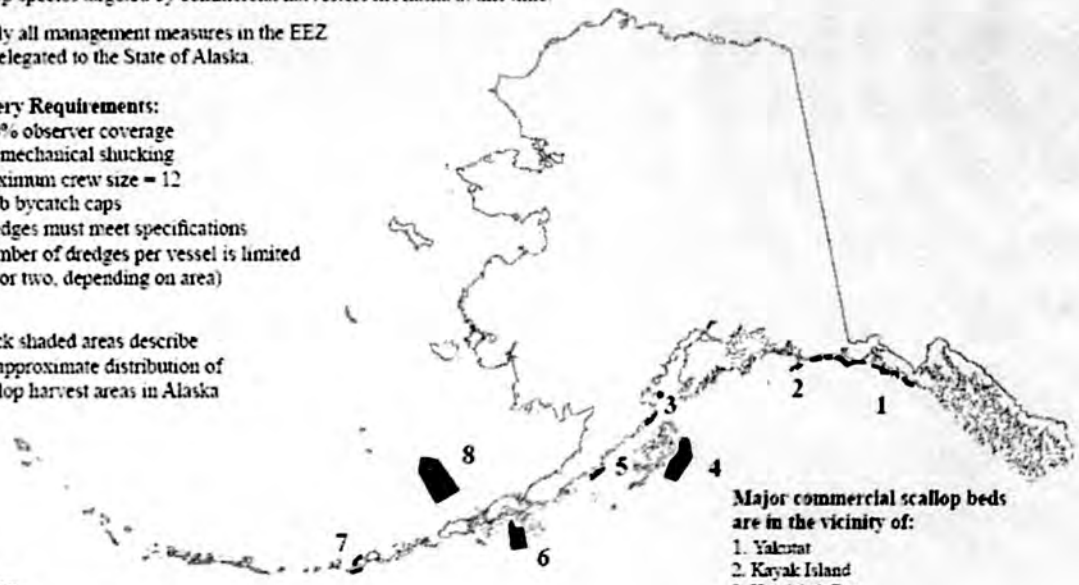
Weathervane scallops are the largest scallops in the world and are the only scallop species targeted by commercial harvesters in Alaska at this time.

Nearly all management measures in the EEZ are delegated to the State of Alaska.

Fishery Requirements:

- 100% observer coverage
- No mechanical shucking
- Maximum crew size = 12
- Crab bycatch caps
- Dredges must meet specifications
- Number of dredges per vessel is limited (one or two, depending on area)

Black shaded areas describe the approximate distribution of scallop harvest areas in Alaska



Major commercial scallop beds are in the vicinity of:

1. Yakutat
2. Kayak Island
3. Kamishak Bay
4. Kodiak Island
5. Shelikof Strait
6. Southside of the Alaska Peninsula
7. Umnak Island
8. Bering Sea

Gear

Weathervane scallops are captured by vessels towing New Bedford style dredges.

Season

July 1 to February 15, except in Kamishak bay where the season is August 15 to October 31

STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION

SARAH PALIN, GOVERNOR

8800 GLACIER HWY, #109
P.O. Box 110302
JUNEAU, AK 99811-0302

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(907) 789-6180 BBS

INTERNET: www.cfec.state.ak.us

January 7, 2008

Re: Legislation to Preserve State Limited Entry for the Weathervane Scallop and Bering Sea Hair Crab Vessel Permit Holders

Dear Scallop and Hair Crab Fishermen:

The Alaska legislative session begins on January 15, 2008 for a shortened 90-day session. House Bill 16, extending the sunset date for the state waters scallop and hair crab limited entry programs until December 2013, has failed to move from the House Fisheries Committee. If the bill fails to pass the legislature this session, both of these fisheries will revert to unlimited open access at the end of 2008. In outside waters, the Federal scallop limited entry by the North Pacific Fisheries Management Council (NPFMC) will remain in place. The House Fisheries Committee held hearings on HB16 last year, but the bill did not move out of the committee.

It has come to our attention that some participants in the Alaska scallop fishery are under the impression that, if this bill does not pass, the state waters scallop fishery on-board observer requirement would end. This is not the case. A return to an unlimited open access state waters scallop fishery will not eliminate the observer program for this fishery. In fact, an open access scallop fishery would likely require more management measures from the Board of Fisheries (not fewer).

Please let your legislator know your views on this legislation.

Thank you.

By Direction of the

COMMERCIAL FISHERIES ENTRY COMMISSION

Frank Homan, Chairman
Peter Froehlich, Commissioner
Bruce Twomley, Commissioner

Attachment
Copy of HB 16
List of all Legislators and addresses

Scallop background information:

1. At he current time there are 9 scallop vessels licensed in both state and federal waters. Four of those boats actually fish. (Six of the boats have formed a voluntary co-operative and usually three of those six boats fish).
2. Scallops are long lived slow growing animals that are not non-migratory as adults. Scallops are known to live to 20+ years of age, but are in prime condition for market when they are 6 – 10 years of age.
3. Once the location of a scallop bed is identified, the same bed is fished year after year. Occasionally, new beds are discovered. Population estimates exist for only 2 of the 9 registration areas. Therefore, management must be precautionary and harvest rates must be kept very low to prevent over fishing. Harvests are kept well below estimated MSY levels.
4. King and tanner crabs are intermixed with scallops and some scallop beds are closed to protect depressed crab populations. Areas open to scallop fishing have crab bycatch limits because mortality of crabs caught in scallop dredges is high.
5. Guideline harvest levels for the scallops are developed from observer data, catch per unit effort, and catch sampling. Observers also monitor crab bycatch and fisheries may be closed if crab bycatch limits are met. Because of the limited number of boats fishing and the bycatch data collected, the vessels have been able to reduce crab bycatch and avoid premature closures.
6. Recent average scallop harvests for the state are somewhat less than 500,000 pounds of meats per year. Approximately 30%, or about 145,000 pounds, are estimated to come from state waters. These harvests are lower than they were in the late 1990s because the department is lowering guideline harvest levels in order to sustain the stocks.

A Brief Overview of the Bering Sea Hair Crab Fishery and the Vessel Limited Entry Program

CFEC Report No. 07-1N
February 2007

Prepared by
Cathy Tide

State of Alaska
Commercial Fisheries Entry Commission
8800 Glacier Hwy, Suite 109
P.O. Box 110302
Juneau, Alaska 99811-0302

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- ADF&G ADA Coordinator, P.O. Box 115526, Juneau, AK 99811-5526.
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- U.S. Fish and Wildlife Service, 4040 N. Fairfax Drive, Suite 300 Webb, Arlington, VA 22203
- Office of Equal Opportunity, U.S. Department of the Interior, Washington DC 20240.

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Abstract

In 2002 the Alaska State Legislature passed a law authorizing CFEC to implement a vessel-based limitation. CFEC adopted regulations establishing a vessel-based limited entry program in the Bering Sea hair crab fishery in 2003. The law, which allows the vessel-based limitation, expires on December 30, 2008. House Bill 16 was introduced in January 2007 in the 25th Alaska Legislature. The bill would delay the sunset date for the vessel permit program until December 30, 2013. This report provides the Alaska Legislature with a brief overview of the Bering Sea hair crab fishery, the vessel moratorium, and the vessel-based limitation.

Table of Contents

Abstract..... iii

1.0 Introduction..... 1

2.0 The Bering Sea Hair Crab Fishery..... 2

3.0 The Moratorium and Development of a Vessel-Based Limitation..... 4

4.0 Bering Sea Hair Crab Vessel Limitation..... 5

5.0 Current Status of the Hair Crab Resource and Fishery..... 7

6.0 Current Status of Permit Holders..... 10

7.0 Conclusion..... 11

8.0 References..... 12

List of Tables

Table 1. Qualifying Vessels for Bering Sea Hair Crab Vessel Entry Permits and Their Owners..... 6

Table 2. The Bering Sea Hair Crab Total Harvest and Earnings, and Average and Median Harvest and Earnings Per Person or Vessel With Landings, 1979-2006..... 9

Table 3a. Current Vessel Entry Permit Holders in the Bering Sea Hair Crab Fishery and Their Vessels..... 10

Table 3b. Vessels and Vessel Owners Qualified for a Bering Sea Hair Crab Vessel Entry Permit..... 10

List of Figures

Figure 1. Bering Sea Hair Crab Fishing Area..... 2

Figure 2. Estimated Abundance of Large Male Hair Crab in the Bering Sea, 1980-2006..... 7

1.0 Introduction

In 1979, American vessels began participating in the Bering Sea hair crab fishery. Over the history of the fishery, participation and harvest fluctuated. In 1995 and 1996, the Commercial Fisheries Entry Commission (CFEC or commission) received petitions requesting limited entry in the hair crab fishery. Research into patterns of hair crab participation indicated that limiting the fishery under the state's traditional program would be problematic. Under Alaska's traditional limited entry program, CFEC must award permits only to individuals (permit holders) with a history of landings in the fishery. Limitation under the person-based program could have resulted in increases in participation even after limited entry was implemented, thereby diminishing the benefits and statutory purposes of the program.

CFEC and representatives from the hair crab fleet pursued legislation that would allow CFEC to issue permits that were tied to vessels rather than persons since a vessel-based limited entry program might provide the intended benefits and meet the statutory purposes of limited entry more readily. In 2002, the Alaska State Legislature approved a vessel-based program for the Bering Sea hair crab and weathervane scallop fisheries. The bill included a sunset provision specifying that the law expires on December 30, 2008.

CFEC adopted regulations in 2003 establishing a vessel-based limited entry program in the Bering Sea hair crab fishery. In 2004 the program was implemented; vessel owners applied for vessel entry permits and CFEC issued permits to qualified vessels. The Bering Sea hair crab fishery has been closed since 2000 due to low stock abundance. It was felt at the time of the limitation that if stock levels rose, limitation might help re-open the hair crab fishery and help avoid future closures of the fishery since fishing pressure would be restricted through a limited fleet size.

House Bill 16 was introduced in January 2007 in the 25th Alaska Legislature. The bill would delay the sunset date for the vessel permit program until December 30, 2013. This report provides the Alaska Legislature with a brief overview of the Bering Sea hair crab fishery, the vessel moratorium, and the vessel-based limitation.

2.0 The Bering Sea Hair Crab Fishery

The Bering Sea hair crab (*Erimacrus isenbeckii*) fishery is a small fishery that has usually occurred in the Pribilof Islands area of the Bering Sea. The hair crab fishery was originally pioneered by the Japanese during the 1960's and targeted by American vessels beginning in 1979. In 1980 a yearlong permit fishery was established within a three-mile area of the Pribilof Islands, then in 1984 the hair crab fishery was expanded in the Bering Sea District. Figure 1 indicates the area in which the Bering Sea hair crab fishery was prosecuted.[1]

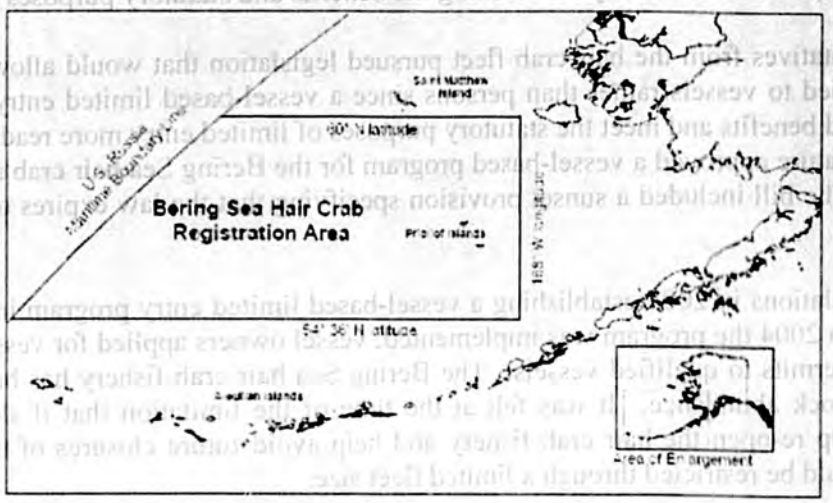


Figure 1. Bering Sea Hair Crab Fishing Area. Source: *Annual Management Report for the Commercial and Subsistence Shellfish Fisheries of the Aleutian Islands, Bering Sea and the Westward Region's Shellfish Observer Program, 2003.* ADF&G Regional Information Report No. 4K04-43, September 2004. Figure 2-13.

In December 1995 and January 1996 the Commercial Fisheries Entry Commission (CFEC or commission) received two petitions requesting limited entry in the Bering Sea hair crab fishery. One petition noted a sharp increase in the number of hair crab vessels that participated in the 1995 season. The petitioners claimed this caused a shorter season, with more gear conflicts and higher amounts of wastage due to lost and tangled gear. The petitioners also expressed concern that spillover of vessels from other Bering Sea fisheries, which were experiencing depressed stock levels, could impact the hair crab fishery, adding even more vessels in future years and complicating conservative management of hair crab. The petition indicated the hair crab fishery was not included in a federal fishery management plan, and therefore was not subject to a federal restricted access program.

---

[1] There is no formal hair crab registration area established in ADF&G regulations, and as such, the fishing area is established using the terms of a commissioner's permit. ADF&G uses king crab management area, district, and section descriptions for inseason management of the fishery. Between 1997 and 2003, CFEC vessel moratorium permits and interim-use permits issued to skippers participating in the fishery were issued for waters north of 54° 36' N. lat., south of 58° 39' N. lat., and east of the United States – Russia Convention line of 1867. From 2004 onward, CFEC interim-use permits issued to skippers participating in the fishery are for waters described in 5 AAC 35.505(e), the Tanner crab Bering Sea District of Area J (Westward Region). Vessel limited entry permits for the Bering Sea hair crab fishery are for waters of the Bering Sea District as described in 5 AAC 35.505(e) that are beyond five miles from shore.

Research into patterns of hair crab participation indicated that limiting the fishery under the state's traditional program might not be appropriate for this fishery. First, many vessels had been operated by more than one person, so the total number of permit holders with landings significantly exceeded the actual number of units of gear in the fishery. Limitation under the person-based program would likely have resulted in a potential increase in fishing effort even after limited entry was implemented, diminishing the benefits and statutory purposes of the program. A vessel-based permit program could achieve the purposes of limited entry in a more efficient manner than a person-based permit program, largely because the number of vessels with landings was considerably less than the number of persons who recorded landings, and fewer permits were likely to be issued under the vessel-based system.

Second, the traditional owner/operator fishing operation, which is characteristic of Alaska's salmon, herring, and other small-boat fisheries in state waters, was the model upon which the person-based limited entry program was designed. The Bering Sea hair crab fishery is characterized by larger boats that fish far offshore, a majority of which is owned by corporations or partnerships. A vessel-based program was thought to better preserve the character of the fishery and the place of all participants in the fishery – for vessel owners, skippers, and crewmen. If vessel permits were issued to vessel owners, qualifying operations could continue to fish in the same manner as they did in the open access and moratorium years.

3.0 The Moratorium and Development of a Vessel-Based Limitation

There was a risk associated with allowing the hair crab fishery to remain under open access while a vessel-based program was analyzed, debated, and potentially passed by the legislature: more boats could enter the fishery during the interim, adding to the existing conservation and economic problems. Recognizing this potential problem, the legislature passed a bill establishing a temporary moratorium for new vessels in the hair crab fishery in 1996. The moratorium went into effect on July 4, 1996 and was scheduled to expire on June 30, 2000.[2] Only vessels that made legal hair crab landings in the directed Bering Sea hair crab fishery from 1993 to 1995 were eligible for permits to fish during the moratorium.

The moratorium law directed the Alaska Department of Law and CFEC to draft legislation that would give CFEC the authority to implement vessel-based limited entry programs in fisheries in which traditional person-based limited entry programs would not effectively fulfill the commission's statutory duties. The proposed bill was introduced and referred to the Senate Resources Committee in 1999 as Senate Bill 143. No hearings were scheduled for the bill; it stayed in the Resources Committee and the legislature took no action on the bill. In 2000, CFEC again asked for the bill to be scheduled for consideration, but again it did not leave the committee. At the end of the 2000 session, SB 143 died. The legislature passed House Bill 429, which extended the moratorium until July 2003, when it became apparent during the 2000 session that legislation for a vessel permit program might not pass.[3]

During the 2002 legislative session, CFEC provided a draft bill to the legislature to authorize a vessel-based limited entry program. The draft bill was reworked by legislative counsel and was significantly amended in the House Resources Committee to allow CFEC to use this authority only in the Bering Sea hair crab and weathervane scallop fisheries. The amended bill passed the state House and was sent to the Senate Resources Committee. After passing through the Senate Resources and Judiciary committees, the bill was amended on the Senate floor to add a sunset provision specifying that the law expire on December 30, 2008.[4]

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[2] See Section 3, ch. 126, SLA 1996.
[3] See Ch. 30, SLA 2000.
[4] See Section 2, ch. 137, SLA 2002.

4.0 Bering Sea Hair Crab Vessel Limitation

On February 14, 2003, CFEC issued a notice of proposed regulation changes to establish a vessel permit limited entry program for the Bering Sea hair crab pot fishery. The notice invited public comment on the regulations and established a comment period from February 14 through April 2, 2003. Two public hearings were held by teleconference during the public comment period. After reviewing and considering all comments, the commission held a scheduled public meeting on June 5, 2003. At this meeting, the commission could either adopt the regulations as proposed, or adopt an amended form of the regulations, or take no action. The commission voted unanimously to accept several amendments to the original proposal and to adopt the regulations as amended. These regulations became effective on September 21, 2003. Principal elements of the adopted regulations included:

- Limitation of the Bering Sea hair crab fishery with vessel permits issued to vessel owners.
- To qualify for a permit, a vessel must have participated in at least 1 year from 1993 through 1995 and 1 year from 1996 through 2002 *or* at least 2 years from 1993 through 1995.
- No person or entity may hold an ownership interest in more than 2 vessel permits, unless the ownership existed at initial issuance.
- Permanent substitution of vessels is allowed, but the substitute vessel may not exceed the overall length of the original qualifying vessel.
- Vessel permits are transferable.
- The Bering Sea administrative area corresponds to the waters of the ADF&G Bering Sea management district for hair crab that are beyond five miles from shore.

The application period for a vessel entry permit in the Bering Sea hair crab fishery began January 2, 2004 and ended April 15, 2004. During this time the commission received twenty applications from vessel owners. Applications were evaluated, and based on qualification standards outlined in the regulations, sixteen of the vessels qualified for permits, two did not qualify, and two are still pending before the commission. Table 1 indicates the sixteen vessels and their owners that qualified for a Bering Sea hair crab vessel entry permit.[5]

[5] Between December 13, 2003 and January 19, 2005, NMFS administered a capacity reduction program (buyback) in the Bering Sea/Aleutian Islands crab fisheries. Four vessels that qualified for a Bering Sea hair crab vessel entry permit were bought out under the federal buyback program. This raises the legal question: must a vessel owner who was bought out through this federal program relinquish a state issued permit based on the vessel's fishing history? An additional implication of the buyback is that these four vessels are prohibited from participating in any future commercial fishing activities for any species, including hair crab.

Table 1. Qualifying Vessels for Bering Sea Hair Crab Vessel Entry Permits and Their Owners.[1]

Vessel Name	ADFG Number	Vessel Length	Vessel Owner
American Star	06369	154	American Star & Owners
Aquila	62505	165	Tamarak Ventures LLC
Arctic Eagle	61111	126	Arctic Eagle LLC
Arctic Sea	33696	134	Kristian E. Poulsen Ent. Inc.
Maverick	45706	92	F/V Maverick LLC
North Pacific	06205	96	North Pacific LLC
North Sea	36047	126	Kristian E. Poulsen Ent. Inc.
Ocean Cape	29923	98	Ocean Cape LLC
Ocean Olympic	56111	166	Ocean Olympic LLC
Pacesetter	21436	127	Pacesetter Mariner, Inc.
Polar Lady	36822	105	MGF Fisheries Inc.
Royal Viking	03718	108	Royal Viking Inc.
Shaman	00036	110	Mattsen Fisheries Inc.
Theresa Marie	00034	93	Marwin Inc.
Time Bandit	65577	113	Time Bandit LLC
Zolotoi	40917	102	Zolotoi General Partnership

[1] The vessel owner at the time of the application for a vessel entry permit.

In traditional, person-based limited entry fisheries, permits are only issued to natural persons. Each permit holder is required to declare his or her residency when they are issued a permit, and again each year when they renew their permits. In vessel-based limited entry fisheries, permits are issued to vessel owners regardless of whether they are a natural person or an entity. In many cases the entity reflects a complex structure of natural persons and/or other entities. Because entities do not have residency in the same sense that natural persons do, recipients of vessel entry permits are not required to declare a residency. As a result, CFEC is not able to provide a breakdown of resident and nonresident permit holders, as is typically done for the traditional, person-based limited entry fisheries.

5.0 Current Status of the Hair Crab Resource and Fishery

The National Marine Fisheries Service (NMFS) estimates the distribution and abundance of the hair crab resource in the eastern Bering Sea each year when it conducts its annual Eastern Bering Sea Trawl Survey. Figure 2 indicates the estimated abundance of large male hair crab in the Bering Sea from the NMFS survey for 1980 through 2006.[6] Between 1980 and 2006, the hair crab population has seen a dramatic decline. The estimated levels in 2005 were just 2.0% of the 1980 population. A slight increase in large male abundance was detected in the 2006 survey, but overall, the estimated population is a small fraction of initial levels seen for hair crab.

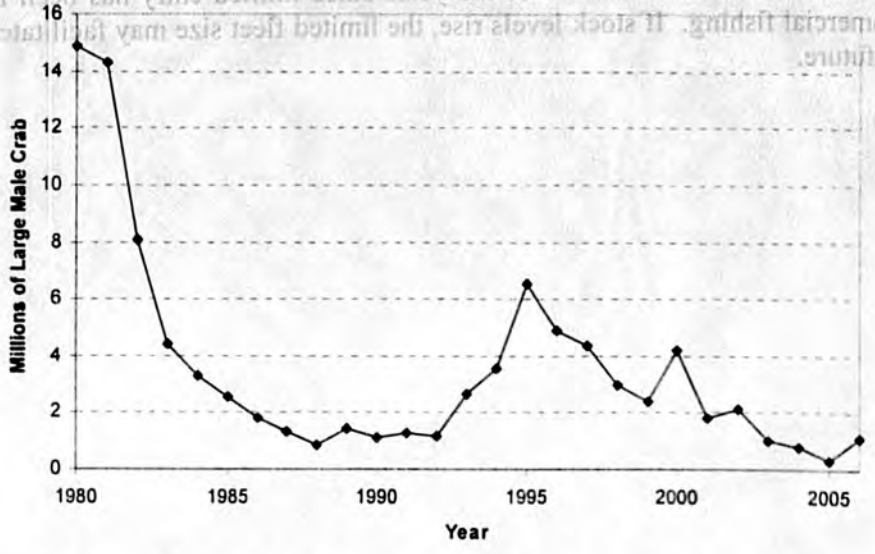


Figure 2. Estimated Abundance of Large Male Hair Crab in the Bering Sea, 1980-2006. Source of data: Rugolo, L.J., E.A. Chilton, C.E. Armistead, and J.A. Haaga. 2006. *Report to industry on the 2006 Eastern Bering Sea crab survey.* AFSC Processed Rep. 2006-17, 61 p. Alaska Fish. Sci. Cent., NOAA, Natl. Mar. Fish. Serv., Kodiak Fish. Res. Cent., 301 Research Court, Kodiak, AK 99615-7400 and Stevens, B.G., R.S. Otto, J.A. Haaga, and R.A. MacIntosh. 1998. *Report to industry on the 1997 Eastern Bering Sea crab survey.* AFSC Processed Rep. 98-02, Alaska Fish. Sci. Cent., NOAA, Natl. Mar. Fish. Serv., P.O. Box 1638, Kodiak AK 99615-1638.

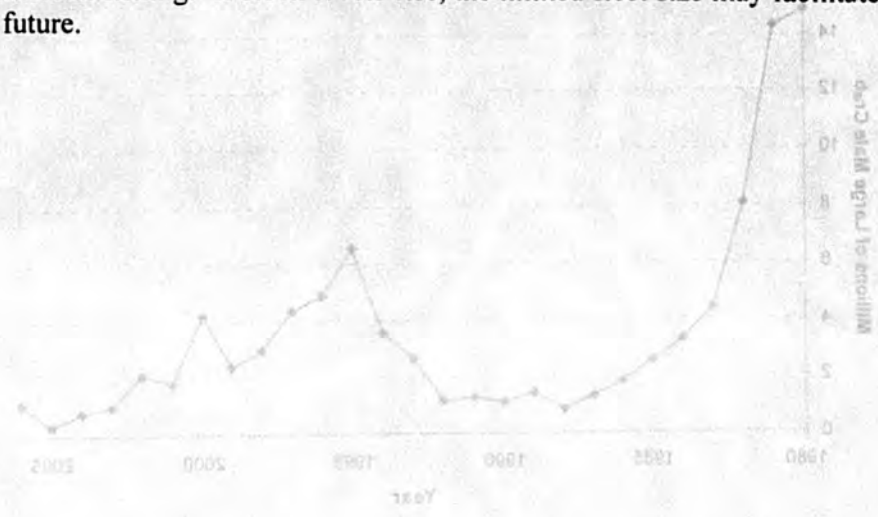
Population trends and weak performance in commercial fisheries indicate that the Bering Sea hair crab population is severely depressed. Despite closure of the commercial fishery since 2000, the hair crab resource has not begun to rebuild.[7] Much of the important hair crab habitat near the Pribilof Islands is closed to bottom trawling, so the traditional hair crab fishing grounds are fairly protected. Since 2000 there has been minimal human-caused hair crab mortality and there is very little bycatch of hair crab in other fisheries. It is likely that the population remains low due to poor recruitment, changes in

[6] Abundance estimates were obtained from: Rugolo, L.J., E.A. Chilton, C.E. Armistead, and J.A. Haaga. 2006. *Report to industry on the 2006 Eastern Bering Sea crab survey.* AFSC Processed Rep. 2006-17, 61 p. Alaska Fish. Sci. Cent., NOAA, Natl. Mar. Fish. Serv., Kodiak Fish. Res. Cent., 301 Research Court, Kodiak, AK 99615-7400 and Stevens, B.G., R.S. Otto, J.A. Haaga, and R.A. MacIntosh. 1998. *Report to industry on the 1997 Eastern Bering Sea crab survey.* AFSC Processed Rep. 98-02, Alaska Fish. Sci. Cent., NOAA, Natl. Mar. Fish. Serv., P.O. Box 1638, Kodiak AK 99615-1638.

[7] See Alaska Department of Fish and Game, *Bering Sea Hair Crab Fishery Closed for 2005/2006 Season,* ADF&G News Release, October 20, 2005.

environmental conditions, and predation by other species in the area.[8] Forrest Bowers, ADF&G Area Management Biologist, does not believe the hair crab resource will recover enough in the next five years to warrant opening the commercial fishery.[9] Hair crab appear to be a fragile resource and a conservative management approach is warranted.

Participation, harvest, and earnings in the Bering Sea hair crab fishery have fluctuated greatly over the history of the fishery. Table 2 indicates the total commercial harvest of the Bering Sea hair crab fishery by year, the total earnings, average ex-vessel price, the number of persons and vessels with landings, and the average and median harvest and earnings per person or vessel. Because of low stock abundance, the Bering Sea hair crab fishery has been closed since 2000. As a result, nearly half of the years that the fishery was under a moratorium and all of the years since limited entry has been in effect have been closed to commercial fishing. If stock levels rise, the limited fleet size may facilitate the opening of the fishery in the future.



[8] Bowers, Forrest. 2006. Personal communication. Alaska Department of Fish and Game; PO Box 920587, Dutch Harbor, AK 99692-0587.
[9] Ibid.

Table 2. The Bering Sea Hair Crab Total Harvest and Earnings, and Average and Median Harvest and Earnings Per Person or Vessel With Landings, 1979-2006.[1]

Year	Fishery Status	Total Harvest[2]	Total Earnings[3]	Average Ex-Vessel Price[3]	Persons With Landings	Harvest[2]		Earnings[3]		Vessels With Landings[4]	Harvest[2]		Earnings[3]	
						Average	Median	Average	Median		Average	Median	Average	Median
1979		**	**	**	18	**	**	**	**	16	**	**	**	**
1980		69,009	$50,272	$0.728	19	3,632	271	$2,646	$190	17	4,059	511	$2,957	$358
1981		2,128,349	$1,713,285	$0.805	96	22,170	1,906	$17,847	$1,534	76	28,005	1,805	$22,543	$1,452
1982		1,225,098	$799,250	$0.652	80	15,314	1,676	$9,991	$1,088	69	17,755	2,127	$11,583	$1,296
1983		888,447	$628,556	$0.707	61	14,565	715	$10,304	$685	49	18,132	1,170	$12,828	$868
1984		568,717	$746,654	$1.313	24	23,697	1,234	$31,111	$1,322	24	23,697	666	$31,111	$852
1985		**	**	**	5	**	**	**	**	6	**	**	**	**
1986		**	**	**	4	**	**	**	**	3	**	**	**	**
1987	Open Access	23,243	$43,337	$1.865	8	2,905	645	$5,417	$1,278	8	2,905	645	$5,417	$1,278
1988		3,406	$4,656	$1.367	12	284	194	$388	$229	12	284	194	$388	$229
1989		**	**	**	1	**	**	**	**	1	**	**	**	**
1990		0	$0	$0	0	0	0	$0	$0	0	0	0	$0	$0
1991		379,715	$1,237,491	$3.259	6	63,286	6,502	$206,249	$21,190	6	63,286	6,502	$206,249	$21,190
1992		1,338,818	$2,815,534	$2.103	18	74,379	42,833	$156,419	$90,078	17	78,754	30,119	$165,620	$63,340
1993		1,439,155	$3,109,853	$2.161	27	53,302	33,881	$115,180	$73,217	22	65,416	32,333	$141,357	$69,872
1994		1,904,287	$5,768,782	$3.029	20	95,214	83,095	$288,439	$251,778	14	136,021	95,499	$412,056	$289,362
1995		1,986,106	$5,441,930	$2.740	25	79,444	69,476	$217,677	$190,364	21	94,576	102,373	$259,140	$280,502
1996		713,309	$1,993,699	$2.795	20	35,665	31,588	$99,685	$88,287	19	37,543	32,778	$104,932	$91,615
1997		650,240	$2,078,167	$3.196	18	36,124	27,756	$115,454	$88,707	16	40,640	38,876	$129,885	$124,246
1998		**	**	**	12	**	**	**	**	12	**	**	**	**
1999	Moratorium	**	**	**	9	**	**	**	**	8	**	**	**	**
2000		**	**	**	3	**	**	**	**	3	**	**	**	**
2001								-- No Fishery --						
2002								-- No Fishery --						
2003								-- No Fishery --						
2004	Limited Entry							-- No Fishery --						
2005								-- No Fishery --						
2006								-- No Fishery --						

** Data is masked for confidentiality where fewer than four participants, vessels, or processors (by ADF&G processor code or Federal ID when available) are indicated on fish ticket data within a year.

[1] Only commercial harvest of Bering Sea hair crab was included in this table. Landings made with invalid permit serial numbers were excluded.
[2] Harvest is in pounds.
[3] In nominal dollars. Earnings and ex-vessel prices have not been adjusted for inflation.
[4] The number of vessels with landings includes unlicensed vessels.

Note: This table includes both directed commercial hair crab harvests and hair crab bycatch in other crab fisheries. An ADF&G commissioner's permit was required for participation in the directed hair crab fishery and required for eligibility in the hair crab limited entry program. This note was added for clarification purposes following the initial web posting and distribution of this report.

6.0 Current Status of Permit Holders

The regulations adopted by CFEC established vessel entry permits in the Bering Sea hair crab fishery that are transferable. The vessel entry permits may be transferred by sale, trade, gift, or through inheritance. There are conditions that must be met for a vessel entry permit to be transferred, however. The recipient of a permit must own the vessel listed on the vessel entry permit or they must substitute a vessel they do own at the time of the permit transfer. The overall length of a substitute vessel must be equal to or less than the length of the original qualifying vessel. And lastly, no transfer may occur which would result in any person or entity holding ownership interest in more than two vessels in the Bering Sea hair crab fishery.

As of February 1, 2007, four Bering Sea hair crab vessel entry permits have been permanently transferred. One of the recipients made a permanent vessel substitution at the same time as the permit transfer. As required, the substitute vessel was of equal or lesser length than the original qualifying vessel. Table 3a indicates the thirteen vessels and their owners that are current holders of Bering Sea hair crab vessel entry permits and Table 3b lists the three vessels and their owners that qualified for a vessel entry permit but have not yet been issued a permit.[10]

Table 3a. Current Vessel Entry Permit Holders in the Bering Sea Hair Crab Fishery and Their Vessels.

Current Vessel Name	ADFG Number	Vessel Length	Current Permit Holders
American Eagle	00039	118	American Eagle LLC
Aquila	62505	165	Tamarak Ventures LLC
Arctic Sea	33696	134	Coastal Villages Region Fund
Maverick	45706	92	F/V Maverick LLC
North Pacific	06205	96	North Pacific LLC
North Sea	36047	126	Coastal Villages Region Fund
Ocean Cape	29923	98	RSD (Ocean Cape), LLC
Ocean Olympic	56111	166	Ocean Olympic LLC
Polar Lady	36822	105	MGF Fisheries Inc.
Royal Viking	03718	108	Royal Viking Inc.
Shaman	00036	110	Mattsen Fisheries Inc.
Theresa Marie	00034	93	Marwin Inc.
Time Bandit	65577	113	Time Bandit LLC

Table 3b. Vessels and Vessel Owners Qualified for a Bering Sea Hair Crab Vessel Entry Permit.[1]

Qualified Vessel Name	ADFG Number	Vessel Length	Qualified Vessel Owner
American Star	06369	154	American Star & Owners
Pacesetter	21436	127	Pacesetter Mariner, Inc.
Zolotoi	40917	102	Zolotoi General Partnership

[1] Vessels have qualified for a vessel entry permit, but a permit has not yet been issued to the vessel owners, either due to the loss of the vessel or at the request of the vessel owners.

[10] Vessels qualified for a Bering Sea hair crab vessel entry permit but either the vessel was lost and a replacement vessel has not been substituted or the vessel owners have requested that the permit not be issued at this time.

7.0 Conclusion

In 2003, CFEC adopted regulations establishing a vessel-based limited entry program in the Bering Sea hair crab fishery. The program was implemented and vessel entry permits issued beginning in 2004. The law authorizing CFEC to administer a vessel-based limited entry program in the Bering Sea hair crab fishery expires on December 30, 2008. If passed, House Bill 16 would delay the sunset date for the vessel entry program until December 30, 2013.

8.0 References

Annual Management Report for the Commercial and Subsistence Shellfish Fisheries of the Aleutian Islands, Bering Sea and the Westward Region's Shellfish Observer Program, 2003. ADF&G Regional Information Report No. 4K04-43, September 2004.

Alaska Department of Fish and Game, *Bering Sea Hair Crab Fishery Closed for 2005/2006 Season,* ADF&G News Release, October 20, 2005.

Bowers, Forrest. 2006. Personal communication. Alaska Department of Fish and Game; PO Box 920587, Dutch Harbor, AK 99692-0587.

Chapter 30, SLA 2000.

Rugolo, L.J., E.A. Chilton, C.E. Armistead, and J.A. Haaga. 2006. *Report to industry on the 2006 Eastern Bering Sea crab survey.* AFSC Processed Rep. 2006-17, 61 p. Alaska Fish. Sci. Cent., NOAA, Natl. Mar. Fish. Serv., Kodiak Fish. Res. Cent., 301 Research Court, Kodiak, AK 99615-7400

Section 2, ch. 137, SLA 2002.

Section 3, ch. 126, SLA 1996.

Stevens, B.G., R.S. Otto, J.A. Haaga, and R.A. MacIntosh. 1998. *Report to industry on the 1997 Eastern Bering Sea crab survey.* AFSC Processed Rep. 98-02, Alaska Fish. Sci. Cent., NOAA, Natl. Mar. Fish. Serv., P.O. Box 1638, Kodiak AK 99615-1638.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: **HB 16**
() Publish Date:

Identifier (file name): **HB016-DFG-CF-01-24-08**
Title: Extend Limited Entry Sunset: Crab/Scallop
Sponsor: Representative Seaton
Requester: House Fisheries Committee

Dept. Affected: Fish and Game
RDU: Commercial Fisheries Division
Component: Headquarters Fisheries Management
Component Number: 2171

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
OPERATING EXPENDITURES	**FY 2009**	**FY 2009**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							
FUND SOURCE		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time	0.0						
Part-time	0.0						
Temporary	0.0						

ANALYSIS: *(Attach a separate page if necessary)*
Passage of this bill will have no fiscal impact on the department.

Prepared by: John Hilsinger, Director — Phone 267-2324
Division: Division of Commercial Fisheries — Date/Time 1/24/08 11:00 AM
Approved by: Denby Lloyd, Commissioner — Date 1/24/2008
Alaska Department of Fish and Game

(Revised 11/19/2007 OMB)

ALASKA DEPARTMENT OF FISH AND GAME

MEMORANDUM

TO:	Mary McDowell Commissioner Commercial Fisheries Entry Commission Juneau	DATE: PHONE: FAX:	February 23, 2004 (907) 486-1842 (907) 486-1824
FROM:	Kevin Duffy Commissioner Alaska Department of Fish & Game Juneau	SUBJECT:	Response to CFEC information request on scallop fishery

In response to your request, dated February 4, 2004, following are responses to specific questions regarding potential limited entry for the weathervane scallop fishery. This memo reiterates each CFEC question, followed by the ADF&G response in italics.

1. ADF&G was actively involved in the development of the legislation for the temporary moratorium, and supported the legislation authorizing a permanent vessel-based limited entry program. ADF&G also took an active role in supporting and developing the federal license limitation program for scallops, citing concerns for scallop overharvest and harm to crab stocks through bycatch.

   Under a permanent vessel-based limited entry program in state waters, the number of vessel licenses issued could be similar to the number of licenses currently allowed under the federal LLP (9). Although the number of licenses may be similar between the state and federal programs, the total number of vessels fishing in a management area could increase if the list of state-permitted vessels differs from the list of federal LLP vessels.

   If the Commission were to implement the traditional operator-based program, we would be obligated to issue permits to individuals who have made landings on CFEC interim-use permits. It is currently unclear how many permits the Commission would issue under the traditional program, but it would likely be in the range of 10 to 13 permits[1]. Under the traditional program, CFEC would have to develop a point system to rank eligible applicants for permits. CFEC estimates there would be approximately 27 eligible applicants under the

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1 This assumes the number of permits would be determined from the highest number of units of gear that recorded landing in state waters in any of the four years immediately preceding the 1997 state waters vessel moratorium. Commission records indicate there were maximums of 10 vessels and 13 permit holders with state waters landings over the 4-years period from 1993 to 1996.

traditional program[2]. Until these persons' individual rankings are determined by the point system, they would continue to fish scallops in state waters.

Perhaps most importantly, individuals who would qualify for permits under the traditional program are likely to be different than those who qualified for licenses in the federal LLP. In this scenario, with a federal LLP in place in federal waters and the traditional CFEC program in state waters, the total number of operations in state and federal waters may be considerably larger than it has been in recent years.

With these considerations, and with the knowledge and experience ADF&G has with the scallop fishery:

a) Does ADF&G support some form of limited access in the Alaska scallop fishery, in both state and federal waters?

ADF&G supports limited access in Alaska's weathervane scallop fishery in both state and federal waters due to the limited size of the weathervane scallop resource and concerns about crab bycatch.

b) If so, does ADF&G support implementation of a permanent vessel-based limited entry program in state waters to help manage this fishery in the future, or would the department prefer a traditional operator-based limited entry program?

ADF&G supports implementation of a vessel-based limited entry program in state waters because it would result in fewer participants than a traditional operator-based limited entry program. Fewer participants would likely reduce crab bycatch. However, vessel limited entry permits issued for the statewide weathervane scallop fishery will expire as of December 31, 2008 unless statutory authority is extended.

c) Would either of the two limited entry programs described herein – the traditional operator-based program or the vessel-based program – better enable the state to retain management authority in federal waters?

Adoption of either type of CFEC limitation program would not jeopardize the state's management authority in federal waters. In the exclusive economic zone (EEZ) NMFS has retained the authority to limit participation and fishing capacity. A state-waters vessel-based limited entry system would be similar to the federal-waters vessel-based limited access system.

2. It is our understanding that ADF&G estimates scallop abundance using a variety of techniques, including harvest and observer data, biological observations on scallop size, age, and sex, and scallop dredge surveys (in Cook Inlet and Prince William Sound). In your professional judgement:

a) What is the status of scallop stocks statewide?

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2 Again, this assumes qualified applicants would be individuals who made scallop landings in state waters during the four most recent years prior to the 1997 moratorium.

In general, scallop stocks are healthy and not overfished. Statewide harvest levels have been well below MSY. However, the department has closed specific registration areas or portions of registration areas due to poor fishery performance and has also reduced allowable harvest in several registration areas as a precautionary measure. Additionally, there are many locations where state and federal waters are closed to scallop dredging to protect habitats important to scallops and other species. Based on historic fishing effort, department marine surveys, and other data sources, many of the closed areas are known to contain populations of weathervane scallops. These unfished populations are thought to contribute to the enhancement of the commercially fished beds.

In Amendment 6 to the Fishery Management Plan for the Scallop Fishery off Alaska, Maximum Sustainable Yield (MSY) is defined as 1.24 million pounds of scallop meats. MSY is based on the average catch from 1990-1997, excluding 1995 when the fishery was closed. Optimum Yield (OY) is defined as 0 to 1.24 million pounds, and the overfishing control rule is defined as a fishing rate in excess of the natural mortality rate, which has been estimated as M=0.13 (12% per year) statewide. At this time, abundance is estimated for two of the nine registration areas. The fishery is managed conservatively with harvest levels well below MSY (39 to 66% of MSY since establishment of MSY).

b) Does ADF&G think any new areas with substantial numbers of scallops will open to fishing?

In the recent past, commercially viable scallop beds have been discovered within registration areas open to commercial scallop fishing and it is likely in the future that similar discoveries will be made. In addition, there are areas known to have populations of weathervane scallops that are closed to scallop fishing by regulation to protect habitat and other marine resources. For example, the area in the vicinity of Chirikof Island, south of Kodiak Island is known to have a population of weathervane scallops that could be of commercial quantity; however, it was closed to scallop fishing over 30 years ago to protect red king crab. It is unknown if these areas, closed by the Board of Fisheries, would reopen in the future.

c) Will populations and corresponding harvest likely increase or decrease substantially in the foreseeable future?

Wild populations of marine bivalves, including weathervane scallops, rise and fall depending to a large degree on environmental conditions. Barring an unfavorable change in environmental conditions or disease outbreak the department would expect the statewide weathervane scallop population to remain stable or perhaps increase slightly in the foreseeable future.

Since the formation of the voluntary scallop cooperative and voluntary removal of vessels from the fishery, the harvesting capacity of the remaining fleet has decreased. For example, in the Yakutat Registration Area (Area D and D16), approximately 110,000 pounds of scallop meats were left unharvested annually in both the 2001/02 and 2002/03

regulatory seasons. Changes to the number of participants in the weathervane scallop fishery, economic conditions, fishing behavior, or other factors would likely increase or decrease the scallop harvest independent of annual scallop guideline harvest ranges.

3. As mentioned, there are currently 9 licenses qualified to fish in federal waters under the NMFS license limitations program. Under the state vessel moratorium, 10 vessels are qualified to fish in state waters. Before access was limited through state and federal moratoriums in 1997, as many as 17 vessels participated in the statewide federal and state-waters fishery. Does the department believe improved management and conservation of the resource results from the number of vessels limited by the moratorium?

   Yes. From inception of the weathervane scallop fishery in 1967 through mid May 1993, the scallop fishery was passively managed employing minimal management measures such as a minimum ring size, season dates, and closed waters to protect crabs and crab habitat. As catches declined in one bed, vessels moved to better grounds. While this serial harvest pattern may have been generally acceptable for a sporadic low intensity fishery, increased participation led to boom and bust cycles experienced from 1967-1992.

   After the boom cycle in the early 1980s when as many as 18 vessels fished outside of Cook Inlet, annual participation has ranged from four to nine vessels until 1994, when the number of vessels increased to 15 outside of Cook Inlet. This increase prompted concerns from the department and scallop industry about weathervane scallop resource conservation and impacts on depressed stocks of red king crab and Tanner crab. The resulting State of Alaska Scallop Fishery Management Plan (5 AAC 38.076) combined with the state vessel moratorium and the Federal Scallop Fishery Management Plan and amendments including a license limitation program, have contributed to the elimination of the boom and bust cycles in both state and federal waters. A reduction in the number of participants in the fishery combined with the onboard observer program, gear and crew restrictions, and guideline harvest ranges (GHR), has been key to the success of the management plans.

4. The Commission is concerned that the purposes and benefits of limiting the weathervane scallop fishery could be diminished if there are no restrictions on the expansion of fishing capacity for individual fishing operations. Under both the traditional program and the new vessel permit law, the Commission has the authority to issue permits with fishing capacity constraints if it serves the statutory purposes of limited entry. These could include gear restrictions, or restrictions on the length of the vessel that may be used in the fishery. The constraints would continue to apply upon transfer of the permit or, in the case of vessel permits, upon substitution of a vessel.

   a) Licenses issued in the federal scallop LLP have maximum vessel lengths attached to them. The license must be used on a vessel that is no greater in length than the vessel used to qualify under the program. In the current proposal for state waters, CFEC suggests similar capacity constraints based upon vessel lengths.

      i) In the absence of any fishing capacity constraints, does the department believe that fishing effort and capacity may grow in the weathervane scallop fishery after limited entry is implemented?

In the absence of fishing capacity constraints, fishing capacity would likely increase in state waters outside of Cook Inlet. If vessel size were unrestricted, it is likely that participants with small boats would upgrade to larger boats and be able to use larger size dredges. By Board of Fisheries regulation, all vessels fishing in Registration Area H, Cook Inlet, are limited to a single six foot dredge. Furthermore, two vessels are limited by the LLP to a single six foot dredge in federal waters, inside or outside of Cook Inlet.

ii) Could unrestricted fishing capacity in the weathervane scallop fishery produce management or conservation concerns, such as short seasons with a higher risk of exceeding guideline harvests or high levels of bycatch?

The department has the authority to require 100% onboard observer coverage. So long as this coverage is required, the risk of exceeding the scallop GHR or crab bycatch limits (CBLs) is small. Data collected by observers are key to successful inseason management.

If access was not limited and numerous vessels with unrestricted fishing capacity targeted state waters only, a conservation concern could arise because weathervane scallop beds typically straddle the three-mile boundary with generally a smaller portion of the scallop bed in state waters and a larger portion in federal waters. Therefore localized depletion could occur in the state-waters portion of management areas. The department lacks information necessary to set harvest levels for portions of a scallop bed.

iii) Would vessel length constraints attached to permits be a meaningful way to limit the expansion of fishing effort and capacity (premised on the original lengths of qualifying vessels)?

It would be appropriate to use vessel length constraints to limit expansion of the fishery in state waters. If small vessels were allowed to participate unrestricted in the statewide areas, these vessels would be expected to increase in size to handle larger gear, crew size and weather. Similarly, the Federal LLP utilizes vessel length constraints to limit expansion of the fishery in federal waters.

b) The limited federal scallop licenses are valid for all federal waters off of Alaska. However, some licenses have specific gear endorsements for only a single 6-foot scallop dredge if the license was issued based upon a fishing history in Cook Inlet, where this gear restriction applies.

CFEC's proposed regulation for a vessel permit program in state waters also contains a single statewide area and a capacity restriction of a single 6-foot dredge for any permits issued to vessels that have a fishing history only in the Cook Inlet registration area.

i) Is ADF&G comfortable with CFEC defining a single statewide administrative area for limited entry permits in the weathervane scallop fishery? If not, what CFEC administrative areas would ADF&G advocate?

A single statewide administrative area is an appropriate approach. This single administrative area should encompass the nine scallop registration areas described in 5 AAC 38.076 Alaska Scallop Management Plan. Also, a single administrative area is consistent with provisions of the plan that apply statewide, the only exception being the dredge gear requirements specific to the Cook Inlet Registration Area.

ii) Does ADF&G believe it is necessary for CFEC to constrain vessel permits for vessels that have fished only in Cook Inlet to a single 6-foot dredge, given that the Board of Fisheries already has a regulation for 6-foot dredges in Cook Inlet and that the Commission has proposed a vessel length constraint for vessel permits?

Regulation 5 AAC 38.322 limits scallop gear in Registration Area H (Cook Inlet) in both state and federal waters to a single 6-foot dredge. The federal LLP also limits two vessels to a single 6' dredge, statewide.

No, it would not be necessary to restrict those vessels already limited by regulation to a single 6-foot dredge in Cook Inlet while fishing in state waters outside of Cook Inlet. Currently two vessels that fish primarily in Registration Area H are restricted under the federal LLP, to a single 6-foot dredge while fishing in federal waters outside of area H. If there are no gear restrictions in state waters outside of area H, those two vessels could fish up to the legal limit of two, 15- foot dredges in state waters but only a single 6-foot dredge in federal waters. This situation currently exists with a single scallop vessel.

Vessel length and width, more than other factors such as horsepower, limit fishing capacity in the weathervane scallop fishery. Small vessels in the 58 to 78 feet LOA range that typically fish Cook Inlet with a single six foot dredge, potentially have the capacity to fish two dredges. However, due to vessel size constraints it would be very difficult for vessels in that size range to fish two 15 foot dredges, which is the maximum allowed in the Alaska Scallop Management Plan. Deck space is very limited on the small processor vessels. Some vessels could however, fish two smaller sized dredges. Small scallop vessels are also limited by weather and sea conditions, which could limit their participation in the state water fishery outside of Cook Inlet, to a few summer months each year.

Kurt's

MEMORANDUM

STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION

TO: Kevin Duffy, Commissioner
Dept. of Fish and Game
M/S:1100

DATE: February 4, 2004

PHONE: (907) 789-6160 VOICE
(907) 789-6170 FAX

FROM: Commercial Fisheries Entry Commission
Bruce Twomley, Chairman
Mary McDowell, Commissioner
Frank Homan, Commissioner

SUBJECT: State waters scallop fishery limitation

In 1997, the Alaska legislature enacted a temporary moratorium on vessels for the state waters and Area H weathervane scallop fisheries. In 2001, the legislature authorized a 3-year extension of the moratorium; it is due to expire on July 1, 2004. During the 200. legislative session, passage of CSHB206(RLS) am S resulted in changes to the limited entry statutes, authorizing use of a permanent vessel-based limited entry program in the weathervane scallop fishery and the Bering Sea hair crab fishery.

Under provisions of Amendment 3 of the Federal Management Plan (FMP) for scallops, the Alaska Department of Fish and Game (ADF&G) manages all aspects of the scallop fishery except for limited access in federal waters of Alaska. The National Marine Fisheries Service has implemented a license limitation program (LLP) for scallop fishing in federal waters; nine licenses have been issued to vessel owners. There is concern that many new vessels could enter state waters in the scallop fishery should the state waters vessel moratorium expire without a limited entry program in place.

Considering this situation, and the characteristics of the fishery, the Commission has decided to propose limited entry using the new authority to issue permits to vessels that have a history of participation in the weathervane scallop fishery. The comment period for the proposal extends from January 23 to February 23. Because ADF&G manages the scallop fishery, the Commercial Fisheries Entry Commission (CFEC or Commission) seeks the department's advice and expert opinion on matters that directly influence decisions on limited entry in the fishery. Any help or guidance ADF&G can provide during the comment period is greatly appreciated.

Questions:

1. ADF&G was actively involved in the development of the legislation for the temporary moratorium, and supported the legislation authorizing a permanent vessel-based limited entry program. ADF&G also took an active role in supporting and developing the federal license limitation program for scallops, citing concerns for scallop overharvest and harm to crab stocks through bycatch.

   Under a permanent vessel-based limited entry program in state waters, the number of vessel licenses issued could be similar to the number of licenses currently allowed under the federal LLP (9). Although the number of licenses may be similar between the state and federal programs, the total number of vessels fishing in a management area could increase if the list of state-permitted vessels differs from the list of federal LLP vessels.

   If the Commission were to implement the traditional operator-based program, we would be obligated to issue permits to individuals who have made landings on CFEC interim-use permits. It is currently unclear how many permits the Commission would issue under the traditional program, but it would likely be in the range of

10 to 13 permits[1]. Under the traditional program, CFEC would have to develop a point system to rank eligible applicants for permits. CFEC estimates there would be approximately 27 eligible applicants under the traditional program.[2] Until these persons' individual rankings are determined by the point system, they could continue to fish scallops in state waters.

Perhaps most importantly, individuals who would qualify for permits under the traditional program are likely to be different than those who qualified for licenses in the federal LLP. In this scenario, with a federal LLP in place in federal waters and the traditional CFEC program in state waters, the total number of operations in state and federal waters may be considerably larger than it has been in recent years.

With these considerations, and with the knowledge and experience ADF&G has with the scallop fishery:

a) Does ADF&G support some form of limited access in the Alaska scallop fishery, in both state and federal waters?

b) If so, does ADF&G support implementation of a permanent vessel-based limited entry program in state waters to help manage this fishery in the future, or would the department prefer a traditional operator-based limited entry program?

c) Would either of the two limited entry programs described herein – the traditional operator-based program or the vessel-based program - better enable the state to retain management authority in federal waters?

2. It is our understanding that ADF&G estimates scallop abundance using a variety of techniques, including harvest and observer data, biological observations on scallop size, age, and sex, and scallop dredge surveys (in Cook Inlet and Prince William Sound). In your professional judgment:

a) What is the status of scallop stocks statewide?

b) Does ADF&G think any new areas with substantial numbers of scallops will open to fishing?

c) Will populations and corresponding harvests likely increase or decrease substantially in the foreseeable future?

3. As mentioned, there are currently 9 licenses qualified to fish in federal waters under the NMFS license limitation program. Under the state vessel moratorium, 10 vessels are qualified to fish in state waters. Before access was limited through state and federal moratoriums in 1997, as many as 17 vessels participated in the statewide federal and state-waters fishery. Does the department believe improved management and conservation of the resource results from the number of vessels limited by the moratorium?

4. The Commission is concerned that the purposes and benefits of limiting the weathervane scallop fishery could be diminished if there are no restrictions on the expansion of fishing capacity for individual fishing operations. Under both the traditional program and the new vessel permit law, the Commission has the authority to issue permits with fishing capacity constraints if it serves the statutory purposes of limited entry. These could

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[1] This assumes the number of permits would be determined from the highest number of units of gear that recorded landings in state waters in any of the four years immediately preceding the 1997 state waters vessel moratorium. Commission records indicate there were maximums of 10 vessels and 13 permit holders with state waters landings over the 4-year period from 1993 to 1996.

[2] Again, this assumes qualified applicants would be individuals who made scallop landings in state waters during the four most recent years prior to the 1997 moratorium.

include gear restrictions, or restrictions on the length of the vessel that may be used in the fishery. The constraints would continue to apply upon transfer of the permit or, in the case of vessel permits, upon substitution of a vessel.

a) Licenses issued in the federal scallop LLP have maximum vessel lengths attached to them. The license must be used on a vessel that is no greater in length than the vessel used to qualify under the program. In the current proposal for state waters, CFEC suggests similar capacity constraints based upon vessel lengths.

   i) In the absence of any fishing capacity constraints, does the department believe that fishing effort and capacity may grow in the weathervane scallop fishery after limited entry is implemented?

   ii) Could unrestricted fishing capacity in the weathervane scallop fishery produce management or conservation concerns, such as short seasons with a higher risk of exceeding guideline harvests or high levels of bycatch?

   iii) Would vessel length constraints attached to permits be a meaningful way to limit the expansion of fishing effort and capacity (premised on the original lengths of qualifying vessels)?

b) The limited federal scallop licenses are valid for all federal waters off of Alaska. However, some licenses have specific gear endorsements for only a single 6-foot scallop dredge if the license was issued based upon a fishing history in Cook Inlet, where this gear restriction applies.

   CFEC's proposed regulation for a vessel permit program in state waters also contains a single statewide area and a capacity restriction of a single 6-foot dredge for any permits issued to vessels that have a fishing history only in the Cook Inlet registration area.

   i) Is ADF&G comfortable with CFEC defining a single statewide administrative area for limited entry permits in the weathervane scallop fishery? If not, what CFEC administrative areas would ADF&G advocate?

   ii) Does ADF&G believe it is necessary for CFEC to constrain vessel permits for vessels that have fished only in Cook Inlet to a single 6-foot dredge, given that the Board of Fisheries already has a regulation for 6-foot dredges in Cook Inlet and that the Commission has proposed a vessel length constraint for vessel permits?

cc. Doug Mecum; Director, Division of Commercial Fisheries
Denby Lloyd; Regional Supervisor, Westward Region, Commercial Fisheries Division
Jeff Regnart; Regional Supervisor, Central Region, Commercial Fisheries Division
Andy McGregor; Regional Supervisor, Southeast Region, Commercial Fisheries Division
Earl Krieger, Extended Jurisdiction Coordinator, Commercial Fisheries Division
Wayne Donaldson; Regional Shellfish and Groundfish Management Biologist. Westward Region
James Browning; Regional Finfish, Shellfish, and Groundfish Management Biologist, Central Region
Kyle Hebert; Marine Fisheries Supervisor, Southeast Region
Mike Ruccio; Area Management Biologist, Westward Region
Bob Berceli; Area Management Biologist, Prince William Sound
Charlie Trowbridge, Area Management Biologist, Cook Inlet/Prince William Sound
Gretchen Bishop, Shellfish Project Leader, Southeast
Jeff Barnhart; Statewide Scallop Observer Program Coordinator

Appendix II
Memo from ADFG Commissioner Kevin Duffy to the Commercial Fisheries Entry Commission

KI

STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 25526
JUNEAU, AK 99802-5526
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FEB 28 2003
CFEC

MEMORANDUM

TO: Mary McDowell, Commissioner
Commercial Fisheries Entry Commission

FROM: Kevin C. Duffy, Acting Commissioner KCD
Alaska Department of Fish & Game

DATE: February 26, 2003

SUBJECT: Response to CFEC information request

In response to your request, dated January 17, 2003, following are responses to specific questions regarding potential limited entry for the Bering Sea Korean hair crab fishery. This memo reiterates each CFEC question, followed by the ADF&G response.

1. The Department was actively involved in the development of the legislation for the temporary moratorium, and the Department supported the legislation for a permanent vessel-based limited entry program. Does the Department support implementation of a permanent vessel-based limited entry program to help manage this fishery in the future, or would the Department prefer a traditional operator-based limited entry program?

   If the CFEC decides for limited entry, then ADF&G supports a vessel-based system. A vessel-based system would result in fewer permits than a skipper-based limited entry system. The department would not want effort levels to increase above recent historic participation levels because of the absence of a regulatory management plan, the absence of a pot limit and the potential effects of Bering Sea crab rationalization.

2. If the Commission proposes a permanent vessel-based limited entry program for this fishery, what area should the commission define as a CFEC administrative area for limitation purposes?

   a.) For purposes of issuing interim-use permits to skippers during the moratorium, CFEC defined a Bering Sea Korean hair crab administrative area that included all waters north of 54° 36' N. lat., south of 58° 39' N. lat., and east of the United States-Russia Convention Line of 1867 (see 20 AAC 05.230 (a)11). This area was arrived at after discussions with the Department, but our definition does not point to an existing Board of Fisheries regulation,

Appendix II
Memo from ADFG Commissioner Kevin Duffy to the Commercial Fisheries Entry Commission

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CFEC

as CFEC regulations normally do. This definition includes an area in which the bulk of the fishery has occurred, but does not include all places where the fishery has occurred. CFEC did not define an administrative area for the vessel permits during the moratorium.

b.) The miscellaneous shellfish regulations of the Alaska Board of Fisheries refer to a Bering Sea District, the Western Aleutian District, and an Eastern Aleutian District. However, there does not appear to be a regulation in the Board of Fisheries shellfish regulation book that defines these districts. The *Annual Management Report for The Shellfish Fisheries of the Westward Region, 2001* (Regional Information Report No. 4K02-54) provides a map of the "Bering Sea Miscellaneous Shellfish District." This map includes all waters north of 54° 36' N. lat., and east of the United States-Russia Convention Line of 1867. Is this Bering Sea Miscellaneous Shellfish District defined in regulations or elsewhere?

The Bering Sea hair crab fishery is conducted in the Bering Sea portion of Miscellaneous Shellfish Registration Area J, 5 AAC 38.400, as depicted on Figure 5-12 of the above referenced report. Although not specifically stated, the districts mentioned in 5 AAC 38.415 FISHING SEASONS FOR KOREAN HAIR CRAB IN REGISTRATION AREA J (Bering Sea District, Western Aleutian District and Eastern Aleutian District) refer to Tanner crab management areas, see 5 AAC 35.505 DESCRIPTION OF REGISTRATION AREA J DISTRICTS (c)(d) & (e).

c.) In the same report, cited in 2.(a) above, there is a map of a Bering Sea Hair Crab Registration Area, which was apparently used to define a hair crab fishing area during at least one of the fisheries in the late 1990s. This map includes all waters north of 54° 36' N. lat., east of the United States-Russia Convention Line of 1867, south of 60° N. lat., and east of 168° W. longitude. The area corresponds to the entire Pribilofs king crab management district, plus a portion of the Bering Sea king crab Northern District. This area does not include king crab Area T where a hair crab fishery has occurred in the past, nor does it include areas north of the Aleutians where the fishery has also occurred.

Recent Bering Sea hair crab fisheries have been opened under a commissioner's permit in the Bering Sea, and the department has utilized king crab management area, district and section descriptions for inseason management. The king crab areas have conveniently described the areas opened for hair crab based on stock condition. In the past, fisheries have occurred in Bristol Bay and south of Nunivak Island, although the core Bering Sea hair crab fishery occurs near the Pribilof Islands. The department does not have abundance-based information from the Aleutian Islands. Hair crab fisheries in the Aleutian Islands have been very sporadic and may lend themselves to bycatch management rather than a directed fishery.

d.) Which of these area definitions does the Department think would make the most sense for limited entry purposes? Would the Department recommend an even broader definition for a CFEC Bering Sea Korean hair crab administrative area that would cover the entire

Appendix II
Memo from ADFG Commissioner Kevin Duffy to the Commercial Fisheries Entry Commission

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FEB 28 2003
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The CFEC could use 5 AAC 35.505 DESCRIPTION OF REGISTRATION AREA J DISTRICTS (e) Bering Sea District as an administrative area for hair crab limited entry. This area covers the entire Bering Sea north of Cape Sarichef on Unimak Island. If CFEC adopts this district as an administrative area, we recommend not adopting the subdistricts in that subsection. Alternatively, CFEC could adopt only that portion of miscellaneous shellfish registration area J (5 AAC 38.400) north of Cape Sarichef (54° 36' N lat.).

3. The current moratorium law excludes areas within five miles from shore. (See AS 16.43.901). Does the Department recommend that we continue to exclude those areas under a permanent vessel permit program? Note that AS 16.05.835 (b) restricts a vessel participating within the Bering Sea hair crab fishery within five miles of shore to be no more than 58 feet length overall. There have been very few of these small boats in this fishery during the moratorium.

   Nearly all of the historic hair crab harvest has been taken outside of 5-nautical miles from the Pribilof Islands. Either including or excluding the area within 5-nautical miles of the Pribilof Islands for limitation would unlikely have an impact on inseason management because most of the resource is outside of 5-miles. Although small vessels from the Pribilofs have rarely participated, if those vessels were excluded it would be contrary to the original statute allowing small vessels to participate near shore.

4. There are twenty-five vessels qualified to fish under the moratorium. There were considerably fewer vessels actually fishing during the moratorium. What number of vessels does the Department believe is reasonable for this fishery from a management and resource conservation perspective?

   Recent historic participation (post 1990) has a maximum of 21 vessels participating in a Bering Sea hair crab fishery. The department feels that this is a maximum manageable number, given current regulations for inseason management and stock condition.

5. The Commission is concerned that the purposes and benefits of limiting the hair crab fishery could be diminished if there are no restrictions on the expansion of fishing capacity for individual fishing operations. Under the new vessel permit law, the Commission has the authority to issue permits with fishing capacity restricted to the original level of the qualifying vessel if it serves the statutory purposes of limited entry. Those constraints would continue to apply upon transfer of the vessel permit or upon substitution of a vessel.

   a.) In the absence of any constraints, does the Department believe that fishing effort and capacity may grow in the hair crab fishery after limited entry is implemented?

   The department acknowledges that most effort is by larger vessels, although we do not have a summary of effort by vessel length. Since pot gear in the hair crab fishery is small, light and stackable, it is not likely that participants would employ larger vessels to gain a competitive advantage by carrying more pots. Participants use a large number of pots in this fishery because pots are easily carried onboard, the catch per pot is low and because

Appendix II
Memo from ADFG Commissioner Kevin Duffy to the Commercial Fisheries Entry Commission

there is currently no pot limit. Therefore there may not be an economic incentive or need to operate a larger more-expensive vessel.

b.) Could unrestricted fishing capacity in the hair crab fishery produce management concerns, particularly short seasons with a higher risk of exceeding guideline harvests?

Yes.

c.) Would vessel length constraints attached to permits be a meaningful way to limit the expansion of fishing effort and capacity (premised on the original lengths of qualifying vessels)?

No.

cc: Doug Mecum
Denby Lloyd
Wayne Donaldson
Forrest Bowers
Karla Granath

MEMORANDUM

STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION

TO: Kevin Duffy, Acting Commissioner
Dept. of Fish and Game
M/S:1100

DATE: January 17, 2003

PHONE: (907) 789-6160 VOICE
(907) 789-6170 FAX

FROM: Commercial Fisheries Entry Commission
Marlene Johnson, Commissioner
Mary McDowell, Commissioner
Bruce Twomley, Chairman

SUBJECT: Bering Sea Hair Crab Fishery

The temporary legislatively enacted moratorium on vessels in the Bering Sea hair crab fishery is due to expire on July 1, 2003. During the 2002 legislative session, passage of CSHB206(RLS) am S resulted in changes to the limited entry statutes to authorize use of a permanent vessel-based limited entry program in the Bering Sea hair crab fishery (and the scallop fishery). The commission must now determine whether permanent limitation is needed in the Bering Sea hair crab fishery, and if so, whether to propose limitation under the traditional operator-based limited entry program or under the newly authorized vessel-based program.

Although the fishery is currently closed, there is concern that many new boats could enter the fishery should it reopen in the future. To have limitation in place by the end of the moratorium, the commission would have to propose regulations very soon.

The Department manages the Bering Sea hair crab fishery and the Commission seeks the Department's expert advice on this matter. Any help and advice the department can provide on the following questions will be greatly appreciated.

Questions:

1. The Department was actively involved in the development of the legislation for the temporary moratorium, and the Department supported the legislation for a permanent vessel-based limited entry program. Does the Department support implementation of a permanent vessel-based limited entry program to help manage this fishery in the future, or would the Department prefer a traditional operator-based limited entry program?

2. If the Commission proposes a permanent vessel-based limited entry program for this fishery, what area should the commission define as a CFEC administrative area for limitation purposes?

   a) For purposes of issuing interim-use permits to skippers during the moratorium, CFEC defined a Bering Sea hair crab administrative area that included all waters north of 54° 36' N. lat., south of 58° 39' N. lat., and east of the United States-Russia Convention Line of 1867 (see 20 AAC 05.230 (a)(11)). This area was arrived at after discussions with the Department, but our definition does not point to an existing Board of Fisheries regulation, as CFEC regulations normally do. This definition includes an area in which the bulk of the fishery has occurred, but does not include all

places where the fishery has occurred. CFEC did not define an administrative area for the vessel permits during the moratorium.

b) The miscellaneous shellfish regulations of the Alaska Board of Fisheries refer to a Bering Sea District, a Western Aleutian District, and an Eastern Aleutian District. However, there does not appear to be a regulation in the Board of Fisheries shellfish regulation book that defines these districts. The *Annual Management Report for the Shellfish Fisheries of the Westward Region, 2001* (Regional Information Report No. 4K02-54) provides a map of the "Bering Sea Miscellaneous Shellfish District." This map includes all waters north of 54° 36' N. lat., and east of the United States-Russia Convention Line of 1867. Is this Bering Sea Miscellaneous Shellfish District defined in regulations or elsewhere?

c) In the same report, cited in 2.(a) above, there is a map of a Bering Sea Hair Crab Registration Area, which was apparently used to define a hair crab fishing area during at least one of the fisheries in the late 1990's. This map includes all waters north of 54° 36' N. lat., east of the United States-Russia Convention Line of 1867, south of 60° N. lat., and east of 168° W. longitude. The area corresponds to the entire Priblofs king crab management district, plus a portion of the Bering Sea king crab Northern District. This area does not include king crab Area T where a hair crab fishery has occurred in the past, nor does it include areas north of the Aleutians where the fishery has also occurred.

d) Which of these area definitions does the Department think would make the most sense for limited entry purposes? Would the Department recommend an even broader definition for a CFEC Bering Sea hair crab administrative area that would cover the entire range of the species where a fishery might occur in the future? If so, how would that area be defined?

3. The current moratorium law excludes areas within five miles from shore. (See AS 16.43.901). Does the Department recommend that we continue to exclude those areas under a permanent vessel permit program? Note that AS 16.05.835 (b) restricts a vessel participating in the Bering Sea hair crab fishery within five miles of shore to be no more than 58 feet length overall. There have been very few of these small boats in this fishery during the moratorium.

4. There are twenty-five vessels qualified to fish under the moratorium. There were considerably fewer vessels actually fishing during the moratorium. What number of vessels does the Department believe is reasonable for this fishery from a management and resource conservation perspective?

5. The Commission is concerned that the purposes and benefits of limiting the hair crab fishery could be diminished if there are no restrictions on the expansion of fishing capacity for individual fishing operations. Under the new vessel permit law, the Commission has the authority to issue permits with fishing capacity restricted to the original level of the qualifying vessel if it serves the statutory purposes of limited entry. Those constraints would continue to apply upon transfer of the vessel permit or upon substitution of a vessel.

a) In the absence of any constraints, does the Department believe that fishing effort and capacity may grow in the hair crab fishery after limited entry is implemented?

b) Could unrestricted fishing capacity in the hair crab fishery produce management concerns, particularly short seasons with a higher risk of exceeding guideline harvests?

c) Would vessel length constraints attached to permits be a meaningful way to limit the expansion of fishing effort and capacity (premised on the original lengths of qualifying vessels)?

cc. Doug Mecum; Director, Division of Commercial Fisheries Management and Development
Denby Lloyd; Regional Supervisor, Westward Region, ADFG/CFMD
Wayne Donaldson; Regional Shellfish and Groundfish Management Biologist, Westward Region
Forrest Bowers; Area Shellfish Management Biologist, Dutch Harbor

State of Alaska
Commercial Fisheries Entry Commission

Statewide Weathervane Scallop Vessel Permit Holders
December 5, 2006

Vessel Permit Owner Name	Company Owner/Contact Person	Vessel Name	Skipper
Future Fisheries Inc. 14 Hervey Tichon Ave. New Bedford, MA 02740	**Nordic Fisheries Inc.** Roy Enoksen, Ron Enokson **O'Hara Corp** Francis O'Hara, Francis O'Hara, Jr.	**F/V Pursuit** (100 ft.) ADFG Number: 40312 Vessel Permit: W 2ABV85016Z	None - non-fishing co-op member 5/9/2005 CFEC was notified that vessel was sold. Vessel permit was retained.
Ocean Fisheries LLC 7216 Interlaaken Dr. SW Lakewood, WA 98499	**Stone Maritime Inc.** Jim Stone (LLC Manager) **Mikkelsen Fisheries Inc.** Glenn Mikkelsen, Egil Mikkelsen **Festus Fisheries Inc.** John Lemar **Stein Enterprises** Stein Nyhammer	**Ocean Hunter** (100 ft.) ADFG Number: 40924 Vessel Permit: W 2ABV85007S	**John Lemar** (W 2AB27374U) 1302 Chambers St Steilacoom, WA 98388 **Glenn Mikkelsen** (W 2AB28558K) 2 Park Place Edmonds, WA 98026
Provider Inc. 1000 C Street Bellingham, WA 98225	**Provider Inc.** Mark Kandianis (President, Treasurer) John Doody (Vice-President, Secretary)	**Provider** (123 ft.) ADFG Number: 58200 Vessel Permit: W 2ABV85008L	**Tom Minio** (W 2AB26294I) 801 King Valley Dr. Maple Falls, WA 98266
Forum Star LLC 2025 1st Ave #900 Seattle, WA 98121	**Forum Star LLC** **Coastal Villages Pollock LLC** **American Seafoods LLC** Bernt O. Bodal Jeffrey W. Davis	**Forum Star** (98 ft.) ADFG Number: 59687 Vessel Permit: W 2ABV85014O	None - non-fishing co-op member
Carolina Boy Inc. Box 600 Seaford, VA 23696	**Carolina Boy Inc.** William S.Wells, Jr. William S. Wells, III	**Carolina Boy** (95 ft.) ADFG Number: 64110 Vessel Permit: W 2ABV85013W	None - non-fishing co-op member
Thomas C. Hogan Box 1648 Homer,. AK 99603	**Thomas C. Hogan**	**Kilkenny** (75 ft.) ADFG Number: 54966 Vessel Permit: W 2BBV85015J	**Thomas C. Hogan** (W 2BB27888I) Box 1648 Homer, AK 99603 **George M. Milne** (W 2BB27776Q) Box 1846 Homer, AK 99603
La Brisa Inc. Box 770881 Eagle River, AK 99577	**La Brisa Inc.** Max Hulse Robert Hulse	**Wayward Wind** (79 ft.) ADFG Number: 23574 Vessel Permit: W 2BBV85012H	**Scott D. Hulse** (W 2BB26790J) Box 770881 Eagle River, AK 99577
Tom Gilmartin, Jr. 46677 Lake St. Kenai, AK 99611	**Tom Gilmartin, Jr.**	**Arctic Storm** (58 ft.) ADFG Number: 66700 Vessel Permit: W 2BB85018L	**Tom Gilmartin, Jr.** 46677 Lake St. Kenai, AK 99611 (no permit for 2006)

State of Alaska
Commercial Fisheries Entry Commission

Bering Sea Hair Crab Vessel Permit Holders

March 27, 2007

Vessel Permit Holder Name	Company/Contact Person	Vessel Name	Permit
Marwin Inc. PO Box 509 Petersburg, AK 99833	John Winther, President Bert Winther, Vice President	**Theresa Marie** ADFG# 00034 93 ft.	E 91QV 85001 O Initial permit holder Initial vessel
Mattsen Fisheries Inc. PO Box 2686 Poulsbo, WA 98370	Daniel Mattsen, President John Walsh, Secretary	**Shaman** ADFG# 00036 110 ft.	E 91QV 85003 Z Initial permit holder Initial vessel
Royal Viking, Inc. 5303 Shilshole Ave NW Seattle, WA 98107	**Trident Seafoods** Charles H. Bundrant, President	**Royal Viking** ADFG#03718 108 ft.	E 91QV 85005 J Initial permit holder Initial vessel
American Star & Owners 14010 154th Ave SE Renton, WA 98059	**Overa Fisheries** Roger and Linda Overa **Hjelle Enterprises, Inc.** Mark Hjelle and Karen Clausen	**American Star** ADFG#06369 154 ft.	Initial permit holder (no serial no. issued) Vessel lost to fire
Pacesetter Mariner, Inc. 3762 S. 349th Pl. Auburn, WA 98001	Pamela Pope, President	**Pacesetter** ADFG# 21436 127 ft.	Initial permit holder (no serial no. issued) Vessel lost at sea
RSD (Ocean Cape), LLC PO Box 12946 Mill Creek, WA 98052	**Robert Resoff, Inc** George Steers, President **Estate Trust of Robert Resoff** George Steers, Co-Executor Linda Seven, Co-Executor	**Ocean Cape** ADFG# 29933 100 ft.	E 91QV 85017 Q Permit by transfer Initial vessel
Coastal Villiages Region Fund 711 H St. #200 Anchorage, AK 99501	**Coastal Villages Region Fund (CDQ)** C. Morgan Crow, Agent	**Arctic Sea** ADFG# 33696 134 ft.	E 91QV 85010 U Permit by transfer Initial vessel

State of Alaska
Commercial Fisheries Entry Commission

Bering Sea Hair Crab Vessel Permit Holders

March 27, 2007

Vessel Permit Holder Name	Company/Contact Person	Vessel Name	Permit
Coastal Villiages Region Fund 711 H St. #200 Anchorage, AK 99501	**Coastal Villages Region Fund (CDQ)** C. Morgan Crow, Agent	**North Sea** ADFG# 36047 126 ft.	E 91QV 85011 M Permit by transfer Initial vessel
MGF Fisheries 1216 NW Blakely CT. Seattle, WA 98177	Mason Williams, President Gary Stewart, VP	**Polar Lady** ADFG# 36822 105 ft.	E 91QV 85002 H Initial permit holder Initial vessel
F/V Maverick, LLC 1645 SW 14th St. Warrenton, OR 97146	Richard Quashnick, President Donna Quashnick, VP	**Maverick** ADFG# 45706 92 ft.	E 91QV 85004 Q Initial permit holder Initial vessel
American Eagle LLC 1212 NW Culbertson Dr. Seattle, WA 98177	**Tynes Enterprises, Inc** Reidar and Linda Tynes **Wabey Enterprises, Inc.** Joseph Wabey **Hjelle Enterprises, Inc** Mark Hjelle and Karen Clausen	**American Eagle** ADFG# 00039 118 ft.	E 91QV 85000 W Permit by transfer Vessel by substitution
Tamarack Ventures, LLC PO Box 7899 Kent, WA 98042	Kale Garcia	**Aquila** ADFG# 62505 155 ft.	E 91QV 85009 E Initial permit holder Initial vessel
Time Bandit, LLC PO Box 3643 Homer, AK 99603	Phillip Hillstrand, President	**Time Bandit** ADFG# 65577 110 ft.	E 91QV 85006 B Initial permit holder Initial vessel

State of Alaska
Commercial Fisheries Entry Commission

Bering Sea Hair Crab Vessel Permit Holders

March 27, 2007

Vessel Permit Holder Name	Company/Contact Person	Vessel Name	Permit
North Pacific LLC 620 6th St. S Kirkland, WA 98033	**AK Beauty J/V Partners** **North Pacific Enterprises** **Ocean Olympic Fisheries, Inc.** **Norton Sound Investment Co. LLC** Russel Moore, contact person	**North Pacific** ADFG# 06205 97.5 ft.	E 91QV 85019 B Initial permit holder Initial vessel
Ocean Olympic LLC 620 6th St. S Kirkland, WA 98033	**AK Beauty J/V Partners** **North Pacific Enterprises** **Ocean Olympic Fisheries, Inc.** **Norton Sound Investment Co. LLC** Russel Moore, contact person	**Ocean Olympic** ADFG# 56111 166 ft.	E 91QV 85020 R Initial permit holder Initial vessel
Zolotoi Partnership PO Box 1064 Sitka, AK 99835	**Zolotoi Management Inc** Gordon Blue **Orca Fisheries, Inc.** Jon Jorgenson **AK Offshore LLC** **PBS Vessel Manage - CDQ** **CBSFC-CDQ**	**Zolotoi** ADFG# 40917 102 ft.	Former owner of vessel Initial Permit Holder (No serial no. issued) Initial vessel
Ocean Ventures, LLC PO Box 12946 Mill Creek, WA 98082-0946	Mike Shelford, contact person	**Zolotoi** ADFG# 40917 102 ft.	Current owner of vessel (No serial no. issued) Initial vessel

State of Alaska

SARAH PALIN, Governor

Commercial Fisheries Entry Commission
8800 Glacier Hwy, #109
P.O. Box 110302
Juneau, AK 99811-0302

MEMORANDUM

To: Representative Paul Seaton, Chair
House Fisheries Committee

Date: January 15, 2008

Phone: (907) 789-6160 VOICE
(907) 790-6170 FAX

From: Frank Homan, Chair
Commercial Fisheries Entry Commission

Subject: HB 16

We would like to request a hearing and committee action for HB 16.

If HB 16 does not pass the Legislature, the Alaska scallop fishery and the Alaska hair crab fishery will revert to unlimited open access and cause disruption for these fisheries.

cc: Committee Members
Representative Kyle Johansen
Representative Craig Johnson
Representative Gabrielle LeDoux
Representative Peggy Wilson
Representative Bryce Edgmon
Representative Lindsey Holmes
Russ Kelly, Legislative Director
Mark Vinsel, Executive Director, United Fishermen of Alaska

Attachment: Letter to scallop and haircrab fishermen

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service, Alaska Region
Restricted Access Management
P.O. Box 21668
Juneau, Alaska 99802-1668

FIRST CLASS MAIL

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300

TO: MAX HULSE ET AL
P.O. BOX 770881
EAGLE RIVER, ALASKA 99577

FEDERAL SCALLOP LICENSE LIMITATION LICENSE ENCLOSED

ISSUING NMFS OFFICE:
Restricted Access Management
P.O. Box 21668
Juneau, AK 99802-1668

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service

[redacted] **FEDERAL SCALLOP LICENSE LIMITATION LICENSE**

License Number	*Date Issued*	*Endorsements & Conditions of Use*
SLLP No. 004	August 10, 2005	*Maximum Length Overall of Vessel:* 79 feet *Gear Limitation:* Two Scallop Dredges with a combined width of no more than 20 feet (6.1m) *Other:* This license is transferable.

Name and Address of License Holder(s)

Max Hulse et al
P.O. Box 770881
Eagle River, Alaska 99577

To the License Holder: This license is issued under the authority of 50 CFR Part 679 and conveys the privilege of harvesting scallops in Federal waters off Alaska. Be advised, however, that numerous rules and regulations, promulgated pursuant to both State of Alaska and Federal authorities, govern commercial fishing and processing operations; it is your responsibility to be aware of, and to comply with, those requirements.

PROGRAM ADMINISTRATOR, RESTRICTED ACCESS MANAGEMENT

Owner's Signature

Original illustration by Morgan Illustration and Design © 2000

STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION
2007

STATEWIDE WEATHERVANE SCALLOP FISHERY VESSEL ENTRY PERMIT

Vessel Length Category: B (overall length less than 80 feet)

Vessel Entry Permit Number: W2BBV 85012H **Vessel Name:** WAYWARD WIND

ADF&G Number: 23574 **USCG Doc. No.** 534777

Vessel Owner: LA BRISA, INC.
Box 770881
Eagle River, AK 99577

Overall Length: 79 feet

Commissioner
Commercial Fisheries Entry Commission

P O Box 770881
Eagle River, Alaska 99577
907-694-2413 Phone/Fax

February 2, 2008

Representative Paul Seaton
House Fisheries Chairman
Juneau, Alaska

Dear Mr. Chairman,

This is in regard to HB 16 which you are holding in committee.

I am Max Hulse, and also represent my sons, Scott and Robert Hulse. Our family has been Alaskan residents since 1966, residing in Eagle River, Alaska. We have been involved in commercial fishing since 1979 and with the state scallop fishery since the early 1980s. I am sure you remember the scallop vessel, F/V St. Patrick catastrophe out of Kodiak in 1981, when ten fishermen lost their lives. Scott Hulse was first mate on that vessel and would have been on board, but due to the passing of my father, we brought him home. That terrible incident has haunted my son all these years as he feels it would not have happened had he been running the vessel.

In 1983, Scott and I proposed to the AK State Board of Fisheries, that a scallop fishery be opened in Cook Inlet. It was approved and Scott did the first survey for the AK Department of Fish and Game. Our family has been involved in the scallop fishery ever since—a family operation.

Our family holds both a State Weathervane Fishery Entry Permit and a Federal Scallop License Limitation License. Being our vessel size is limited to 79' overall, the weather after August, becomes a key factor for us to fish productively. This is why the STATE SCALLOP PERMIT is so important to our livelihood—the weather in state waters after August is manageable.

We have earned this permit with our long and expensive involvement in the scallop fishery, just as other fishermen have earned their similar Alaska fishing permits, i.e. salmon drift and set net and etc .

Representative Stoltze and Senator Halford helped to draft and pass legislation to establish the initial state scallop limited entry fishery. Representative Stoltze is an **HONORABLE** man. I have known Bill Stoltze since he was a small boy, in fact, my boys and Bill grew up together, attending high-school and both families going to the same church in Chugiak.

Finally, Mr. Chairman, I find it unconscionable that NOW you as one person can destroy my family and my sons' future livelihood by holding HB 16 hostage in your committee.

Accordingly, Mr. Chairman, we ask you to do what you know is right and **HONORABLE** and allow HB 16 to proceed out of your committee and be voted on by the legislature.

I will be writing my two representatives and others asking their help in this matter and to help them better understand our family's crucial situation, I am including to them, a copy of my letter to you.

Sincerely,

Max G. Hulse

Alaska Crab Coalition
3901 Leary Way N.W. Suite #6
Seattle, Washington 98107
206.547.7560
Fax 206.547.0130
acccrabak@earthlink.net

March 22, 2007

Representative Paul Seaton,
Chair
Alaska House Fisheries Committee
State Capitol, Room 102
Juneau, AK 99801-1182
Rep_Paul_Seaton@legis.state.ak.us

Dear Representative Seaton:

On behalf of the members of the Alaska Crab Coalition (ACC) representing Bering Sea crab vessel owners since 1986, I am writing to comment in support of House Bill # 16 to extend the sunset date on the vessel limitation program for the weathervane scallop and Bering Sea hair crab fisheries, which will end on December 30, 2008, unless state legislation is passed to extend the sunset date. Failure to pass this legislation will result in the fisheries reverting to open access.

The experience of our members results in concerns that concur with those of the Commercial Fisheries Entry Commission, that if the fisheries revert to open access, it will exacerbate management of the fisheries and increase fishing pressure on the stocks.

The hair crab fishery has been closed for rebuilding of the stocks for several years, and needs to be carefully monitored when it reopens, as the quota will be very low. If the fishery reverts to open access, management of the fishery would be exceedingly difficult.

The scallop fishery has been operating quite well under the limited access system and there are only a small number of boats fishing in a cooperative. The scallop fishery has observers on all boats, paid for by the vessel owners, 100% observer coverage, to monitor crab bycatches. Under the cooperative program crab bycatch has been greatly reduced, as the boats work together and communicate amongst each other to identify "hot spots" of high crab bycatch and they avoid these areas. Since the beginning of the cooperative, made possible by the limited entry program, the fleet has remained well below the overall bycatch limitation caps.

Sincerely,

Arni Thomson
Executive Director

2006 Expenses of F/V Ocean Hunter in Alaskan Communities from Scallop Operations

Yakutat			
	Fuel	26,942	Delta Western Fuel
Kodiak			
	Fuel	157,572	Petro Marine Fuel Net Systems
	Repairs & Services	20,129	Kodiak Marine Supply Arc n Spark Alaska Hydraulics
	Groceries	12,525	True Value Hardware Kodiak Service Company
	Total Kodiak	190,226	Amak Towing Safeway Thai Market
Unalaska			
	Fuel	26,942	Petro Star Fuel (North Pacific Fuel) Net Systems
	Repairs & Services	12,290	Alaska Ship Safeway LFS
	Groceries	3,608	NC power systems
	Total Unalaska	42,840	
Alaska Vender Expenses		260,008	
Alaska State Taxes & Permits		63,440	Fish Business Tax Landing Tax Vessel Permit Fees Captain & Crew Permit/License fees
Total Alaska Expenses 2006		323,448	

Note this spreadsheet does not include 12 crewmembers who also spend their own earnings in these communities.

Scallop Data

Data for Timeline

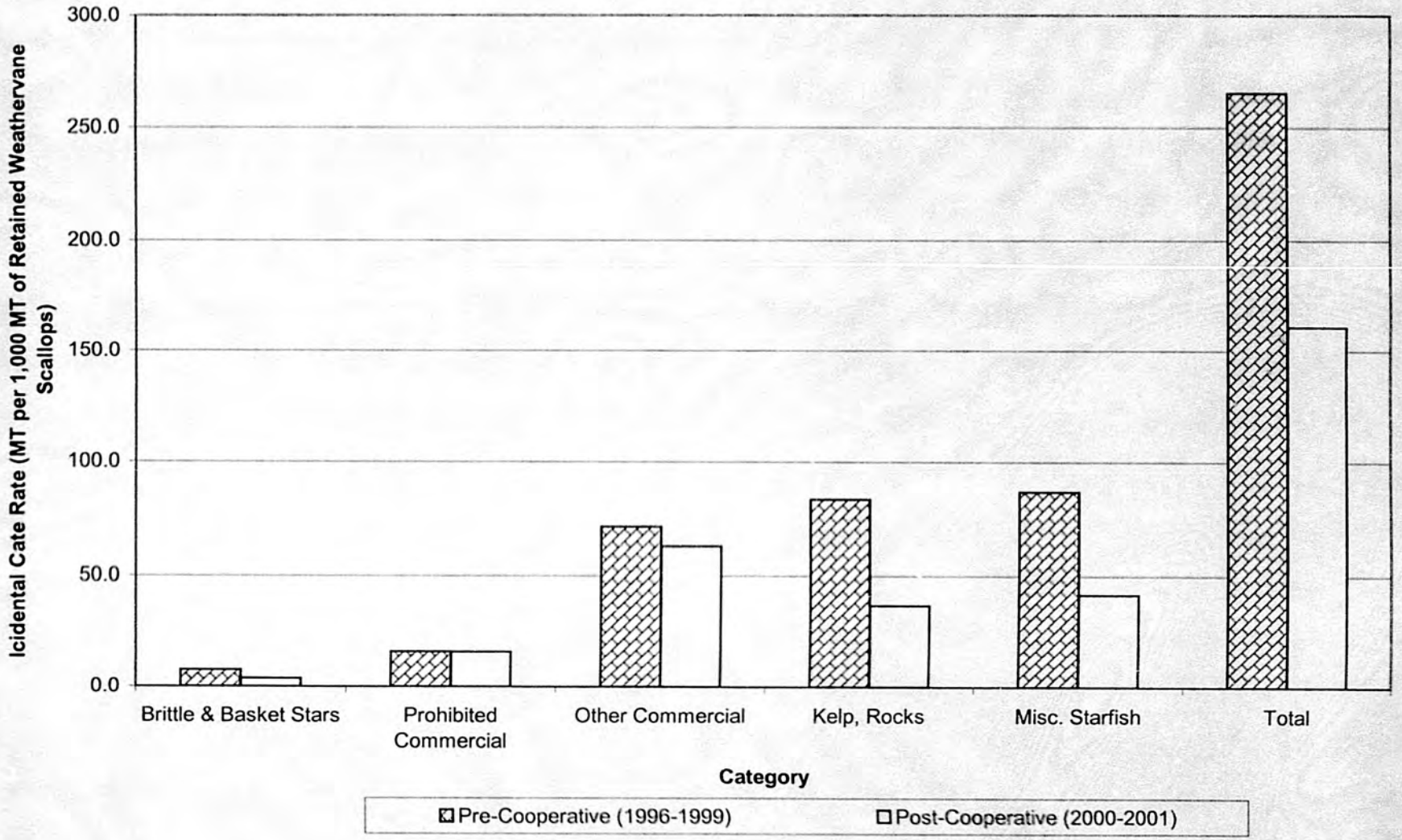
Year	Bycatch Rate
1997	283.6
1998	281.8
1999	298.4
2000	141.0
2001	181.0

Data for Comparison Chart

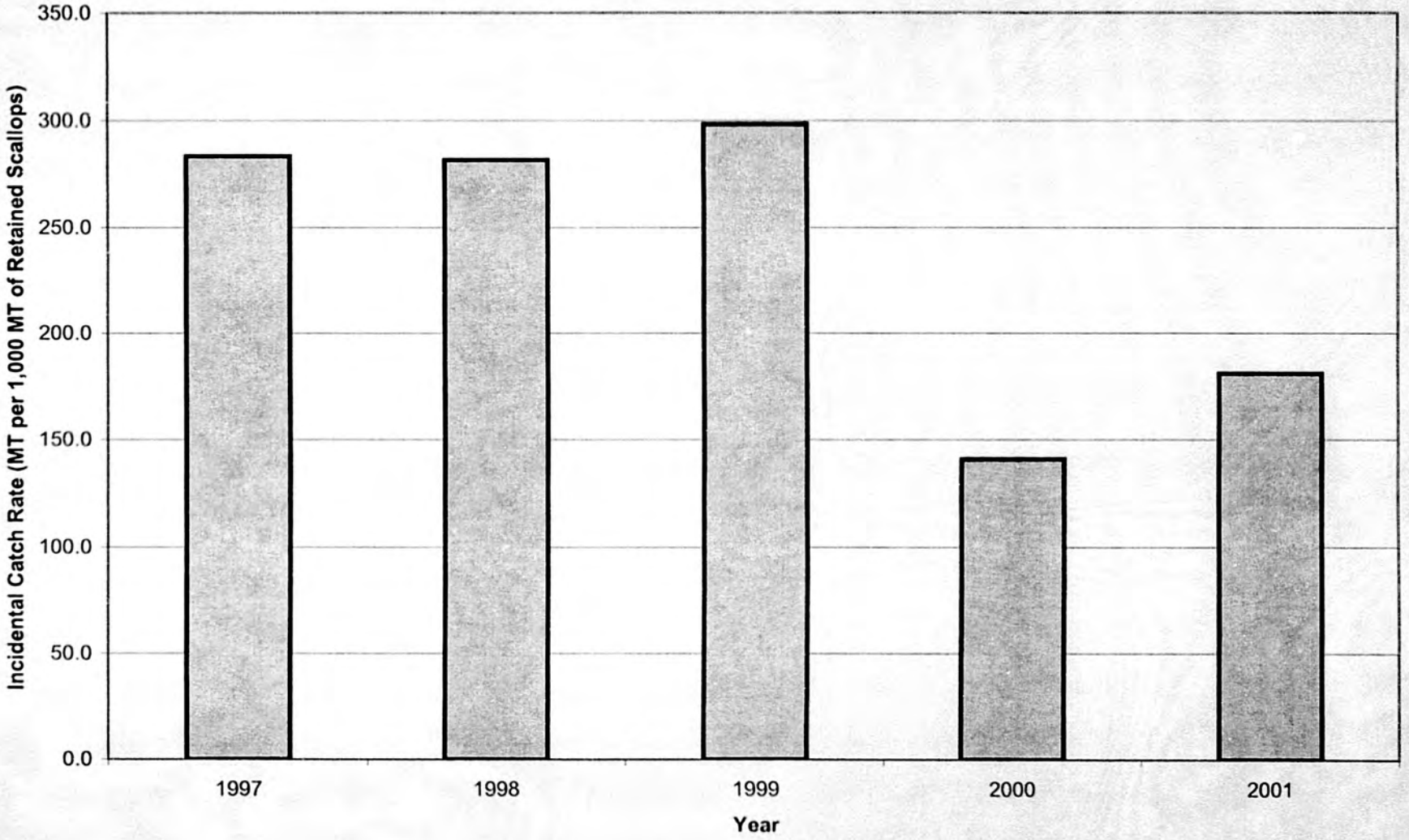
Species	Pre-Coop Rate	Post-Coop Rate	% Decline in Bycatch Rate
Brittle & Basket Stars	7.6	3.7	-51%
Prohibited Commercial	16.1	16.0	-1%
Other Commercial	71.3	62.8	-12%
Kelp, Rocks	83.4	36.8	-56%
Misc. Starfish	86.8	41.7	-52%
Total	265.3	161.0	-39%

Source: NMFS Blend Data

Incidental Catch Rates in the Alaska Weathervane Cooperative Fishery



Incidental Catch Rates in the Alaska Weathervane Scallop Fishery, 1997-2001



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

January 29, 2008

Representative Paul Seaton
Chair, House Special Committee on Fisheries
Alaska State Legislature
State Capitol, Mail Stop 3100
Juneau AK 99801

RE: Support for HB 16 regarding Korean hair crab and weathervane scallop fisheries.

Dear Chairman Seaton,

The United Fishermen of Alaska (UFA) Board of Directors recently met and discussed House Bill 16, which would delay the effective date of repeal of the vessel-based commercial fisheries limited entry systems for the Bering Sea Korean hair crab and weathervane scallop fisheries.

UFA supports HB 16. The first extinguishment of a limited access fishery in the State's history will occur if the scallop fishery is not continued through passage of HB 16. We are concerned that elimination of the vessel-based system would lead to an open access fishery, which would not be able to be managed to within the allowable biological harvest. We do not want to see a repeat of the past history such as the fiasco caused in 1995 by the vessel "Mr. Big" that caused the economic loss of an eighteen month closure after overharvesting the fishery.

We do not support vessel-based commercial fishery limited entry systems for any other fisheries. The history of the weathervane scallop fishery indicates the appropriateness of vessel based permitting in this fishery for the sustainability and economic vitality of the fishery, and for this reason we support and ask your support for HB 16.

Thank you for your consideration,

Sincerely,

Mark Vinsel
Executive Director

Dear Representative Seaton

We presently have a 75 ft boat, the Kilkenny, engaged in the scallop fisheries. We have some observations and suggestions to make in the event that the legislature does not extend the moratorium on new entries into the state waters scallop fisheries.

1) For a 58-80 foot vessel, a minimum of 10 ft. of dredge width would be required to be able to make it financially worthwhile.

2) Instead of full time observer coverage, it's possible that part time (⅓?) coverage for each area + VMS might be sufficient. A trial period could be tried.

Sincerely,

Tom Hogan
Box 1648
Homer, AK. 99603

4-11-07

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To Rep. Seaton	From Homer LIO
Co.	Co.
Dept.	Phone #
Fax # 465-3472	Fax #

[redacted]

From: George Malcolm Milne [milnemarine@yahoo.com]
Sent: Sunday, April 08, 2007 9:59 PM
To: Rep. Paul Seaton
Subject: State Water Scallop License Moratorium
Follow Up Flag: Follow up
Flag Status: Blue

Hello Mr Seaton,

I have participated in the scallop fishery in Alaska as a deckhand and then relief skipper since 1995. I support the sunsetting of the current moratorium. I think a properly managed state water fishery could benefit Alaskans much mor that the status quo. It is important that a minimum of a ten foot dredge be allowed in order for it to be economically feasible. The costs of the on-board observer, DEC licensing, fuel and crew shares require an acceptable catch level. Thank you for your consideration.

George Malcolm Milne
PO Box 1846
Homer AK 99603
907 399 6296

Food fight? Enjoy some healthy debate
in the Yahoo! Answers Food & Drink Q&A.

From: Tom Gilmartin [captntom@ptialaska.net]
Sent: Monday, April 30, 2007 5:32 AM
To: Louie Flora
Subject: House Bill NO. 16

Thomas Gilmartin

46677 Lake St. Kenai Ak.
907-776-5639 or 609-408-0887 (C) or 254-240-5299 (SAT)

4/29/2007

Representative Paul Seaton

Dear Congressman,

Because the scallop fishery rules and regulations are designed around a cooperative of mostly latent permits. I believe the time has come for the legislature to step in and open the fishery for the greater good.

WE need a BILL that:

1) Amends, AAC 75.300 definitions In AS.43.75 (4) "processing" does not include decapitating shrimp and gutting, gilling, sliming, or icing a fisheries resource solely for the maintaining the quality of the fresh resource.
And add shucking scallop to this definition.

2) Goes open access for all of those that hold a small vessel crab permits. This because crab stocks are most affected by scallop activities. This lets the crabbers participate and act as good Stewarts by fishing out of high crab areas. Or they may sell their scallop permit to any other fisherman if they choose.

3) Allows only one 12 foot dredge or smaller in state waters.

4) Imposes 1,000 Pound trip Limits per calendar day or twice a week on all trips for the small vessel operations. Possession over 1000 pounds not allowed.

5) Imposes 15,000-Pound trip limits on the federally licensed vessels.

6) Require Electronic Vessel Monitoring System VMS on all scallop vessels including the Federally licensed nine.

7) Require digital cameras on all scallop vessels decks in place of observers.

8) Require 10 percent observer coverage funded by adding extra pounds to each trip limit an observer is on board.

9) Stop training observers for regulatory compliance they are on board for biology only.

A Bill like this would create a lot of jobs.

Sincerely,

4/30/2007

North Pacific Fishery Management Council

Stephanie Madsen, Chair
Chris Oliver, Executive Director

Telephone (907) 271-2809

605 W. 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Fax (907) 271-2817

Visit our website: http://www.fakr.noaa.gov/npfmc

April 3, 2007

House Fisheries Special Committee
Rep. Paul Seaton, Chairman
State Capitol, Room 102
Juneau, AK 99801-1182

Dear Representative Seaton;

The North Pacific Fishery Management Council (Council) supports the State of Alaska extending the current limited entry program for the Weathervane scallop fishery in state waters. The Council delegated authority to the State of Alaska to manage all aspects of the scallop fishery in federal waters off Alaska, except limited access, which remained a federal responsibility. The Fishery Management Plan for the Scallop Fishery off Alaska (FMP) established a license limitation program (LLP) in federal waters, effective January 16, 2001. The Alaska Legislature, as you know, also established a four-year vessel moratorium in 1997 that was later extended an additional three years until June 10, 2004. The moratorium was replaced with a vessel-based limited entry program that is scheduled to expire in 2008. Conservation concerns with crab bycatch and the overharvest of scallops in the early 1990s prompted the Council and the Alaska Board of Fisheries (BOF) to work cooperatively to reduce scallop fishing effort in the overcapitalized Weathervane scallop fishery.

In several areas of the state, Kodiak and Yakutat for example, scallop beds are bisected by the 3-mile boundary line separating state from federal waters. In these areas, the majority (80% or more) of the scallop harvest is taken from the federal waters portion of the scallop beds. Guideline harvest ranges established by the Alaska Department of Fish and Game (ADF&G) are applied to the entire registration area, and are not apportioned to either state waters or federal waters. If the state waters portion of the fishery reverted to open access, additional vessels with unrestricted fishing capacity could target scallops in state waters. Disproportionate harvest of the scallop beds could lead to stock conservation concerns; including that portion of the stock in federal waters. Two additional concerns result from a bifurcated management regime. First, regulatory enforcement along the 3-mile line would be problematic. Second, Tanner and red king crab bycatch would likely increase as a result of increased fishing effort within a restricted portion of the scallop bed.

Weathervane scallop stocks in Alaska are small. Concerns with overcapitalization, and the resulting stock conservation and crab bycatch concerns have largely been addressed through complementary federal and state limited entry/access programs. The Council encourages the Alaska Legislature to extend the Weathervane Scallop limited entry program in state waters to coordinate with the federal program implemented by this Council.

If you need any additional information relative to this issue, please feel free to contact the Council's Executive Director, Chris Oliver.

Thank you for considering these comments.

Sincerely,

Stephanie D. Madsen

Stephanie D. Madsen, Chair
North Pacific Fishery Management Council

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Ocean Fisheries, LLC
F/V Ocean Hunter
7216 Interlaaken Dr. SW
Lakewood, WA 98499
(253) 582-2580
Fax 589-0508
jstonecrab@aol.com

Date: March 31, 2007
Representative Paul Seaton,
Chair
Alaska House Fisheries Committee
State Capitol, Room 102
Juneau, AK 99801-1182
Rep_Paul_Seaton@legis.state.ak.us
RE: HB 16

Dear Representative Seaton:

We (Ocean Fisheries, LLC) are owners of the Scallop vessel Ocean Hunter. We have five partners in our group. Each one of us has an average of at least 25 years fishing in Alaska. We run our own boats and are involved throughout Alaska in Scallops, Crab, Salmon and Cod. Our two Scallop Captains are both partners on our Scallop vessel, the Ocean Hunter.

As you are aware since Scallop license limitation we have become a rather small fleet. We are of course chasing a very small but sustainable resource. As a result of our small fleet size we are now able to slow down our race for the Scallops. We now have captains of different vessels working together so as to target more scallops per tow and lessen our bottom impact. The captains also work together to avoid high concentrations of crab. We have formed a voluntary Coop that has further helped us to work together. The Alaska Crab Coalition has been a supporter of our coop as a result of our success at keeping our crab bycatch low. (see letter attached)

The Alaska Department of Fish & Game gives us very small crab by-catches. All Scallop vessels are required to have observers onboard at all times (100%), at the expense of the vessels to ensure we stay well below the by-catch.

If the state scallop moratorium was to expire and open the scallop fishery to any vessels the race would be on and we would all be forced to compete with each other and go to areas of the highest Scallop concentration, possibly quickly going to the crab by-catch rate. If there where to many boats, ADF&G would have a very difficult time managing the small scallop quotas, without going well over scallop and bycatch guidelines.

Since License limitation I believe we have never gone over our bycatch limit or our Scallop quotas. As frequently happened pre License limitation.

During our six to seven months prosecuting the fishery we spend a lot of time and money in Kodiak, Unalaska and Yakutat. I have attached a spreadsheet that shows our expenditures in the Alaskan Communities that we work out of.

We now have a model fishery that has managers and harvesters working in harmony with each other with the same goals.

Please do not allow this successful License Program to expire.

Regards, Jim Stone



Coastal Villages Region Fund

711 H Street, Suite 200 • Anchorage, Alaska 99501 • Phone 907.278.5151 • Fax 907.278.5150

February 28, 2007

Representative Paul Seaton, Chair
Alaska House Fisheries Committee
State Capitol, Room 102
Juneau, Alaska 99801-1182

RE: House Bill No. 16

Dear Representative Seaton,

I would like to express Coastal Villages Region Fund's support for House Bill No. 16 which would extend the vessel-based commercial fisheries limited entry systems for both the Bering Sea Korean hair crab and weathervane scallop fisheries. Coastal Villages Region Fund is one of the six Alaskan Community Development Quota groups. We recently completed a transaction where we purchased two vessels that are qualified for Bering Sea Korean hair crab and had significant histories in this fishery when it was open.

The Bering Sea Korean hair crab fishery harvest peaked in the mid 1990's at around 2 million pounds. The abundance as well as harvest quickly declined and has been closed since 2001. More recent surveys show that the stock has remained at depressed levels. It is apparent that this resource is quite fragile and very susceptible to fishing pressure.

Allowing the limited entry system for this fishery to expire would be a disaster when the resource does build up enough to allow for a commercial fishery. The major crab fisheries of the Bering Sea were rationalized under the Bering Sea Crab Rationalization Program which now allows those vessels to fish and deliver with much more flexibility than in the past. If a Korean hair crab quota were announced and there were no limited entry system, there is a very real potential of significantly more effort than the fishery can realistically support entering since crab vessels can now fish when it works for their operation.

Historically, crab vessels had to choose whether they would fish Korean hair crab or Bering Sea Tanner crab (otherwise known as bairdi). Our vessels chose to fish Korean hair crab at the time. Now, other vessels could target Korean hair crab if the limited entry system were lifted before or after they fish their IFQ for Tanner crab.

In summary, I ask that you pass House Bill No. 16 as it is currently written. Additional effort will enter this fishery from other Bering Sea crab vessels, and this fishery simply cannot support that effort.

Sincerely,

Morgen Crow, Executive Director
COASTAL VILLAGES REGION FUND

cc: Representative Richard Foster
Representative Mary Nelson
Representative Bryce Edgmon
Senator Lyman Hoffman
Senator Donald Olson

Provider, Inc.
FV Provider
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360-961-1470 fax 360-366-9132
teressa@kodiakfishco.com

April 1, 2007

Honorable Paul Seaton
Chair, Alaska House Fisheries Committee
State Capitol, Room 102
Juneau, AK 99801-1182

Dear Chairman Seaton:

I am writing in regard to HB16, the house bill that would extend the vessel license limitation for the Alaska weathervane scallop fishery another five years. My husband, Mark Kandianis, has been a mate, captain and owner in this fishery for almost 29 years. My partner, Tom Minio, has been a crewman, mate, captain and now owner in this fishery for another 27 years. His son, Thomas Minio, has been working as crewmember and mate in this fishery since he was in high school in Kodiak. His daughter, Bobbie Minio, began working in this fishery as a processor and now crewmember since she graduated from Kodiak High School in 2001. Currently, 75% of our crewmembers live in Alaska – mostly Kodiak, but one in Anchorage.

In 2006, Provider spent about $479,000 for fuel, groceries, parts, repairs, taxes and licenses in Alaska – mostly in Kodiak and Yakutat; and another $510,000 to the Alaska resident crewmembers including taxes and health insurance benefits (we offer health insurance to our crewmembers). We are required to have an observer on board the Provider 100% of the time and this cost is about $70,000 per year.

Prior to the scallop vessel licensing programs enacted on the federal side of the fishery by the North Pacific Fishery Management Council and on the State side by the Alaska State legislature, the scallop fishery closed often due to crab bycatch. In 1995 and 1996, the fishery was completely closed for about 18 months because a vessel exploited the loopholes that existed because the State managed the fishery but the fishery occurs mostly in federal waters. At that time, both the State and the federal managers worked together to close that loophole including amending the Magnuson Act. The Magnuson Act was amended to allow a State to manage a federal waters fishery with a supermajority vote by the Council. The Council turned over all management of the fishery to Alaska except for license limitation – retaining that because Alaska CFEC couldn't issue permits to vessels and issuing permits to operators would have tripled or quadrupled the number of licenses – more licenses than vessels that have ever fished Alaska scallops.

Since the license program went into effect, six of the nine federally licensed vessels formed a cooperative in order to slow down the pace of the fishery and improve performance in such areas

as crab bycatch and habitat impacts. Since that time, we have never exceed our crab bycatch caps and have voluntarily left areas such as the Bering Sea and foregone that harvest when crab bycatch rates were too high.

Scallop beds, where they exist in State waters – mostly Yakutat and Shelikof Strait – virtually straddle the 3 mile line with most of the harvest coming from the federal side – though this has varied widely throughout the 30 years of our experience in this fishery. The scallop resource in Alaska is very limited and with the data being gathered from our onboard observers since 1993, the managers have instituted guideline harvest ranges (GHR) and have gradually ratcheted them down seeking a sustainable level. The harvest, from the Fairweather grounds out to the Bering Sea, is now stable around 500,000 lbs a year. Crab bycatch has gradually declined as utilization of the GHR's has gradually increased.

The Provider has no other licenses or fisheries to participate in. The boat and her crew have always fished scallops and are totally dependent on this resource. The scallops harvested by the Provider end up on white tablecloth restaurants throughout Alaska and the Pacific Northwest and the Provider is the only fishing vessel certified to sell scallops to the US Armed Forces.

Provider has participated fully as a partner with ADF&G over many years. Provider funded a master's degree student at the University of Washington to produce a review of scallop biology and abundance. The Provider has built survey dredges and donated them to the Department on two occasions. The Provider cooperates with University of Alaska scientists and ADF&G as a platform for development of visual survey equipment. The Provider has voluntarily relinquished her right to confidentiality for both catch and observer data since 1993 in order to allow the Board of Fish, the NPFMC and the public to see all of the fishery statistics.

Habitat issues could be big with this fishery but the small footprint – 120 snm from Yakutat to the Bering Sea – minimizes these impacts. The Alaska Crab Coalition is very supportive of extending the vessel license program because of the lowered impact from our vessels on crab stocks and the reduction in crab bycatch.

We would urge you to pass HB16 and extend the vessel license program for another five years.

Thank you for the opportunity to comment.

Sincerely,

Teressa Kandianis
General Manager
FV Provider

Alaska Crab Coalition
3901 Leary Way N.W. Suite #6
Seattle, Washington 98107
206.547.7560
Fax 206.547.0130
acccrabak@earthlink.net

March 22, 2007

Representative Paul Seaton,
Chair
Alaska House Fisheries Committee
State Capitol, Room 102
Juneau, AK 99801-1182
Rep_Paul_Seaton@legis.state.ak.us

Dear Representative Seaton:

On behalf of the members of the Alaska Crab Coalition (ACC) representing Bering Sea crab vessel owners since 1986, I am writing to comment in support of House Bill # 16 to extend the sunset date on the vessel limitation program for the weathervane scallop and Bering Sea hair crab fisheries, which will end on December 30, 2008, unless state legislation is passed to extend the sunset date. Failure to pass this legislation will result in the fisheries reverting to open access.

The experience of our members results in concerns that concur with those of the Commercial Fisheries Entry Commission, that if the fisheries revert to open access, it will exacerbate management of the fisheries and increase fishing pressure on the stocks.

The hair crab fishery has been closed for rebuilding of the stocks for several years, and needs to be carefully monitored when it reopens, as the quota will be very low. If the fishery reverts to open access, management of the fishery would be exceedingly difficult.

The scallop fishery has been operating quite well under the limited access system and there are only a small number of boats fishing in a cooperative. The scallop fishery has observers on all boats, paid for by the vessel owners, 100% observer coverage, to monitor crab bycatches. Under the cooperative program crab bycatch has been greatly reduced, as the boats work together and communicate amongst each other to identify "hot spots" of high crab bycatch and they avoid these areas. Since the beginning of the cooperative, made possible by the limited entry program, the fleet has remained well below the overall bycatch limitation caps.

Sincerely,

Arni Thomson
Executive Director

cc:
Rep_Peggy_Wilson@legis.state.ak.us,Rep_Gabrielle_LeDoux@legis.state.ak.us,Rep_Craig_Johnson@legis.state.ak.us,Rep_KyleJohhansen@legis.state.ak.us,Rep_BryceEdgmon@legis.state.ak.us,Rep_Linsey_Holmes@legis.state.ak.us

Rep Paul Seaton

I own and operate the FV Maverick in the Bearing Sea. It has come to my attention that there is a possibility that the Korean Hair Crab fishery could end up back to open access.

After fishing in the Bearing Sea for close to 20 years, and seeing all the changes be them good or bad. This would be terrible to have this fishery go back to open access.

Here are just a few reasons why,

#1. In my opinion and the fish and games the Hair Crab are just starting to see a rebound, and with a open access fishery, it would be a waste with all the boats that would take part.

#2 I have just finished the Second Season of opilio under the I.f.Q program, the opilio stocks look better now than I have ever seen them, with the Reduced Boats and Gear! Its really unbelievable how alive the bottom is.

#3

I fished Hair Crab the Last 3 Seasons, it was opened, I believe that the fish and Game learned alot from there mistakes before it closed, When It reopens, if it was opened ~~Access~~ the fish and Game would not have much control with

so many boats, but if there was just a few at least they could get a better handle on the fishery.

I'm still very active in all the crab fisheries in the Bering Sea, If you would like to talk with me on the phone or over the email please feel free to call me on any matter concerning crab. I still believe we are a few years away from having a hair crab fishery, that is another reason to keep a lid on the boats, until we see where this fishery might reopen.

thank for your efforts

Richard S Quashnick
F/V Maverick
ADFG 45706

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April 1, 2007

Honorable Paul Seaton
Chair, Alaska House Fisheries Committee
State Capitol, Room 102
Juneau, AK 99801-1182

Dear Chairman Seaton:

The North Pacific Scallop Cooperative (Coop) has a membership of six vessels of the nine that received federal permits for participation in the North Pacific scallop fishery. The Coop supports passage of HB 16 that would extend the State license program for another five years.

The Alaska scallop fishery used to be the typical boom and bust cycle typical of unmanaged scallop stocks. Since the inception of the license limitation programs by both the federal and State governments, and subsequent to that, the formation of the Coop, the fishery has stabilized in every respect – from the number of vessels participating, to the annual catch, to reduction of crab bycatch, and to our product quality and crew complement.

I have attached a graph prepared by Northern Economics of Anchorage that shows the pre-Coop incidental catch rates of both limited species (caps placed on the maximum catch of crab) and non limited species (such as starfish, kelp, or other commercial species) both pre-Coop and for the first two years after Coop formation. It is clear that our Coop contract has allowed vessels to slow down their fishing and work to avoid incidental catch of any other bottom species, thus reducing our impact on habitat.

Since inception of the Coop, we have not exceeded either a crab bycatch cap or a scallop GHR cap. The scallop GHR's have been steadily lowered over the past seven years as scallop managers for the State have analyzed observer data and fishery performance as well as developing a visual survey technique that can "ground truth" the catch data. The Coop supports the efforts of the State to arrive at a catch level that is sustainable and consistent. Our member's market their scallop catches to high-end restaurants that demand both high quality and consistency of quality and supply.

As the GHR's were reduced from over 1,000,000 lbs to just over 500,000 lbs now, the fleet gradually contracted leaving only two Coop member vessels fishing at this time. As one result, the number of total days the various areas are open has increased, in some areas, from only 3 days to over 50. This has given an opportunity, not available in pre

Coop years, to smaller non-Coop vessels to fish in these areas that are typically those with the highest CPUE and more valuable catches.

In other areas, the captains who used to be bitter competitors now share catch information, gear information and bycatch information thus contributing to the dramatic decrease in crab bycatch by Coop members. Reducing the number of participants reduces the bottom impact and is responsive to the National Academy of Sciences report on trawling impacts that recommends reducing fishing effort.

Coop members provide ADF&G as well as University scientists access to all data and to the use of the vessels as platforms for further research. Giving up their rights to confidentiality for catch and observer data allows management bodies such as the Board of Fish, the North Pacific Council and the Alaska State Legislature to have that information which would otherwise be cloaked.

Coop vessels spend at least 8 months of each year in Alaska – buying fuel, food, parts and services from Alaskan vendors in Yakutat, Kodiak and Dutch Harbor – among other ports. The vessels pay Resource Landing Tax on scallops caught outside of State waters and Fisheries Business Tax on scallops caught inside State waters. The majority of the crew is Alaska residents.

Reverting to open access is the wrong direction for this fishery, even if that open access area within 3 miles represents a small portion of the commercially viable scallop beds. Both Coop and non-Coop vessels need to be able to move away from areas of high crab bycatch or bycatch of other benthic species. An artificial line through the fishable beds will render this remedy useless.

The Alaskan weathervane scallop fishery was open to all for many years and the problems caused by that open access fishery were apparent to all. It is a success story for Alaskan fishery management that such a small resource can be managed for maximum sustainable yield while reducing habitat effects as well. We would urge the Committee and the Legislature to move this bill forward and extend the vessel license program.

Sincerely,

Teressa M. Kandianis
President, North Pacific Scallop Cooperative

Max G. Hulse
P O Box 770881
Eagle River, AK 99577

April 2, 2007

House Fisheries Committees
Regarding HB 16

My two sons, Robert and Scott, and I are in favor of the passage of HB 16, extending the moratorium to 2013.

To open the State scallop fishery to all would greatly impact our income from the scallop fishery. Looking at the total scallop quota for Alaska waters and the small percentage and concentration of scallops in just State waters, compared to Federal waters, makes the profit margin slim as is. Then to add more fishing pressure will surely reduce the profit margin in State waters to near zero.

When Federal Scallop Permits were issued in 1999 by the NMFC our vessel and another vessel, the F/V Kilkenney out of Homer were restricted to the use of one 6 foot dredge in federal waters, which we felt was unfair due to our extensive involvement in the scallop fishery since 1982.

The use of only one 6 foot dredge in Federal waters made it impossible to make a go of it, even though we could use two dredges in State waters. With the high cost of fuel, an onboard observer at $325.00/day ++ you need to be able to fish in both Federal and State waters with two dredges to make a reasonable profit.

In 2003 we took our 6 foot dredge situation back before the Council and they reversed our restriction allowing us to use two 10 foot dredges in Federal waters starting in 2006.

Of the four vessels now actively involved in the Alaska fishery, the two Alaska based vessels—the F/V Wayward Wind and the F/V Kilkenney are much smaller and more susceptible to bad weather. Thus, during poor weather the two larger vessels would choose to fish longer in Federal waters, which have much denser beds of scallops, letting us fish in calmer State waters.

Also, it is our feeling that permits should not be issued to vessels, but to individual fishermen who have made the investment and actively participate in the fishery.

If the moratorium is not extended: 1. How would quota be divided between State and Federal waters? 2. Would there be a dredge size restriction as to the length of vessel? 3. How would enforcement handle adherence to the 3 mile limit – Federal and State scallop beds are close together. 4. Are moneys available to cover necessary surveys and enforcement?

Thanks for your consideration.

Max Hulse

Isn't problem actually simpler than
p cod. or black cod.

→609-770-7655 - Tom Gillmurtin

→609-408-0887

Protocols Retrieval - prep in week
will be discussed
by new bridges?