

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2445 SCOMM 102: HOUSE SPEC. COMM. ON FISHERIES, 1997-98

1 (f) PENALTY.—Section 12122 of title 46, United
2 States Code, is amended by inserting at the end the follow-
3 ing new subsection:

4 “(c) In addition to penalties under subsections (a)
5 and (b), the owner of a documented vessel for which a
6 fishery endorsement has been issued is liable to the United
7 States Government for a civil penalty of up to \$100,000
8 for each day in which such vessel has engaged in fishing
9 (as such term is defined in section 3 of the Magnuson-
10 Stevens Fishery Conservation and Management Act (16
11 U.S.C. 1802)) within the navigable waters or exclusive
12 economic zone of the United States, if the owner or the
13 representative or agent of the owner knowingly falsified
14 or concealed a material fact, or knowingly make a false
15 statement or representation with respect to the eligibility
16 of the vessel under section 12102(c) in applying for such
17 fishery endorsement.”.

18 (g) REVIEW OF TRANSFERS.—Section 9(c)(1) of the
19 Shipping Act, 1916 (46 U.S.C. 808(c)(1)) is amended by
20 striking “in a vessel that has been operated only as a fish-
21 ing vessel, fish processing vessel, or fish tender vessel (as
22 defined in section 2101 of title 46, United States Code)
23 or”.

TITLE II—ANTI-REFLAGGING ACT
EXCEPTIONS

SEC. 201. RESTRICTIONS ON BUILD AND REBUILD SAVINGS
CLAUSE.

(a) **REPEAL.**—Notwithstanding section 4 of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Public Law 100-239; 46 U.S.C. 12108 note), a certificate of documentation may not be endorsed with a fishery endorsement for a vessel which does not meet the requirements of paragraphs (2) and (3) of section 12108(a) of title 46, United States Code, unless the certificate of documentation for such vessel was endorsed with a fishery endorsement that was effective on September 25, 1997 and the vessel otherwise qualifies for a fishery endorsement, including under sections 12102(c) and 12108(e) of title 46, United States Code, as amended by this Act.

(b) **RESTRICTION.**—Notwithstanding subsection (a) or any other provision of law, any fishing vessel (as defined in section 2101 of title 46, United States Code) which—

(1) had a fishery endorsement in effect on September 25, 1997;

(2) is greater than 165 feet in registered length, of more than 750 gross registered tons, or

1 has an engine or engines capable of producing a
2 total of more than 3,000 shaft horsepower; and

3 (3) was built in the United States and was—

4 (A) purchased or contracted for purchase
5 prior to July 29, 1987 for use in the fisheries
6 of the United States;

7 (B) rebuilt in a foreign shipyard under a
8 contract entered into prior to June 12, 1988;

9 (C) delivered after such rebuilding and is-
10 sued a fishery endorsement prior to July 29,
11 1990; and

12 (d) not owned or controlled by the same
13 entity during the occurrence of each of the
14 events described in subparagraphs (A) through
15 (C);

16 shall be ineligible for a fishery endorsement under section
17 12108 of title 46, United States Code, if the controlling
18 interest in the entity that owns the fishing vessel on Sep-
19 tember 25, 1997 is materially changed after such date,
20 unless a fishery endorsement for another fishing vessel of
21 the same or greater registered length, gross registered
22 tons, and shaft horsepower, which actively harvested fish-
23 ery resources in the fisheries under the authority of the
24 same Regional Fishery Management Council during the

1 year prior to such material change, is permanently surrendered.

3 **SEC. 202. REPEAL OF OWNERSHIP SAVINGS CLAUSE.**

4 (a) **REPEAL.**—Section 7(b) of the Commercial Fishing Industry Anti-Reflagging Act of 1987 (Public Law 100-239; 46 U.S.C. 12102 note) is hereby repealed.

7 (b) **EFFECTIVE DATE.**—Subsection (a) shall take effect eighteen months after the date of the enactment of this Act.

10 **TITLE III—PHASE OUT OF CERTAIN**
11 **FISHING VESSELS**

12 **SEC. 301. RESTRICTION ON FISHERY ENDORSEMENTS.**

13 (a) **GENERAL PROHIBITION.**—Section 12108 of title 46, United States Code, is amended by adding at the end the following new subsection:

16 “(e) A certificate of documentation may not be endorsed with a fishery endorsement for a fishing vessel that is greater than 165 feet in registered length, of more than 750 gross registered tons, or that has an engine or engines capable of producing a total of more than 3,000 shaft horsepower unless—

22 “(1) the certificate of documentation for such vessel was endorsed with a fishery endorsement that was effective on September 25, 1997 and has not been surrendered at any time thereafter; and

1 “(2) the registered length, gross registered
2 tons, and shaft horsepower do not exceed the length,
3 tonnage, and horsepower of such vessel on such
4 date.”.

5 (b) NEW ENGLAND FISHERIES.—(1) Notwithstand-
6 ing any other provision of law, the Secretary of Commerce
7 may not authorize or permit fishing vessels (as defined
8 in section 2101 of title 46, United States Code) greater
9 than 165 feet in registered length, of more than 750 gross
10 registered tons, or that have an engine or engines capable
11 of producing a total of more than 3,000 shaft horsepower
12 to engage in directed fishing for Atlantic mackerel or At-
13 lantic herring unless the participation of such vessels is
14 specifically allowed in fishery management plans developed
15 and implemented for those fisheries under the Magnuson-
16 Stevens Fishery Conservation and Management Act (16
17 U.S.C. 1801 et seq.).

18 (2) Within 5 days after the date of the enactment
19 of this Act, the Secretary of Commerce shall revoke any
20 permit issued before that date to any vessel described in
21 subsection (a) which would permit such vessel to engage
22 in directed fishing for Atlantic mackerel or Atlantic her-
23 ring.

24 (c) REPLACEMENT OF LOST VESSELS.—Notwith-
25 standing section 12108(e) of title 46, United States Code

1 as added by this Act, the owner of an existing vessel great-
2 er than 165 feet in registered length, of more than 750
3 gross registered tons, or that has an engine or engines
4 capable of producing a total of more than 3,000 shaft
5 horsepower, and that had a valid fishery endorsement on
6 September 25, 1997, may obtain a fishery endorsement
7 for a replacement vessel in the event of the actual total
8 loss or constructive total loss after September 25, 1997,
9 of such existing vessel, provided that: (1) such loss was
10 caused by an act of God, an act of war, a collision, an
11 act or omission of a party other than the owner or agent
12 of the vessel, or any other event not caused by the willful
13 misconduct of the owner or agent; (2) the existing vessel
14 actively harvested fishery resources in the exclusive eco-
15 nomic zone of the United States during the year prior to
16 such loss; (3) the replacement vessel is of the same or less-
17 er registered length, gross registered tons, and shaft
18 horsepower that the existing vessel; (4) the fishery en-
19 dorsement for the new vessel is issued within 18 months
20 of the loss of the existing vessel; and (5) the replacement
21 vessel otherwise qualifies under laws of the United States
22 for a fishery endorsement.

23 (d) FISHING VESSELS OPERATING BEYOND THE EX-
24 CLUSIVE ECONOMIC ZONE.—Section 12108(e) of title 46,
25 United States Code, as amended by this Act, shall not

1 apply to a fishing vessel engaged in fishing exclusively for
2 highly migratory species (as that term is defined in section
3 3 of the Magnuson-Stevens Fishery Conservation and
4 Management Act (16 U.S.C. 1802)) primarily outside of
5 the navigable waters and exclusive economic zone of the
6 United States.

7 **SEC. 302. RESTRICTION ON LOAN GUARANTEES.**

8 Section 302(b) of the Fisheries Financing Act (46
9 U.S.C. 1274 note) is amended—

10 (1) by inserting "(1)" before "Until October 1,
11 2001"; and

12 (2) by inserting at the end the following new
13 paragraph:

14 "(2) No loans may be guaranteed by the Fed-
15 eral Government for the construction or rebuilding
16 of a vessel intended for use as a fishing vessel (as
17 defined in section 2101 of title 46, United States
18 Code), if such vessel will be greater than 165 feet
19 in registered length, of more than 750 gross reg-
20 istered tons, or have an engine or engines capable of
21 producing a total of more than 3,000 shaft horse-
22 power, after such construction or rebuilding is com-
23 pleted.".

○



AT-SEA PROCESSORS ASSOCIATION

Partners for Healthy Fisheries

PROPOSED PHASE OUT OF LARGE FISHING VESSELS HARMS U.S. FISHERS AND IMPACTS COMPETITIVENESS

On September 25, 1997 Senator Ted Stevens introduced S. 1221, a bill that phases out fishing vessels longer than 165 feet and increases U.S. citizenship requirements for fishing industry vessels. Also, the legislation repeals a grandfather provision for certain U.S.-built fishing vessels that were rebuilt overseas. Under this provision, certain vessels, which have operated in U.S. fisheries since 1990 or before, could lose their fishing privileges.

APA position on elements of S. 1221:

- The fisheries in which U.S.-flag at-sea fish processing vessels participate are healthy. The National Marine Fisheries Service's (NMFS') recent report on the status of U.S. fisheries confirms that no overfishing is occurring in fisheries conducted by the at-sea processing fleet.
- APA members participate primarily in the Bering Sea pollock fishery and the Pacific whiting fishery. Landings from these two fisheries account for over 25 percent of all fish landed at U.S. ports. These are two of the cleanest fisheries in the world with bycatch rates of less than 3 percent. The bill's finding that at-sea processors have higher bycatch than smaller vessels is incorrect.
- To accommodate fish processing equipment and processing personnel, catcher/processor vessels are generally longer than 165 feet. Their harvesting capacity is often times less than that of smaller vessels that only catch fish. To allow fishers to employ technology that adds value to their catch, and to afford western Alaska fishing communities access to remote fishing grounds, APA opposes a phase out of large fishing vessels.
- APA agrees that Congress should review national policy relating to foreign ownership of fishing industry vessels, including revoking the ownership "grandfather" under which most existing fishing vessels operate. Congress should also consider the control over fishery resources exerted by foreign-owned onshore processors, particularly Nippon Suisan's and Maruha's dominance of the onshore Bering Sea pollock processing sector.
- APA opposes eliminating thousands of jobs and threatening hundreds of millions of dollars in investment by revoking fishing privileges for vessels lawfully engaged in the fisheries since the 1980s. Tyson Foods is one of the principal advocates promoting a provision to eliminate competitors from the at-sea sector, competitors who were engaged in the fisheries before Tyson Foods made its first investment in the fishery.



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Discussion of Issues Relating to S. 1221

1. Conservation, Not Vessel Size Limitation, is the Key to Sustainable Fisheries.

a. Sustainable fishing is best achieved by promoting sound fishery conservation and management practices.

The bill proposes to phase out all fishing vessels over 165 feet. S. 1221 contends wrongly that a Congressionally mandated limit on fishing vessel size promotes conservation, but vessel size is not necessarily a relevant factor in instituting a sound fishery conservation regime. A review of the status of U.S. fisheries reveals that about one-third of all U.S. fisheries are overfished, and smaller fishing vessels are prevalent in these fisheries. Perhaps the most dramatic example is the New England groundfish fishery, which has been heavily overfished by small boat fleets.

On the other hand, NMFS reports that the North Pacific groundfish fisheries and the Pacific whiting fishery, the fisheries in which at-sea fish processors over 165 feet participate, are healthy. These Pacific groundfish fisheries are healthy because, unlike in New England, the regional fishery councils that manage these fisheries, set conservative harvest levels and carefully monitor the catch. When the allotted harvest quota is taken, the fishery shuts down. At-sea processing vessels report their catch on a weekly (and even daily) basis as conditions warrant, ensuring that quotas are not exceeded. All fish harvested, whether retained for processing or discarded, counts against the quota.

b. Waste in fisheries is not related to the size of the fishing vessel.

At-sea pollock processing vessels, which can measure over 300 feet in length, have a bycatch rate of less than three percent, that is, less than 3 percent of the catch is comprised of species not sought by the fisher. The U.N. Food and Agricultural Organization (FAO) reports that the Bering Sea pollock fishery is among the "cleanest" fisheries in the world. Furthermore, NMFS statistics show comparable bycatch rates between small and large pollock vessels fishing in the Bering Sea.

How do large pollock catcher/processors compare with other fishing vessels? FAO figures indicate that worldwide, bycatch comprises about 30 percent of the catch reported by fishers. That rate is ten times higher than pollock processing fleet's bycatch rate. One of the dirtiest fisheries is the small boat U.S. shrimp fleet, which has a bycatch rate in excess of 500 percent!

c. The size of a fishing vessel does not necessarily reflect its fishing capacity.

It should also be understood that the size of a vessel is not always indicative of its fishing capacity. In the Bering Sea pollock fishery, 150-foot long catcher vessels are capable of harvesting as much fish in one tow as 300-foot long catcher/processors. The size of a catcher/processor reflects its function, that is, the harvesting and processing of

fish. A 300-foot catcher/processor reflects the need to accommodate on board a fish processing factory, living quarters for a 100-person crew, galley, cold storage hold, and other facilities not related to harvesting capacity.

d. Fisheries monitoring, enforcement and data collection can be enhanced in large vessel fisheries.

Having fewer, larger vessels in the fisheries makes monitoring and enforcement of fisheries regulations easier. In the North Pacific fisheries, the fishers fund a program to provide federal fishery observer coverage. Qualified federal fishery observers are stationed on board *all* at-sea fish processors. Observers monitor harvest levels and collect scientific information. In the Pacific whiting fishery, at-sea processors *voluntarily* carry federal observers on board. In this fishery, vessels as large as 300 feet in length have consistently recorded salmon bycatch rates half that of 100-foot long vessels.

2. APA agrees that the U.S. ownership standard for fishing industry vessels should be revised.

Historically, U.S. fishing vessels that were owned by U.S.-registered corporations could have 100 percent of the shares of the corporations owned by foreign nationals. Under the Anti-Relicensing Act of 1987, U.S. citizens were required to own or control 51 percent of vessels engaged in fisheries activities. However, many existing vessels are "grandfathered" under the law, that is, the ownership provision of the Anti-Relicensing Act does not apply to them. S. 1221 eliminates the "grandfather" for all vessels, and raises the U.S. ownership requirement to 75 percent. If a vessel is not in compliance with the new ownership standard within 18 months, the vessel loses its fishery endorsement, a Coast Guard-issued document certifying a vessel's eligibility to participate in U.S. fisheries.

APA agrees that the "grandfather" rights that now apply to most fishing industry vessels should be eliminated and a scheduled phase-in of U.S. ownership of fishing vessels, at or above 51 percent, should occur. In developing a new U.S. ownership standard, APA urges Congress to recognize that it is often necessary for fishing companies to look to international markets for financing and marketing arrangements. It will be important to develop meaningful ownership and control standards that still allow U.S. fishers to be competitive in world markets.

Also, it should be recognized that neither current law, nor S. 1221, imposes U.S. ownership requirements on onshore processors. Nippon Suisan and Maruha, two multi-billion dollar Japanese fishing companies, own or control about 75 percent of the onshore pollock processing capacity in Alaska. These two multinationals also control a substantial portion of the Japanese *surimi* market. *Surimi* is a fish paste that is one of the principal food products produced in the 2.3 billion pound U.S. pollock fishery. Congress and the executive branch should carefully consider any federal legislative or regulatory policies allocating additional Bering Sea pollock to the onshore processing sector.

Shoreside preference allocations increase Nippon Suisan's and Maruha's control over the pollock resource, the largest U.S. fishery resource.

3. A proposed retroactive change in the law affecting U.S.-built fishing vessels that were rebuilt overseas would result in losses of more than 1,500 American jobs and \$400 million in investment.

About two dozen U.S.-flag, and U.S.-built, at-sea fish processing vessels were rebuilt overseas prior to 1990, in accordance with then-existing law and consistent with Coast Guard rulings. The U.S. fishing companies operating these vessels employ thousands of workers, including more than 1,500 on the affected vessels.

Tyson Seafoods Group, a subsidiary of Tyson Foods, is one of the principal advocates, and an apparent beneficiary, of a special interest provision in S. 1221 that could force fishers to sell their vessels to Tyson's fishing company. The affected vessels were lawfully engaged in U.S. fisheries long before Tyson Foods first bought into the fishing industry. Tyson now supports a provision in S. 1221 to revoke fishing privileges for many of these vessels, if the vessels do not already meet the new, 75 percent U.S. citizenship requirement proposed in this measure, or if any other change in ownership occurs.

Under S. 1221, an affected, U.S. vessel rebuilt overseas can retain its fishery endorsement only by retiring a vessel of equal or greater size from the fishery. Tyson is well positioned to buy out its competitors. Tyson, which entered the at-sea processing sector in the early 1990s by purchasing a large fishing company, has both capital and surplus vessels that can be retired from the fishery. By forcing the sale of the largest, most efficient vessels operated by its competitors, Tyson can control virtually all of the pollock harvested by the at-sea sector. A provision granting Tyson access to the lion's share of the largest U.S. fishery resource would help the company recoup from its declared loss of \$230 million for its foundering fishing company.

October 22, 1997



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January 23, 1998

The Honorable Ted Stevens
522 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Stevens:

Through the Freedom of Information Act I have recently received a 1988 written opinion from the Coast Guard's legal department which clearly concludes that the American ownership provisions to the Anti-Reflagging Act apply to the new owner whenever a vessel in the fishing industry is sold or transferred. Despite this written legal opinion, the agency's vessel documentation office continued to issue letter rulings allowing foreign-owned corporations to purchase fishing vessels.

As you are aware, in 1987 virtually all of the groundfish resources in the North Pacific were harvested by bona fide U.S.-owned fishing vessels. However, foreign-owned and controlled fishing fleets now dominate the harvesting and processing of United States resources to an extent not seen since prior to passage of the Magnuson-Stevens Act in 1976. One single foreign-owned company now claims to harvest forty-two percent of the most valuable fishery in the United States—the offshore pollock quota in the waters off Alaska! This enormous increase in foreign fishing effort in our Nation's waters was a result of the Coast Guard's implementation of the Anti-Reflagging Act, a law which ironically was intended to prevent foreign controlled companies from circumventing the Americanization policy of the Magnuson-Stevens Act.

In summary, when the Anti-Reflagging Act was signed into law in January of 1988, it prohibited foreign-controlled corporations from owning U.S. fishing vessels. The Act contained a limited grandfather provision for the few foreign-owned corporations that already owned a specific fishing vessel or had already undertaken substantial financial investments in building a particular fishing vessel. The Congress was clear that if a grandfathered vessel was later sold, it must be purchased by a bona fide American-controlled entity.

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The House Merchant Marine and Fisheries Committee report accompanying the Anti-Reflagging Act stated:

The savings clause in subsection (b) does not apply in the event that the ownership or operational control of a vessel protected under the provisions of subsection (b) changes in whole or in part. In such an instance, the controlling interest provisions of subsection (a) [the U.S. ownership requirement] would apply.¹

For reasons that have never been fully examined, soon after the Anti-Reflagging Act was passed the Coast Guard's vessel documentation branch began issuing ad hoc ruling letters which allowed fishing industry vessels owned by U.S. citizens to be transferred to foreign-owned corporations. These ad hoc ruling letters were issued prior to any formal rule making by the Coast Guard. The rulings opened the flood gates for foreign interests to dominate our Nation's fishing industry.²

¹ House Comm. on Merchant Marine and Fisheries, H.R. Rep. No. 100-423, 100th Cong., 1st Sess. 17, (1987).

² The ruling letters from the Coast Guard's Vessel Documentation Branch stating that foreign-owned corporations were allowed to purchase fishing vessels include the following:

1988

(Note: Anti-Reflagging Act was signed into law on January 11, 1988.)

Letter from Thomas L. Willis to Michael D. Walker (Mar. 16, 1988).

Letter from Thomas L. Willis to Phyllis D. Carnilla (Mar. 29, 1988).

Letter from Thomas L. Willis to William N. Myhre (Mar. 31, 1988).

Letter from Thomas L. Willis to William N. Myhre (Mar. 31, 1988).

Letter from Thomas L. Willis to William N. Myhre (Apr. 10, 1988).

Letter from Thomas L. Willis to William N. Myhre (Jun. 22, 1988).

Letter from Thomas L. Willis to William N. Myhre (Jun. 29, 1988).

Letter from Thomas L. Willis to William N. Myhre (Jul. 1, 1988).

Letter from Thomas L. Willis to William N. Myhre (Jul. 5, 1988).

Letter from Thomas L. Willis to William N. Myhre (Jul. 12, 1988).

Letter from Thomas L. Willis to Robert F. Morgan (Jul. 26, 1988).

(Note: On October 20, 1988, the Coast Guard publishes Notice of Proposed Rulemaking regarding the Anti-Reflagging Act's grandfather provisions.)

Letter from Thomas L. Willis to Michael J. Hyde (Nov. 30, 1988).

(Note: On December 18, 1988, the Coast Guard's Maritime & Internal Law Division issues its written legal opinion stating that the U.S.-ownership provision of the Anti-Reflagging Act would apply to any vessel that is sold or transferred.)

1989

Letter from Thomas L. Willis to William N. Myhre (Jan. 27, 1989).

Letter from Thomas L. Willis to Michael J. Hyde (Jan. 19, 1989).

On October 20, 1988, well after ruling letters allowing foreign-owned corporations to purchase fishing industry vessels had already been issued, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) regarding the American ownership requirements of the Anti-Reflagging Act. The NPRM, however, made no mention of whether the grandfather provision to the Act's U.S. ownership requirements ran with the vessel.

The Coast Guard received comments to the NPRM expressing the view that the savings clause should be read to permanently grandfather every vessel currently in the fisheries. In response to those comments, the Coast Guard Maritime and International Law Division—the legal department in the Coast Guard with responsibility for this matter—issued a formal written opinion on December 19, 1988. The opinion noted that,

The basic issue is: If one of these vessels (grandfathered under section 7 of the Act) is subsequently sold, should the Coast Guard apply the enacted controlling interest test to the new owner? House Report No. 100-423 [stating that if the ownership or control of a grandfathered vessel changes in whole or in part, the new American ownership requirements would apply] clearly addresses this issue...

The argument is made in some of the comments to the NPRM that the plain language of the statute does not expressly interpret the savings provision in this manner, and that the plain meaning should prevail to the exclusion of the

Letter from Thomas L. Willis to William N. Myhre (May. 10, 1989).
Letter from Thomas L. Willis to Terry L. Litzell (May. 16, 1989).
Letter from Thomas L. Willis to William N. Myhre (May. 31, 1989).
Letter from Thomas L. Willis to William N. Myhre (Jun. 13, 1989).
Letter from Thomas L. Willis to William N. Myhre (Jun. 30, 1989).
Letter from Thomas L. Willis to William N. Myhre (Aug. 17, 1989).

1990

Letter from Thomas L. Willis to Phyllis D. Carnilla (Jan. 2, 1990).
Letter from Thomas L. Willis to William N. Myhre (May. 10, 1990).
(Note: On Dec. 12, 1990, the Coast Guard adopts its Final Rule regarding the Anti-Reflagging Act's grandfather provisions.)

1991

Letter from Thomas L. Willis to William N. Myhre (Oct. 2, 1991).

legislative interpretations. I disagree with that argument. The "plain meaning rule" functions as a presumption, not an exclusionary rule. When literal enforcement of a statute would lead to incongruous results which the legislatures clearly did not intend, then a construction must be adopted to avoid such incongruities... In the instant case, the legislative history clearly defines the only rational interpretation of the savings provision of the Act, effectively rebutting the "plain meaning rule."

It is also noteworthy that Congressman Young, addressing the provisions of the Act, stated that the Act is "designed to advance the development of U.S. fishing industry and to correct certain inconsistencies in maritime law that have allowed foreign interests to deprive American shipyard workers and American crewmen of jobs." (Cong. Red. H9811). Based on the foregoing clarifications and the general purpose of the legislation, the correct interpretation is that the savings provision terminates once the vessel is sold or transferred. In such cases, the controlling interest provisions would apply to the new owner.

Despite the Coast Guard's unambiguous written legal position, its vessel documentation branch continued to issue ruling letters stating that the grandfather privileges permanently ran with the vessel—allowing foreign-owned corporations to acquire fishing industry vessels.

On November 16, 1990 the Coast Guard's Chief of Operational Law Enforcement wrote a remarkably candid letter to the agency's vessel documentation division.

Reference (a) [the December 18, 1988, written legal opinion] addresses the issue of whether or not the "Savings Provision" of the Commercial Fishing Vessel Anti-Reflagging Act of 1987 (Act) "runs with the vessel" upon sale or transfer. The position taken was that the provision did not "run with the vessel". The memorandum pointed out that it was clearly Congress's intent that the provision no longer apply to a vessel following its sale or transfer. Reference (b) [a March 20, 1990 letter] provided guidance for determining whether or not a vessel qualifies under the savings provision. The guidance did not address the sale or transfer of the vessel. I understand that this represents a change of position on the issue; that we now interpret the provision as permanently applying to qualified vessels.

This interpretation allows all vessels documented for fisheries and operating in the fisheries in U.S. waters prior to 28 Jul 87, even those that were U.S. owned and controlled at the time, to come under foreign control. I contend, consistent with reference (a) [the December 18, 1988, written legal opinion], that the intent of the Act was to stop foreign control of U.S. vessels, making an exception for those vessels under foreign control at the time to reduce economic impacts on the corporations involved. This interpretation is also consistent with the Magnuson Fisheries Conservation and Management Act of 1976 which was designed to Americanize the fishery off the U.S.

Request the guidance provided in reference (b) be revisited. It is damaging to the U.S. fishing industry to interpret a law designed to reduce foreign control over U.S. fishing vessels in a manner which allows for increase in foreign control.

The Operational Law Enforcement Division's letter was never answered, however, on December 12, 1990, a final rule was published with the provision that the grandfather rights run with the vessel forever, even upon its sale or transfer. By the time the final rule was published, the vessel documentation branch had already taken that position in over twenty separate ruling letters—without mentioning the fact that the Coast Guard's written legal analysis came to the exact opposite conclusion.

The vessel documentation office's decision to allow foreign-owned corporations to purchase fishing vessels was challenged in Southeast Shipyards v. U.S.. In that case the district court held the Coast Guard was wrong. The court noted,

The Anti-Reflagging Act is the latest in a series of steps taken to Americanize the fishery resources off the coasts of the United States, a process that has been ongoing since 1976, and the Coast Guard's interpretation would defeat that process.³

The district court's opinion was reversed on appeal⁴, which was not surprising given the judiciary's general deference to administrative

³ Southeast Shipyard Assoc., v. U.S., No. 901142 (Apr. 30, 1991).

⁴ Southeast Shipyard Assoc., v. U.S., 979 F.2d 1541 (D.C. Cir. 1992).

The Honorable Ted Stevens
January 23, 1998
Page Number 6

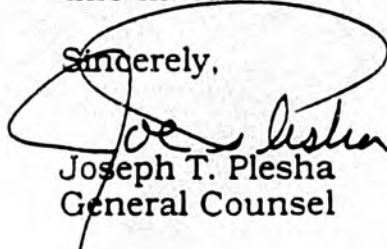
agency's expertise. The Coast Guard's December 18, 1988, written legal analysis, however, was never released to the plaintiffs nor presented to the Court.

The Magnuson-Stevens Fishery Conservation and Management Act was passed in 1976 with the primary purpose of assuring that U.S. citizens are the beneficiaries of our Nation's fishery resources—not foreign nationals. The Magnuson-Stevens Act goal of Americanizing the fishery resources off our shores was destroyed by the way the grandfather provisions of the Anti-Reflagging Act was ultimately handled by the Coast Guard.

Because you have long expressed concerns regarding abuses of the Anti-Reflagging Act's grandfather provisions, I wanted to send this information to you. The issue of why ruling letters were issued prior to rulemaking, why the Coast Guard's legal analysis was ignored and why the legal opinion was not previously disclosed to the public or the courts may warrant further investigation.

Please do not hesitate to contact me if you have any question regarding this material.

Sincerely,



Joseph T. Plesha
General Counsel

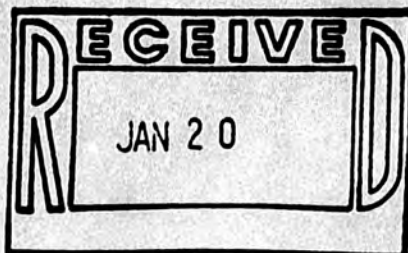
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5720
FOIA 98-18
January 16, 1998

Trident Seafoods Corporation
Attn: Joseph T. Plesha
5303 Shilshole Ave NW
Seattle, WA 98107-4000

Dear Mr. Plesha:

We have enclosed the records held by the Seventeenth Coast Guard District Office that are responsive to your Freedom of Information Act request of December 29, 1998.

If I can further assist you, please feel free to write or call again.

Sincerely,

A handwritten signature in black ink, appearing to read "G. T. Nelson".

G. T. NELSON
Lieutenant Commander
U. S. Coast Guard
By direction of the Commander

- Encl: (1) CCGD17 message 280119Z Nov 90
(2) G-LMI Memo 16713. of 19 Dec 88
(3) G-MVI ltr 16713/31/4 of 20 Mar 90
(4) G-OLE Memo 16713 of 16 Nov 90
(5) CCGD17 ltr 16720 of 14 Feb 90
(6) G-MVI ltr 16712/4 of 18 Jun 90
(7) G-OLE message 132011Z Feb 90

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UNCLAS E F T O F O U O //N16713//

SUBJ: SAVINGS PROVISION OF THE ANTI-REFLAGGING ACT OF 1987

A. G-LMI MEMO 16713 DATED 19 DEC 88

B. G-MVI LTR 16713/31/4 DATED 20 MAR 90

C. G-OLE MEMO 16713 DATED 16 NOV 90

1. REF A STATES THE OPINION THAT CONGRESS DID NOT INTEND FOR SUBJ PROVISION TO RUN WITH A VESSEL UPON ITS SALE OR TRANSFER, NO CITED LEGAL PRECEDENT TO SUPPORT THAT OPINION. REF B, WHILE SILENT ON THE SALE OR TRANSFER ISSUE, HAS BEEN INTERPRETED TO MEAN THAT ONCE QUALIFIED, A VESSEL REMAINS QUALIFIED UNTIL DOCUMENT RENEWAL IS SOUGHT. IF OWNERSHIP IS DEMONSTRABLY U.S. AT THAT TIME, THE DOCUMENT WILL BE REISSUED. A REISSUED DOCUMENT WITH A FISHERY ENDORSEMENT GRANTS THE VESSEL EQUAL STATUS AND ACCESS TO U.S. FISHERY RESOURCES WITHIN THE EEZ.

2. MOST OF THE U.S. FACTORY TRAWLER FLEET IS HEAVILY FOREIGN FINANCED WITH PREFERRED MORTGAGES HELD BY FOREIGN BANKS. IT IS LIKELY THAT MANY OF THE U.S. TRUSTEES FOR THESE VESSELS WILL DECLARE BANKRUPTCY WITHIN TWELVE TO THIRTY-SIX MONTHS AS THE FOREIGN BANKS FORECLOSE ON THEM. BECAUSE OF CHANGES MADE IN 1989 TO THE SHIP MORTGAGE ACT, FOREIGN BANKS MAY NOW ACQUIRE THE TRAWLERS AT THE U.S. MARSHAL'S LIQUIDATION SALE. ONCE ACQUIRED, THE FOREIGN BANK CAN THEN SELL THE TRAWLER TO A WHOLLY FOREIGN OWNED U.S. COMPANY AND THEREBY RETAIN ITS U.S. DOCUMENT WHEN IT COMES UP FOR RENEWAL, AND WITH THE DOCUMENT GOES THE RIGHT TO HARVEST EEZ RESOURCES.

3. REF C READDRESSES THE OPINION EXPRESSED IN REF A, NOTES REF B'S VARIANCE AND THE DELETERIOUS IMPACT THAT VARIANCE MAY HAVE ON U.S. FISHERIES, AND SUMMARIZES THE LEGISLATIVE INTENT OF THE MAGNUSON AND ANTI-REFLAGGING ACTS. THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL (NPFMC) IS KEENLY INTERESTED IN THE COAST GUARD'S INTERPRETATION OF THE SAVINGS CLAUSE. SEVERAL MEMBERS HAVE READ RECENT PRESS REPORTS ALLEGING THAT COAST GUARD IMPLEMENTATION OF THE ANTI-REFLAGGING ACT, COUPLED WITH CHANGES IN THE SHIP MORTGAGE ACT, WILL HELP OPEN THE DOOR TO FOREIGN CONTROL OF U.S. DOCUMENTED VESSELS PARTICIPATING IN U.S. FISHERIES. ONE COUNCIL MEMBER HAS WRITTEN NOAA GENERAL COUNSEL ASKING FOR CLARIFICATION OF THE COAST GUARD'S POSITION, AND THE

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9

LETTER HAS BEEN FORWARDED TO ME FOR REPLY.

4. AT NEXT WEEK'S 03-08 DEC NPFMC MEETING I EXPECT WE WILL BE CLOSELY QUESTIONED AS TO OUR INTERPRETATION OF SUBJ PROVISION. I MUST KNOW AND BE ABLE TO ARTICULATE A UNIFIED COAST GUARD POSITION BEFORE THE COUNCIL, AFFECTED MEMBERS OF THE INDUSTRY, THE PRESS, AND THE PUBLIC. A RESPONSE BY COB 30 NOV WOULD BE APPRECIATED.

BT

NNNN

**AMERICAN CONTROL PROVISIONS OF THE
COMMERCIAL FISHING VESSEL ANTI-REFLAGGING
ACT OF 1987 (NPRM CDD 88-031)**

DEC 19 1988

Chief, Maritime & International Law Division

16713
G-LMI: 267-0095
LCDR Vellone

Chief, Administrative Law Branch

Ref: (a) G-LRA-1 Memo of 28 NOV 88

1. Reference (a) requests an evaluation of certain provisions of the subject Act. The following comments are submitted.

2. Issue: Is the "Savings Provision" permanent, i.e. does it in fact "run with the vessel" upon sale or transfer?

Section 7 of the Act provides that §12102(b)(1) of Title 46 applies to vessels issued a fishery license after 28 July 1987. §12102(b)(1) as enacted, applies for the first time to vessels holding a fishery endorsement, the requirement that the controlling interest of a corporate owner must be owned by U.S. citizens. However, that section does not apply if before that date the vessel (1) was documented under Chapter 121 of title 46 and operated as a fishing, fish processing, or fish tender vessel in the navigable waters of the U.S. or the EEZ, or, (2) was contracted for purchase for such purposes. The basic issue is: If one of these vessels (grandfathered under section 7 of the Act) is subsequently sold, should the Coast Guard apply the enacted controlling interest test to the new owner? House Report No. 100-423 clearly addresses this issue at page 3258 as follows:

The savings clause in subsection (b) does not apply in the event that the ownership or operational control of a vessel protected under the provisions of subsection (b) changes in whole or in part. In such an instance, the controlling interest provisions of subsection (a) would apply.

The argument is made in some of the comments to the NPRM that the plain language of the statute does not expressly interpret the savings provision in this manner, and that the plain meaning should prevail to the exclusion of the legislative interpretations. I disagree with that argument. The "plain

Subj: **COMMERCIAL FISHING VESSEL ANTI-REFLAGGING
ACT OF 1987 (NPRM 88-031)**

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meaning rule" functions as a presumption, not an exclusionary rule. When literal enforcement of a statute would lead to incongruous results which the legislatures clearly did not intend, then a construction must be adopted to avoid such incongruities. Rector of Holy Trinity Church v. United States, 143 U.S. 457, 12 S. Ct. 1689 (1892), People v. Chicago, 152 Ill. 546, 38 N.E. 744 (1894). In fact, presently, it can be said that although the "plain meaning rule" is still referred to, it has been effectively laid to rest. "When the plain meaning rhetoric is invoked, it becomes a device not for ignoring legislative history but for shifting onto legislative history the burden of proving that the words do not mean what they appear to say." P. Wald, Some Observations on the Use of Legislative History in the 1981 Supreme Court Term, 68 Yale Law Review 193 (1983). See also, J. Murst, Dealing With Statutes 49-50 (1982). In the instant case, the legislative history clearly defines the only rational interpretation of the savings provision of the Act, effectively rebutting the "plain meaning rule."

It is also noteworthy that Congressman Young, addressing the provisions of the Act, stated that the Act is "designed to advance the development of U.S. fishing industry and to correct certain inconsistencies in maritime law that have allowed foreign interests to deprive American shipyard workers and American crewmen of jobs." (Cong. Rec. H9811). Based on the foregoing clarifications and the general purpose of the legislation, the correct interpretation is that the savings provision terminates once the vessel is sold or transferred. In such cases, the controlling interest provisions would apply to the new owner. Permitting the savings provision to "run with the vessel" would be contrary to the statutory intent and general purpose of the Act stated in the House Report.

3. Issue: Does the "Controlling Interest Test" apply to business entities other than corporations?

NPRM CGD 88-031 in implementing §7 of the Act, proposes to continue the Coast Guard administrative policy of applying the controlling interest test to owner entities such as partnerships that are comprised of corporations. The Coast Guard has traditionally held in such cases that any subordinate entity which contributes to the citizenship of the title holder must be qualified to document a vessel with the requested license in its own right. The only difference is that the Coast Guard will substitute a greater-than-50% controlling interest test for the 75% controlling interest test

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Subj: **COMMERCIAL FISHING VESSEL ANTI-REFLAGGING
ACT OF 1957 (H.R. 80-031)**

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consistently applied to vessels holding a coastwise endorsement.

The proper place to begin an analysis is House Report 100-423, page 3245. There, in the section discussing legislative purpose, it is stated:

H.R. 2598 harmonizes fisheries and maritime law by imposing similar requirements on the documentation, ownership, manning, and construction of fishing, fish tender, and fish processing vessels engaging in the fisheries trade as are imposed on vessels engaged in coastwise transportation under the shipping laws...The legislation imposes majority citizen ownership provisions on fishing vessels by incorporating a U.S. "controlling interest" test similar to section 2(b) of the Shipping Act of 1916, as amended...

This language expresses a clear Congressional intent to bring the documentation laws regarding fishery vessels into consonance with the existing shipping laws relating to coastwise vessels.

A colloquy between Senators Adam and Murkowski, which was subsequently inserted in the Congressional Record, (Cong. Rec. 818336) provides additional guidance in this matter.

Senator Adams: "It is also my understanding that the amendment does not speak to and is not intended to change the rules or administrative practice with respect to the documentation of vessels owned by partnerships, including those composed of one or more corporations as partners. I ask my good friend if that is his understanding as well."

Senator Murkowski: "That is also my understanding of the effect of this amendment. I would like, however, to clarify one point with regard to the question of partnerships composed of corporations. It is my understanding that the Coast Guard currently requires only that the general partner in such a partnership be controlled by corporate U.S. citizens...It is my belief that this constitutes a loophole. However, it is also my understanding that the Coast Guard is presently engaged in an administrative process intended to close the loophole."

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ACT OF 1967 (NPRM 88-031)

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While some would interpret the above colloquy to mean that partnerships are insulated from the provisions of the Act, the reasonable interpretation supports the opposite position. The discussion between Senators Adams and Murkowski in fact supports the Coast Guard position enunciated in the NPRM by acknowledging that prior existing administrative policy regarding documentation of vessels owned by partnerships is not (emphasis added) changed by this Act. The Coast Guard has historically and consistently imposed the controlling interest test to partnerships comprised of corporations in regard to vessels holding a coastwise license. In these cases, the subordinate corporation(s) comprising the partnership must independently qualify as a U.S. citizen (i.e. 75% of the controlling interest owned by U.S. citizens). Under the provisions of the Act, the Coast Guard will remain consistent, applying the same requirements for vessels holding a fishery license, with the exception that a "greater-than-50%" controlling interest test will be applied vice the 75% test.

I believe the reasonable and proper interpretation is that the controlling interest provision of the Act does in fact apply to non-corporate entities such as partnerships comprised of subordinate corporations. Construing the application of the Act to parallel the application the Coast Guard has used in regard to coastwise licensed vessels is reasonable and consistent. Traditionally, it can be said that there is a duty to construe and apply statutes harmoniously where that can be reasonably done. See, Myrup v. Kleppe, 406 F. Supp. 214 (D.CO 1976), Singer, Statutes and Statutory Construction §33.01 (4th Ed. 1984). To interpret the Act otherwise would be inconsonant with the general stated purpose of the Act, contrary to a reasonable interpretation of the colloquy between Senators Adams and Murkowski, and contrary and inconsistent with past Coast Guard administrative practice and policy.

4. Issue: What is the definition of "voting shares" as used in the Act?

Section 12102(b)(1) of title 46, as enacted by §7 of the Act provides that a vessel owned by a corporation is not eligible for a fishery license unless the controlling interest (as measured by a majority of voting shares) is owned by U.S. citizens. Section 12102(b)(2) further provides that additionally the restrictions on controlling interest in 46 U.S.C. §802(b) apply. There is no guidance in the Act or its legislative history regarding the definition of "voting shares". Additionally, E-MVI has indicated that as a matter of administrative policy, they have not specifically addressed

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Subj: **COMMERCIAL FISHING VESSEL ANTI-REFLAGGING
ACT OF 1987 (NPRM 88-031)**

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this issue. Consequently, the plain meaning of the term should be applied. I believe that any subterfuge attempted in regard to corporate voting shares can be effectively addressed and disposed of by the restrictions provided in §802(b).

5. Issues regarding relationship of regulation to 46 U.S.C. §802 and 46 U.S.C. §12102(b)(1).

Comment 3 to the NPRM queries if a corporation which has issued only one voting share, owned by a U.S. citizen, with all other non-voting shares alien owned, meets the controlling interest test. Both the regulation and §12102(b)(1) must be read in conjunction with 46 U.S.C. §802(b) to respond to this query. Section 12102(b)(2) specifies that the restrictions on controlling interest set forth in §802(b) apply. Section 802(b) expressly addresses this situation by requiring that U.S. citizen controlling interest cannot exist unless the majority of stock and (emphasis added) the majority of voting power is vested in U.S. citizens. It must be stressed that the restrictions of §802(b) apply in any instance involving the determination of corporate controlling interest.

I agree with Comment 3 that to a certain degree, the proposed regulation seems to conflict with the statutory provision of 46 U.S.C. §12102(b)(1) regarding the issue of controlling interest. The controlling interest test for a corporation set forth in the proposed regulation on its face is different than the aggregation test mandated in 46 U.S.C. §12102(b)(1) for U.S. corporations. In regard to qualification for a Coastwise License, the Coast Guard has always required subordinate entities contributing to the ownership of another entity to be eligible to document vessels in their own right. Through this proposed regulation, we would be extending that practice to qualification for a Fishery License. However, 46 U.S.C. §12102(b)(1) requires that "...If the corporation is owned in whole or in part by other United States corporations, the controlling interest in those corporations, in the aggregate, must be owned by individuals who are citizens of the United States." There is no discussion in the legislative history of what is meant by the term "in the aggregate." Two possible interpretations may be made. The first would simply add together the percentages of U.S. ownership in each subordinate U.S. corporation and determine controlling interest based on the sum. This method, however, leads to incongruous results. The second interpretation would use the aforementioned method, but would add the extra step of dividing the sum by the number of U.S. corporations involved. LCDR Bruce (G-NVI-6) concurs that this is the reasonable and most supportable

**Subj: COMMERCIAL FISHING VESSEL ANTI-REFLAGGING
ACT OF 1987 (HPRN 88-031)**

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interpretation. In discussing this matter with LCDR Vallone, LCDR Bruce (G-MVI-6) indicated that in certain situations, applying the test in the proposed regulation would effect a different result than the aggregation test required in the statute. I understand that ideally, we desire to continue the same controlling interest test that we have administratively used in regard to qualification for Coastwise Licenses, however, the language of the statute controls in this situation. There is nothing in the legislative history of the Act that interprets the aggregation test in the manner stated in the proposed regulation. Consequently, in my opinion, the regulation should be redrafted to require the specific test mandated for U.S. Corporations in 46 U.S.C. §12102(b)(1), when U.S. corporations are involved in whole or in part in the ownership structure. The amended regulation could adopt the statutory aggregation test for all situations, or alternatively, it could apply its currently stated test to alien corporations, but apply the statutory test to U.S. corporations (when involved in whole or in part). Otherwise, I do not believe the proposed regulation in its present form is legally supportable.

J. S. CARMICHAEL
Acting

U.S. Department
of Transportation
United States
Coast Guard



Commandant
United States Coast Guard

Washington, DC 20593
Staff Symbol: G-MVI-6/13
Phone: (202) 267-1492

16713/31/4
MVI 08-90
20 MAR 1990

From: Commandant
To : Distribution

Subj: AMERICAN CONTROL PROVISIONS; COMMERCIAL FISHING INDUSTRY
ANTI-REFLAGGING ACT of 1987

1. Applications for issuance of certificates of documentation are being submitted for vessels qualifying for exemption from the American control provisions of the Commercial Fishing Industry Anti-Reflagging Act of 1987 ("the Act"). Section 7(b)(1) provides that the American control provisions of the Act do not apply if before July 28, 1987, the vessel was both documented and operating as a fishing, fish tender, or fish processing vessel in the navigable waters of the United States or the Exclusive Economic Zone.
2. A vessel owned by a corporation which fails to meet the requirements of 46 U.S.C. §12102(c)(1) is ineligible for a fisheries endorsement unless the Coast Guard has specifically determined that the vessel qualifies under the Section 7(b) savings clause. Previous determinations for eligibility under this section have been made at Headquarters level. Authority for making these determinations is granted directly to the vessel's homeport.
3. A determination requires:
 - a. Submission of an affidavit from a party or parties who have personal knowledge stating that the vessel involved was engaged in fishing, fish tender, or fishing processing activities in the navigable waters of the United States or the Exclusive Economic Zone. Evidence that a vessel was documented with a fisheries endorsement is not dispositive of having been engaged in the fisheries.
 - b. Review of vessel documentation records to confirm issuance of a Certificate of Documentation prior to July 28, 1987.
4. A listing of these determinations is to be maintained by name and official number and submitted to G-MVI-6 along with the quarterly backlog report.

3/22

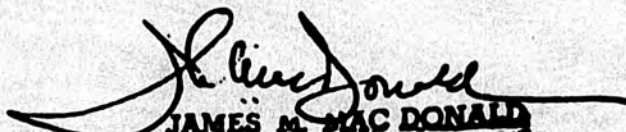
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sent copy to (6)

5. Certificates of Documentation issued to these vessels shall be annotated in the remarks section as follows: VESSEL EXEMPT FROM SECTION 7(a) OF PUBLIC LAW 100-239.

6. This policy change will be reflected in Vol. IX of the Marine Safety Manual when published.


JAMES M. MAC DONALD
By direction

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COMMERCIAL FISHING INDUSTRY VESSEL CONTROL PROVISIONS

16713

Chief, Operational Law Enforcement Division

G-OLE
LTJG COX
EXT: 267-1770

Chief, Merchant Vessel Inspection and Documentation Division

Ref: (a) G-LMI memo 16713 dated 19 Dec 88
(b) G-MVI ltr 16713/31/4 dated 20 Mar 90

1. Reference (a) addressed the issue of whether or not the "Savings Provision" of the Commercial Fishing Vessel Anti-Reflagging Act of 1987 (Act) "runs with the vessel" upon sale or transfer. The position taken was that the provision did not "run with the vessel". The memorandum pointed out that it was clearly Congress's intent that the provision no longer apply to a vessel following its sale or transfer. Reference (b) provided guidance for determining whether or not a vessel qualifies under the savings provision. The guidance did not address the sale or transfer of the vessel. I understand that this represents a change of position on the issue; that we now interpret the provision as permanently applying to qualified vessels.

2. This interpretation allows all vessels documented for fisheries and operating in the fisheries in U.S. waters prior to 28 Jul 87, even those that were U.S. owned and controlled at the time, to come under foreign control. I contend, consistent with reference (a), that the intent of the Act was to stop foreign control of U.S. vessels, making an exception for those vessels under foreign control at that time to reduce economic impacts on the corporations involved. This interpretation is also consistent with the Magnuson Fisheries Conservation and Management Act of 1976 which was designed to Americanize the fishery off the U.S.

3. Request the guidance provided in reference (b) be revisited. It is damaging to the U.S. fishing industry to interpret a law designed to reduce foreign control over U.S. fishing vessels in a manner which allows for an increase in foreign control.

S. J. DENNIS

Copy: G-LMI

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16713 / 16713

U.S. Department
of Transportation

United States
Coast Guard



Commander
17th Coast Guard District

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Juneau, AK 99802-1217
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(907) 586-7195

16720
14 Feb 90

From: Commander, Seventeenth Coast Guard District
To: Commandant (G-MVP-4)

Subj: FOREIGN OWNERSHIP, MANNING AND CONTROL OF COMMERCIAL FISHING INDUSTRY
VESSELS

Ref: (a) Commandant (G-OLE) msg 132011Z Feb 90

1. Foreign ownership, manning and control of U.S. flag fishing industry vessels are widely suspected in this district. This is currently an extremely sensitive issue with the North Pacific Fisheries Management Council (NPFMC) which alleges that provisions of the Commercial Fishing Industry Vessel Anti-reflagging Act of 1987 (P.L. 100-239) are being circumvented. The Council has requested congressional assistance to have the General Accounting Office audit the effect of this Act on fisheries. Alleged violations consist primarily of background foreign ownership of U.S. flag vessels, foreign manning in excess of allowed percentages by designation of crew as "technicians," foreign control of factory operations on fish processors, and foreign control of the vessels by alien "Fish Captains." Your review of the following scenarios and our proposed corrective action is requested.

2. Foreign ownership is best demonstrated by the ALASKAN HERO, O.N. 569276, a fishing/fish processing vessel. According to MSIS documentation records, AKC Corporation is the "owner-mng" of this vessel. According to enclosure (1), "All of the issued and outstanding shares of stock of AKC [Corporation] are owned by IPEI [International Pacific Enterprises, Inc.]." It further reads that "IPEI is in turn wholly owned by Aizawa Shipping." and that "All of the issued and outstanding shares of stock of IPEI are registered on its stock ledger in the name of Mr. Masami Aizawa, President and owner of Aizawa Shipping." Since Mr. Aizawa is a Japanese citizen, the ALASKAN HERO is totally under foreign ownership. She has been issued a fisheries license by the Vessel Documentation Office in Honolulu based upon a Maritime Administration Charter Order No. MA-6001, which is attached to enclosure (1), and also upon the exemptions (grandfather provisions) in the Anti-reflagging Act. Since no evidence has been identified thus far to prove that this vessel was fraudulently documented, no action for foreign ownership is planned against this vessel. It is our understanding that litigation is pending against the Coast Guard for our issuing fishery licenses under these exemptions to the Anti-reflagging Act.

Subj: FOREIGN OWNERSHIP, MANNING AND CONTROL OF COMMERCIAL FISHING INDUSTRY
VESSELS

3. Foreign manning questions/problems consist primarily of vessels excluding foreign "technicians" from their calculation of the 25% allowable non-resident aliens. Employment of aliens as mates and engineering watch officers also appears to be a common problem. In response to civil penalty action submitted against the AMERICAN EMPRESS for a boarding on 9 March 1989, their attorney argues that technicians and owner representatives aboard the vessel did not meet any of the definitions in 46 USC 8103(i)(1) because their visas, E-2 and B-1, prohibited employment under the Immigration and Naturalization Act. We suspect that these individuals may be required to hold visas permitting employment under this Act. If they are required to be employed under this Act, they should be included in the 25% maximum for non-resident aliens. We further suspect that these technicians may be temporarily employed on specific vessels while being employed on a non-temporary basis on the fishing ground by transferring from vessel to vessel. This issue will be further investigated with the Immigration and Naturalization Service. Employment of a non-citizen on a U.S. documented vessel as its master, chief engineer, radio officer, officer in charge of a deck watch (mate), or of an engineering watch appears to be, except as discussed below, a clear violation of 46 USC 8103(a). The requirement for a citizen radio officer is a little vague, however, when no radio officer is required on the vessel and non-citizens routinely operate the radio. Also, the requirement for a citizen engineering watch supervisor has to be evaluated on a case-by-case basis when a citizen chief engineer is employed; this is particularly true when the vessel is equipped with pilothouse control and/or an engineers' call system. Appropriate civil penalty action will be taken when such violations are established. Employment of a non-citizen master is discussed in detail below.

4. Another foreign manning issue arose recently in which a U.S. flag fishing vessel departed a foreign port without the required number of citizens aboard. The vessel claimed that it was deprived of some its citizen crewmen just prior to sailing and was unable to replace them in that foreign port. According to discussions between our offices and reference (a), it is understood that the citizenship requirement for such a vessel, while transiting from a foreign country to U.S. waters, is regulated under 46 USC 8103(a) and (b). The vessel was thus eligible for exemption from some citizenship requirements under 46 USC 8103(e). It is further understood that when this vessel engaged in the fisheries in U.S. navigable waters or the EEZ, it became subject to 46 USC 8103(i) and was not eligible for the exemptions in 8103(e).

5. Foreign control of commercial fishing industry vessels also appears to be a common and serious violation of U.S. law. The usual scenario has an alien fish captain and a U.S. citizen "paper" captain in charge of the vessel. The fish captain is supposedly aboard only to locate and ensure maximum harvest of fish. In many situations, and particularly when the vessel is substantially owned by foreign nationals, the fish captain is actually in charge of the vessel. This violation can be extremely difficult to prove unless the citizen captain or other responsible crewmen provide statements that confirm that a foreign national is in charge of the vessel. Additional evidence establishing

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14 Feb 90

Subj: FOREIGN OWNERSHIP, MANNING AND CONTROL OF COMMERCIAL FISHING INDUSTRY
VESSELS

who is in charge of the vessel might include such things as: Who is in charge of the vessel's navigation; who makes entries in the vessel's logbook; who pays the crew; who signs and/or initiates vessel reports; who controls stores on the vessel; who controls access to all spaces on the vessel; who conducts/logs drills that are conducted; who controls communications to and from the vessel; who has the authority to overrule any order aboard the vessel; who has the authority to hire and fire the vessel's crew; and who directs and supervises the vessel's crew. Language skills can also be an indication if the citizen master is unable to communicate with the crew without relying upon the fish captain to interpret his orders.

6. When foreign control by a non-citizen master is positively established for a vessel, its Certificate of Documentation becomes invalid in accordance with 46 USC 12111(a)(2). If the vessel is engaged in the fisheries while its document is invalid under this section, we believe that it may be seized under the authority in 46 USC 12110(c). This is, of course, an extreme enforcement action that should only be taken for serious violations when substantial evidence exists.

7. The common perception, especially among NPFMC members, is that the Anti-reflagging Act has been circumvented to the point where it does not protect the U.S. fishing industry. Vigorous enforcement of this Act and other citizenship laws by the Coast Guard is being demanded by the Council and other groups. Your guidance is requested on the above topics to identify which vessels can legally be issued a fisheries license under exemptions in the Anti-reflagging Act, and what criteria is necessary to establish foreign control of a vessel to substantiate seizure under 46 USC 12110(c).



D.E. BODRON
By direction

Encl: (1) Tomita & Kanazawa ltr dated 7 March 1988

U.S. Department
of Transportation

United States
Coast Guard



Commandant
United States Coast Guard

Washington, D.C. 20593-0001
Staff Symbol: G-MVI-6
Phone: (202) 267-0214
JUN 18 1990

16712/4

From: Commandant
To: Commander, Seventeenth Coast Guard District (m)

Subj: FOREIGN OWNERSHIP, MANNING AND CONTROL OF COMMERCIAL FISHING
INDUSTRY VESSELS

Ref: (a) Your ltr 16720 dtd 14 Feb 90
(b) COMDT COGARD Washington DC 132011Z Feb 90

1. Reference (a) requested guidance on the application of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Pub. L. 100-239) to vessels engaged in fishing in the Exclusive Economic Zone (EEZ). Your letter outlines three general categories of issues, as follows: (a) how the Coast Guard can effectively enforce provisions requiring that U.S. documented vessels must be owned by a U.S. citizen (46 U.S.C. 12102(a)(1)); (b) what criteria are to be used by the Coast Guard in enforcing provisions requiring that no more than 25% of the unlicensed seamen on board the fishing vessel can be non-resident aliens (46 U.S.C. 8103(i)(2)); and (c) what evidence may be required to substantiate an alleged violation of the requirement that a U.S. documented vessel may be placed under the command only of a citizen of the U.S. (46 U.S.C. 12110(d)). I will address each of these issues below.

2. Questions about the permissibility of foreign participation in the ownership of U.S. flag fishing industry vessels should be referred to COMDT (G-MVI-6) for resolution. To be eligible for documentation under U.S. flag, a vessel must be wholly owned by U.S. citizens. This seemingly straightforward rule is actually the starting point for a body of law and policy which often is quite complex. The U.S. citizen ownership requirements for documenting vessels with fisheries endorsements — which were changed by the American control provisions of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (P.L. 100-239) (the 'Act') and the related savings clause — can produce difficult issues of fact and statutory interpretation. The Act is not necessarily circumvented by "background foreign ownership," depending on what that means. Generally, if other requirements are met, vessels owned by U.S. partnerships and corporations are eligible for documentation with a fisheries endorsement as long as noncitizen ownership of stock or equity in the vessel owning entity remains less than 50%. In the case of vessels owned by corporations and exempt from the American control provisions of the Act by virtue of its savings clause, they may be eligible for documentation even though all of the stock of the corporation is owned by noncitizens. There is ongoing litigation regarding the Coast Guard's interpretation of the Act's savings clauses. However, the Coast Guard's positions should prevail, and no change in that position is planned. No action against a vessel for failure

Subj: FOREIGN OWNERSHIP, MANNING AND CONTROL OF COMMERCIAL FISHING
INDUSTRY VESSELS.

to meet citizenship requirements for documentation should be taken without concurrence from COMDT (G-MVI). Based on the information you have provided, regarding the ownership of ALASKAN HERO, COMDT (G-MVI-6) intends to require AKC to provide evidence establishing that it meets applicable citizenship requirements and that it is, for documentation purposes, the actual owner of ALASKAN HERO.

3. Paragraphs 3. and 4. of reference (a) raise issues concerning the application of 46 U.S.C. 8103(i) and 8103(e) to unlicensed individuals serving in "officer" positions (such as officer in charge of a deck or engineering watch, and radio officer). In general, since 8103(i) applies to unlicensed seamen, it also applies to unlicensed individuals engaged to serve in "officer" positions where no license is required. On the other hand, the citizenship requirements of 8103(a) remain in effect for these individuals when they are actually serving in certain capacities aboard the vessel (e.g., as a deck watch officer, engineering watch or radio officer). Therefore, whether or not licensed, an individual who is serving as chief engineer, radio officer, or officer in charge of a deck watch or engineering watch must be a U.S. citizen under 8103(a). While a vessel on a foreign voyage would be temporarily exempted from this requirement if it was deprived of an individual (except master or radio officer) in accordance with 8103(e), any non U.S. citizen who was engaged as a replacement under this subsection must be taken into account in determining compliance with the percentage provisions of 8103(i) if the individual is not required to have a license. In those cases where licensed individuals are required to hold certain positions, as in the case of a vessel over 200 gross tons, a vessel operator would legally be able to use the provisions of 8103(e) to avoid a citizenship requirement of 8103(a), except for the positions of master and radio officer, while fishing in the exclusive economic zone. (Whether or not the fact that an individual "routinely operates the radio" changes the status of that individual to a radio officer who must be a U.S. citizen under 8103(a) and 8103(e) has not been addressed since the law was revised in 1987. It is my view that simply operating the radio on occasion may not make an unlicensed individual a radio officer for purposes of these two subsections).

4. Enforcement of the citizen in command requirement of 46 U.S.C. 12110(d) is certainly not a simple matter, under the circumstances you describe. Even with appropriate guidance, much will depend on the good judgment of the boarding party and their superiors in deciding how to handle the situation. Where aboard a documented vessel there is a U.S. citizen who claims to be in command, the Coast Guard must have a good basis, supported by evidence it can provide to a detached hearing officer or judge, for taking enforcement action despite the apparent compliance with the law. A suspected pattern of violations in a particular area or industry may justify a more probing inquiry, but a suspected pattern of abuse generally does nothing to reduce the need for evidence to establish a violation in any specific case. The factors identified in paragraph 5. of your letter can tend to show who is actually in command, but they should be considered in light of the normal industry practice on vessels which legitimately have a citizen in command. No individual can personally attend to all functions of command, 24 hours a day for the duration of a voyage. Some delegation of the command functions may be necessary, and normal industry practice is a good indicator of what is necessary in most instances.

**Subj: FOREIGN OWNERSHIP, MANNING AND CONTROL OF CHEMICAL FISHING
INDUSTRY VESSELS**

5. As you state, if it is established that a noncitizen is in command, the vessel's certificate of documentation becomes invalid and subject to surrender. Forfeiture is arguably an available sanction because, although the certificate of documentation issued to the vessel permits it to engage in the fisheries trade, its operation under the command of a noncitizen renders its documentation invalid. Therefore, if a vessel engages in fishing with a noncitizen in command, it is being employed in a trade not covered by its certificate of documentation, in violation of 46 U.S.C. 12110(c). Presently, forfeiture is not an available sanction for vessels to which no certificate of documentation has been issued. The Coast Guard is seeking legislation to correct that anomaly. Another interpretation is that an "invalid" certificate of documentation is equivalent to operating a vessel without a certificate of documentation subjecting the vessel to a \$500 civil penalty, not forfeiture. We agree that forfeiture is an extreme enforcement action that should be taken only when substantial available evidence establishes a violation of law for which forfeiture is an authorized enforcement option.

6. The Coast Guard can only respond within the bounds of the law to demands to protect the U.S. fishing industry. Therefore, even the most vigorous enforcement of the Act has its limits. If the Act is commonly understood to prohibit noncitizens from controlling the stock of all corporations owning U.S. fishing industry vessels, that is a misunderstanding of the law which should be corrected. Until such misunderstandings are corrected, the Coast Guard may be perceived to be allowing circumvention of the Act, even when every effort is being made to enforce the law. If the Act is not providing adequate protection for the U.S. fishing industry, they may want to seek more effective legislation.

7. With respect to paragraphs 3. and 4. of reference (a), concerning the interpretation of 46 U.S.C. 8103(1) and the provisions on the percentage of non-resident aliens which may be allowed to be employed on a fishing vessel engaged in fishing in the EEZ, I suggest a two-stage test. First, I think a boarding officer must determine what number of individuals on the vessel are to be considered "unlicensed seamen." This is the total number which is to be used in determining the number allowed to be non-resident aliens. The officer should consider any unlicensed individual who is engaged or employed on board in any capacity as within this total number of unlicensed seamen. This definition is derived from the legislative history of the Anti-Reflagging Act.

8. The House Report which accompanied Public Law 100-239 includes the following statement concerning citizenship requirements: ". . . for the first time, 75 percent of the unlicensed seamen (all individuals on board, including those engaged in fish processing) must be citizens of the U.S. or aliens lawfully admitted to the U.S. for permanent residence." It is clear from the portion of the text in parentheses that Congress intended for the term "seaman" to be interpreted broadly. There is no indication in the wording of the statute or its legislative history that designation of an individual as a

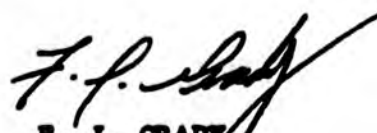
Subj: FOREIGN OWNERSHIP, MANNING AND CONTROL OF COMMERCIAL FISHING
INDUSTRY VESSELS

"Technician" exempts that person from the status of unlicensed seaman. Additionally, an individual should not be exempted from this class on the basis that he or she is "temporarily" on the vessel when the individual's duties involve visits to more than one vessel; the total number of unlicensed seamen is calculated on the basis of those who are presently engaged or employed in any capacity on board the fishing vessel at the time of the boarding.

9. The second stage of the test should be a review of the documents held by individuals who are not citizens of the U.S. If fewer than 75% of the total number of unlicensed seamen are U.S. citizens or permanent resident aliens, then a violation of 8103(i) has been discovered, and a report of violation should be issued. This violation is separate from any violation which may relate to a particular individual who does not have the proper documentation to be engaged or employed on the vessel. These matters can be referred to the Immigration and Naturalization Service for appropriate action. In the meantime, an individual cannot be permitted to claim that because he does not have a proper work permit he is, therefore, not to be counted within the total number of unlicensed seamen or among the percent of non-resident aliens allowed to be on board. This would amount to allowing an operator to circumvent one legal requirement by violating another.

10. The issue raised in paragraph 4. of reference (a) was addressed in reference (b), and is properly reflected in your conclusion that "when this vessel engaged in the fisheries in U.S. navigable waters or the EEZ, it became subject to 46 USC 8103(i) and was not eligible for the exemptions in 8103(e)," with respect to unlicensed seaman.

11. It is clear that enforcement of the provisions of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 requires close examination of the circumstances of each case, and careful documentation of the evidence accumulated during a boarding. When the boarding officer has a reasonable indication that the legal requirements are being circumvented, a violation report should be issued and the appropriate record should be added to the Marine Safety Information System (MSIS); then the operator's arguments to the contrary should be settled in subsequent hearings or appeals.


F. J. GRADY
By direction

COGSEVENTEEN STAFF ROUTING TOR-02:13:20:41:29: 90

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SUBJ: GUIDANCE FOR DOCUMENTING U.S. VESSEL MANNING VIOLATIONS

A. COGSEVENTEEN JUNEAU AK 021801Z FEB 90

1. THE FOLLOWING IS PROVIDED IN RESPONSE TO REF (A):

A. ITEM 3A: WHEN AN IDENTIFIABLE U.S. CITIZEN IS ON BOARD AND IS LICENSED AS MASTER OR, FOR VESSELS NOT REQUIRING A LICENSED MASTER, CLAIMS TO BE THE MASTER, THIS CONSTITUTES PRIMA FACIE EVIDENCE THAT THE VESSEL COMPLIES WITH STATUTES. IN SITUATIONS WHERE THE MASTER AND/OR SEVERAL CREW MEMBERS INDICATE THAT HE IS NOT THE MASTER IN FACT, AND THIS IS OBSERVED TO BE APPARENT BY THE BOARDING TEAM, THEN VIOLATION OF 46 USC 8103 POSSIBLE. OFFICERS OF THE DECK WATCH, RADIO OFFICER, AND ENGINEERS ARE REQUIRED TO BE U.S. CITIZENS UNDER 46 USC 8103(A) EXCEPT WHEN, ON A FOREIGN VOYAGE, THE VESSEL IS FOR ANY REASON DEPRIVED OF A US CITIZEN (OTHER THAN THE MASTER OR RADIO OFFICER) AS PROVIDED FOR UNDER 46 USC 8103(E). 46 USC 8103(E) DOES NOT APPLY ONCE THE VESSEL BEGINS FISHING OPERATIONS WITHIN THE EEZ OR NAVIGABLE WATERS OF THE US, AS PROVIDED FOR IN 46 USC 8103(I).

B. ITEM 3B: NO WAIVER OF CITIZENSHIP REQUIREMENTS WAS GRANTED BY HEADQUARTERS STAFF. HOWEVER, AS NOTED ABOVE, THE VESSEL DOES NOT REQUIRE A WAIVER WHEN ON A FOREIGN VOYAGE. 46 USC 8103(E) ALLOWS REPLACEMENTS TO BE NON-US CITIZENS IF US CITIZENS ARE NOT AVAILABLE. HOWEVER, REGARDLESS OF DEPARTURE PORT, ONCE THE VESSEL ENGAGES IN FISHING ACTIVITIES UNDER 46 USC 8103(I), CITIZENSHIP REQUIREMENTS OF 46 USC 8103(I) MUST BE MET.

BT

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U.S. Department
of Transportation

United States
Coast Guard



Commander
Seventeenth Coast Guard District

P.O. Box 25517
Juneau, AK 99802-5517
Staff Symbol: (mpo)
Phone: 907 463-2247
FAX: 907 463-2216

Attachment 1

16701

JAN 20 1998

Dr. Clarence Pautzke
Executive Director
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

RECEIVED

JAN 22 1998

Dear Dr. Pautzke,

N.P.F.M.C

Back in October you asked me to query the Coast Guard data base regarding ownership and rebuild information for fishing vessels greater than 165 feet operating in Alaska. My staff faxed a copy of the results, Enclosure (1), to Mr. Darryl Brannan.

At the December meeting Dr. Pereyra indicated on Enclosure (2) mistakes in the information for several vessels. Although we queried our data base a second time, we got the same information as we did in our first query, indicating a potential problem with our data base. This could have occurred for several reasons:

- a. Incorrect information provided to the CG by vessel owners;
- b. Vessel data changes/updates not reported by owners to the CG;
- c. Correct information mis-entered by CG data clerks.

The Coast Guard does not routinely verify vessel documentation information; vessel owners are required by law to provide correct information to the Coast Guard and keep it updated.

With regard to the task at hand, I recommend your staff use the information we have provided and identify the Coast Guard as the source. As your analysis document goes through the public review process, individual vessel owners can then work directly with the National Vessel Documentation Center at 1-800-799-8362 to correct and update information for their vessels. I think this is about the best we can do, and hope it meets your needs.

Sincerely,

J. V. O'SHEA

Captain, U. S. Coast Guard

By direction of the Commander

Encl: (1) Vessel List
(2) Vessel List as annotated by Dr. Pereyra

Copy: Dr. Walter Pereyra, Arctic Storm, Inc.
Ms. Kristine Norosz, Icicle Seafoods

Factory Trawlers/Trawlers Targetting Alaska Pollock

Vsl Name	CG #	ADF&G	Reg. Len	LOA	GRT	HP	75%	Yr Built	Last Rebuild
	(COD)	(F/V...)	(COD)	(F/V...)	(COD)	(F/V...)	(COD)	(COD)	(COD)
Alaska Juris	569276	54693	200.8	223	1213	3600	Y	1975	
Alaska Ocean	637856	60407	344	376	4555	6250	N	1981	Abroad
Alaska Victory	569752	61083	205.7	227	1215	5800	Y	1975	Abroad
Alaska Voyager	536484	51926	203.5	214	1245	4000	Y	1971	
Alaskan Rose	529154	55466	116	131	380	1300	Y	1970	
American Enterprise	594803	54836	191.7	210	1537	3000	Y	1978	
American Empress	942347	57623	280.6	306.4	2493	8254	Y	1974	Abroad
American Dynasty	951307	59378	240.7	272	3659	8000	Y	1974	Abroad
American Triumph	646737	60660	251.7	285	4294	7939	Y	1961	
American No. 1	610654	36202	143.2	160.2	560	2250	Y	1979	
Arctic Fjord	940866	57450	253.5	272	3369	6060	N	1974	
Arctic Storm	903511	54886	314.3	334	4068	6000	N	1942	Abroad
Bountiful	593404	34053	150.5	155	1032	*	Y	1978	
Browns Point	587440	55511	179.7	190	947	2700	Y	1977	
Christina Ann	653045	54852	177.4	204	831	5050	N	1962	
Constellation	640364	*	150.2	*	194	2250	Y	1981	
Elizabeth Ann	534721	54637	196.1	220	1478	3300	N	1971	Abroad
Endurance	592206	57201	239.1	277	2117	5300	N	1978	
Harvester Enterprise	584902	55183	170.2	188	1203	1800	Y	1977	
Highland Light	577044	56974	244	270	1533	5750	Y	1976	
Island Enterprise	610290	59503	273.8	304	2766	3950	Y	1979	
Katie Ann	518441	55301	267.4	296	1593	4497	N	1969	
Kodiak Enterprise	579450	59170	253.2	275	1584	5830	Y	1977	
Legacy	664882	*	117.2	132	194	1240	Y	1983	
Northern Glacier	663457	48075	175.6	201	1109	3000	Y	1983	
Northern Eagle	506694	56618	310.5	341	4437	6590	Y	1966	Abroad
Northern Jaeger	521069	60202	308.4	*	3732	6322	N	1969	
Northern Hawk	643771	60795	310.1	341	3582	8790	Y	1981	
Ocean Peace	677399	55767	199.5	*	1144	2250	N	1984	
Ocean Rover	552100	56987	223	*	4345	7080	N	1973	Abroad

Factory Trawlers/Trawlers Targetting Alaska Pollock

Vsl Name	CG #	ADF&G	Reg. Len	LOA	GRT	HP	75%	Yr Built	Last Rebuild
	(COD)	(FV...)	(COD)	(FV...)	(COD)	(FV...)	(COD)	(COD)	(COD)
Pacific Explorer	942592	57629	213.7	236	1389	4000	Y	1982	
Pacific Glacier	933627	56991	253.5	276	2241	6600	Y	1974	
Pacific Navigator	592204	54859	195	*	1097	3600	Y	1978	Abroad
Pacific Scout	934772	57438	213.7	236	1389	4000	Y	1982	
Rebecca Ann	592205	56197	200.2	217	1166	3300	Y	1978	Abroad
Rebecca Irene	697637	*	115.3	140	191	1800	Y	1981	
Seafisher	575587	56964	211.4	230	1453	3000	N	1976	Abroad
Seattle Enterprise	904767	56789	247	270.1	1519	3900	Y	1973	
Starbound	944658	57621	205.8	240	1533	5000	Y	1989	
U.S. Intrepid	604439	54392	173.2	185	1027	4800	Y	1979	
Victoria Ann	592207	56196	192.5	217	1112	3360	N	1978	Abroad
Former U.S. Vessels, Now Foreign Flagged									
Claymore Sea	L7391288		244		3072	*	N	1974	Abroad
Heather Sea	L7391317		264.4	292	3200	*	N	1975	Abroad
Saga Sea	L7390416		271		4848	*	N	1974	Abroad

Legend

(COD) *Information copied from CG Certificate of Documentation
 (FV...) *Information copied from 4th Edition of Fishing Vessels of the United States
 CG # CG official documentation number
 ADF&G State number
 Reg Len - Registered Length
 LOA Length Overall
 GRT - Gross Registered Tonnage
 HP - Horsepower
 75% - 75% U.S. Ownership
 Yr. Built Year Built
 Last Rebuild Location of last rebuild
 * - I Information unavailable

Factory Trawlers/Trawlers Targetting Alaska Pollock

Vsl Name	CG #	ADF&G	Reg. Len	LOA	GRT	HP	75%	Yr Built	Last Rebuild
	(COD)	(F/V...)	(COD)	(F/V...)	(COD)	(F/V...)	(COD)	(COD)	(COD)
Alaska Juris	569278	54693	200.8	223	1213	3600	Y	1975	
Alaska Ocean	637858	60407	344	376	4555	6250	N	1981	Abroad
Alaska Victory	569752	61083	205.7	227	1215	5800	Y	1975	Abroad
Alaska Voyager	536484	51928	203.5	214	1245	4000	Y	1971	
Alaskan Rose	529154	55486	116	131	380	1300	Y	1970	
American Enterprise	594803	54836	191.7	210	1537	3000	Y	1978	
American Empress	942347	57823	280.6	306.4	2493	8254	Y	1974	Abroad
American Dynasty	951307	50378	240.7	272	3659	8000	Y	1974	Abroad
American Triumph	646737	60880	251.7	285	4294	7939	Y	1981	
American No. 1	610854	36202	143.2	180.2	560	2250	Y	1979	
Arctic Fjord	940886	57450	253.5	272	3389	6080	(N) Y	1974	
Arctic Storm	903511	54888	314.3	334	4088	6000	N	1942	Abroad
Bountiful	593404	34053	150.5	155	1032	.	Y	1978	
Browns Point	587440	55511	179.7	190	947	2700	Y	1977	
Christina Ann	653045	54852	177.4	204	831	5050	N	1982	
Constellation	640364	.	150.2	.	194	2250	Y	1981	
Elizabeth Ann	534721	54637	196.1	220	1478	3300	N	1971	Abroad
Endurance	582208	57201	239.1	277	2117	5300	N	1978	
Harvester Enterprise	584902	55183	170.2	188	1203	1800	Y	1977	
Highland Light	577044	58974	244	270	1533	5750	Y	1976	
Island Enterprise	610290	58503	273.8	304	2765	3850	Y	1979	
Katie Ann	518441	55301	287.4	296	1583	4497	N	1989	
Kodiak Enterprise	579450	59170	253.2	275	1584	5830	Y	1977	
Legacy	684882	.	117.2	132	194	1240	Y	1983	
Northern Glacier	663457	48075	175.8	201	1109	3000	Y	1983	
Northern Eagle	508894	58818	310.5	341	4437	6590	Y ?	1988	Abroad
Northern Jaeger	521089	60202	308.4	.	3732	6322	N	1989	ABROAD
Northern Hawk	643771	60795	310.1	341	3582	6790	Y ?	1981	ABROAD
Ocean Peace	677389	55767	199.5	.	1144	2250	N	1984	
Ocean Rover	552100	58987	223	.	4345	7080	N	1973	Abroad

NOTE
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NOTE

Factory Trawlers/Trawlers Targetting Alaska Pollock

Vsl Name	CG #	ADF&G	Reg. Len	LOA	GRT	HP	75%	Yr Built	Last Rebuild
	(COD)	(FV...)	(COD)	(FV...)	(COD)	(FV...)	(COD)	(COD)	(COD)
Pacific Explorer	942582	57629	213.7	238	1389	4000	Y	1982	
Pacific Glacier	933827	58991	253.5	276	2241	6600	Y	1974	ABROAD
Pacific Navigator	582204	54859	195	*	1097	3600	Y	1978	Abroad
Pacific Scout	934772	67438	213.7	238	1389	4000	Y	1982	
Rebecca Ann	582205	58197	200.2	217	1166	3300	Y	1978	Abroad
Rebecca Irene	687637	*	115.3	140	191	1800	Y	1981	
Seafisher	575587	58964	211.4	230	1453	3000	N	1978	Abroad
Seattle Enterprise	904787	58789	247	270.1	1519	3900	Y	1973	
Starbound	944658	57621	205.8	240	1533	5000	Y	1989	
U.S. Intrapid	604439	54392	173.2	185	1027	4800	Y	1979	
Victoria Ann	582207	58196	192.5	217	1112	3360	N	1978	Abroad

NOTE

Former U.S. Vessels, Now Foreign Flagged

Claymore Sea	L7391288		244		3072	*	N	1974	Abroad
Heather Sea	L7391317		264.4	282	3200	*	N	1975	Abroad
Saga Sea	L7390416		271		4848	*	N	1974	Abroad

Legend

(COD) *Information copied from CG Certificate of Documentation
 (FV...) *Information copied from 4th Edition of Fishing Vessels of the United States
 CG # CG official documentation number
 ADF&G State number
 Reg Len - Registered Length
 LOA Length Overall
 GRT - Gross Registered Tonnage
 HP - Horsepower
 75% - 75% U.S. Ownership
 Yr. Built Year Built
 Last Rebuild Location of last rebuild
 * - Information unavailable

FAX MEMO

TO: Members of the Special Committee on Fisheries

From: Robert Schasteen
box 920752
Dutch Harbor, Alaska 99692

Subject: HJR-55, HJR-48

Currently the fisheries in the Bering Sea provide a long term, healthy economic environment for the people and government of our community and the State of Alaska. The allocation of fish in the Bering Sea, as it exists today, works. IF IT'S NOT BROKEN DON'T FIX IT!

Please do not turn our community into a "company town" monopolized by one sector of the fishing industry. We need BOTH inshore and offshore sectors of the fishing industry to provide competition, reasonable wages and fair markets.

Passage of either of these resolutions without proper research of their impact on our community and the State of Alaska would be premature at best.

(A)

To: Special Committee on Fisheries All Members
FR: Shirley Mougardt Box 920021 Dutch Harbor, AK 99692
RE: HJR 48

Mr. Chairman and Members,

Briefly, if the purpose of S1221 is "Americanization of the fishery," by all means go forward. I am assuming this means for the Resource, not the uses, but have no problem with up to 75% American ownership for them as well. To support the mission of S1221 that throws out legitimate and valuable participants in the "Cleanest Fishery in the World," that also significantly benefit the State of Alaska Revenues and the People of Unalaska/Dutch Harbor as well as many in Western Alaska, is to me throwing out the baby with the bath water. People who make their living in the fishing industry expect possible downturns and lean years, it's natural. But there is nothing natural about S1221 which legislates the destruction of a number of job and business opportunities we in Alaska have been enjoying for years. To do it in the name of Conservation is adding insult to injury, and does a dis-service to the members of the North Pacific Fisheries Management Council whom have worked hard and long to make this Mid Water Pollock fishery

(B)

the most highly regulated and rational fishery in the world. The responsibility for that is in their hands, not the catchers and processors, the NPFMC sets and monitors the quota, and Federal observes over there 100% of the time to ensure compliance and gather DATA.

This Bill will hurt Alaska, please don't support HJR 48, please let the process of gathering info, and learning all the issues involved in such a drastic removal of ~~it~~ from the States pockets and our pockets continue to play its self out.

Thank you for your time,

Respectfully, Nily Marguaret
Shirley Marguaret

TO: MEMBERS of the SPECIAL COMMITTEE on FISHERIES

**FROM: Renee Petersen
P.O. Box 187
Unalaska, AK 99685**

SUBJECT: HJR-48 and HJR-55

Please do not turn over the total allocation for the fisheries in the Bering Sea to the shoreside facilities alone. The allocation as it is today seems to give everyone a chance to share in the economic benefits from the fisheries industry. Having the diversity of both the shoreside and offshore fleets has promoted economic and social development in our community. If this balance changes, there will also be no sense of accountability due to the lack of competition.

Please listen to the voices of our community, and research further how these bills will affect our community and the industry.

MEMO

TO: MEMBERS OF THE SPECIAL COMMITTEE ON FISHERIES

**FROM: ROBERT NUFER
P.O. BOX 920305
DUTCH HARBOR, AK. 99692**

RE: HJR-55, HJR-48

**COMMITTEE MEMBERS, PLEASE DO NOT PASS THIS
RESOLUTION. IT IS NOT IN THE BEST INTEREST OF OUR
COMMUNITY OR THE STATE OF ALASKA.**

**BOTH THE INSHORE AND OFFSHORE SECTORS OF THE
BERING SEA FISHERIES ARE VITAL FOR OUR ECONOMIC
HEALTH. BOTH CONTRIBUTE GREATLY WITH LANDING TAXES,
WAGES, AND SHORESIDE SUPPORT NEEDS.**

**I HAVE WORKED FOR BOTH SECTORS FOR NEARLY
TWENTY YEARS. MY FAMILY AND MANY LIKE MINE WOULD BE
ADVERSELY AFFECTED IF YOU PASS THIS RESOLUTION.**

FAX MEMO

To: Members of the Special Committee on Fisheries

From: Tammy L. Fowler Pound
P.O. Box 920942
Dutch Harbor, AK 99692
907/581-1463

Subject: HJR-55, HJR-48

I respectfully request all Members of the Special Committee on Fisheries to reject HJR-55 and HJR-48.

The effect on our community and the State of Alaska will be a negative one, with the loss of jobs and small businesses, should these resolutions pass. Both sectors of the fishing industry, onshore and offshore, give Unalaska/Dutch Harbor a unique and stable economic base which has allowed individuals and companies to invest with confidence and our community to thrive.

Once again, I would like to say that this "fish fight" has everything to do with *money and control*, and nothing to do with what is best for our communities and state, or the people who live and work in both.

The cart has been put in front of the horse by the introduction of these resolutions without the research to make a sound judgment. I urge you to wait for the completion of an impact study commissioned by the North Pacific Fisheries Management Council, in order to make an informed decision.

Thank you for allowing my voice to be heard.

Respectfully,



Brent C. Paine
Executive Director



FEB 13 1998

Steve Hughes
Technical Director

February 13, 1998

2 Pages

Representative Alan Austerman
Chairman, Subcommittee of Fisheries
State Capital Building, Room 434
Juneau, Alaska, 99801

Re: HJR 48, the American Fisheries Act

Dear Representative Austerman,

I understand the House Resources Committee will be holding a hearing HJR 48 on Monday, February 16, 1998. I regret that I can not attend the hearing in person, but hope that for the record, my testimony can be presented in writing.

My name is Brent Paine and I serve as the Executive Director of United Catcher Boats (UCB). United Catcher Boats is a fishermen's trade organization comprised of 58 vessels that primarily trawl for pollock, Pacific cod and Yellowfin sole in the Bering Sea and Gulf of Alaska. Roughly half our vessels are home ported out of Dutch Harbor and Akutan and deliver to the shoreside processors in these two communities. The other half deliver catches to at-sea motherships. UCB members currently harvest approximately 50% of the Bering Sea/Aleutian Islands pollock and P. cod resource. My members live in California, Oregon, Washington and Alaska.

United Catcher Boats strongly supports Senator Stevens' "American Fisheries Act" (S. 1221) and urges the Alaska Senate Resources Committee to pass SJR out of Committee with a favorable recommendation.

Individual members of UCB were the first U.S. fishermen to harvest the Bering Sea and Gulf groundfish from the North Pacific. We were the first fishermen to enter into joint ventures with foreign processing companies, as well as the first fishermen to supply products to the Dutch Harbor and Akutan processing plants. UCB members were the individuals that took the financial and physical risks to Americanize the North Pacific groundfish fisheries. We were the individuals back in the 1980's that "kicked the foreigners out". Prior the passage of the Anti-Reflagging Act of 1987, catcher vessels harvested over 90% of the Bering Sea pollock resource. Due to the mis-interpretation by the U.S. Coast Guard of Congress' intent of the Anti-Reflagging Act, a massive preemption of the annual harvest has occurred. During the years 1987 through 1989, the fishery saw the introduction of roughly 20 new

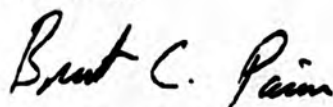
factory trawlers. This massive increase in large vessels more than tripled the harvesting capacity. The result was going from a year-round fishery in 1987 to a two month fishery in 1997. Many of these vessels used the Anti Reflagging Act's grandfather provision to enter into an American EEZ fishery. Where once the pollock resource was primarily harvested by small, independently owned catcher vessels operated by the owners, the fishery is now governed by Inshore/Offshore regulations (federal) that keep the offshore sector's harvest capped and preemption controlled.

United Catcher Boats members believe that our U.S. fishery resources should benefit U.S. fishermen. Due to the abuses of the 1987 Anti Reflagging Act, and the recent consolidation of the North Pacific's offshore factory trawl fleet, a large percentage of the value of the Bering Sea groundfish fisheries is lost to non-U.S. fishing/processing companies. This development since 1987 goes totally counter to Congress' intent of Americanization the EEZ fisheries via the passage of the Anti Reflagging Act as well as the original Magnuson Act of 1976. Senator Stevens is fully aware of the situation, thus has introduced S. 1221 to rectify the abuses of the Reflagging Act's provisions.

To summarize, my members support restoring the rights of bona fide U.S. citizens to have priority to U.S. fishery resources. Due to the current ownership structure, we support the reduction of foreign investment and control of vessels fishing in the North Pacific. We support Senator Stevens' efforts to accomplish this objective through the American Fisheries Act, S. 1221.

Thank you for your consideration.

Sincerely,



Brent C. Paine

JAN-28-1998 14:42

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206 323 9165 P.02/02

A. W. BRINDLE
H. A. BRINDLE

PROCESSOR OF
CHOICE ALASKA SEAFOOD
SINCE 1912

Wards Cove Packing Company

PHONE (206) 323-3200

88 E. HAMLIN STREET
P.O. BOX C-8030
SEATTLE, WA 98105-0030

Day Fax (206) 323-8165

January 28, 1998

The Honorable Senator Jerry Mackie
State of Alaska
Room 427
State Capital
Juneau, AK 99801-1182

Dear Senator Mackie,

I am writing to express our full support for SJR 33, which supports the American Fisheries Act (SB 1221) that has been introduced by Senator Stevens. I would have preferred to be in Juneau today to testify, however scheduling conflicts prevented my personal attendance.

Thank you for your support of Americas fishery resources.

Sincerely,



Alec W. Brindle
President

cc: Senator Robin Taylor, Co-Sponsor
Senator Rick Halford, Chair, Senate Resources Committee

AWB/mg

ALASKA BOAT • ALITAK • CRAIG • EGEGIK • EXUK • EXCURSION INLET • HAINES • HOONAH TRADING • ICY CAPE INTERNATIONAL SALES
KENAI • NAIGNEK TRADING • PORT BAILEY • RED SALMON • SEAFRESH • SEATTLE • SEWARD
SOUTH NAIGNEK • WARDS COVE

TOTAL P.02

WESTERN ALASKA FISHERIES, Inc.

1111 THIRD AVE., SUITE 2200
SEATTLE, WASHINGTON 98101

TELEPHONE: (206) 362-0840

TELEFAX: (206) 683-0080
TELEX: 71-277170

January 28, 1998

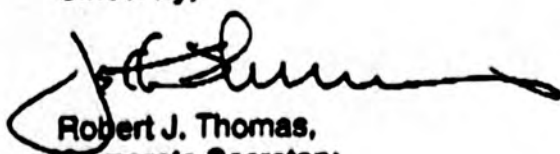
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Thank you for your advocacy of America's fishery resources.

Sincerely,



Robert J. Thomas,
Corporate Secretary

cc: Sen. Robin Taylor, Co-Sponsor
Sen. Rick Halford, Chair, Senate Resources Committee



333 First Avenue West / Seattle, WA 98119 USA / 206-286-8584 / FAX: 206-286-8810 / TELEX: 49612854 PRMPAC

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Sent via facsimile

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Douglas C. Forsyth
Vice President
General Manager

CC: Sen. Robin Taylor, Co-Sponsor
Sen. Rick Halford, Chair, Senate Resources Committee

JAN-28-1998 14:42

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Vice President
General Manager

CC: Sen. Robin Taylor, Co-Sponsor
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SCOMM

102:21

Alaska State Legislature

House of Representatives

Interim Address:

119 N. Cushman, Suite 211

Fairbanks, AK 99701

(907)-456-5081

Fax# (907)-456-8245

Official Business



Session Address:

Room 13

(907)-465-3719

FAX# (907)-465-3258

State Capitol

Juneau, AK. 99801-1182

Representative Al Vezey

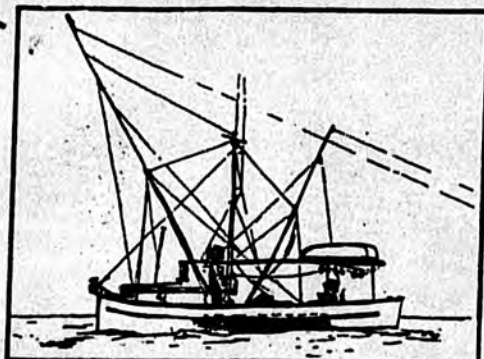
HJR 54

SPONSOR STATEMENT

The purpose of HJR 54 is to encourage the federal government to begin a dialog with Canada over the disputed maritime boundaries between Canada and Alaska.

The federal government established a maritime boundary with Canada between Maine and Nova Scotia fourteen years ago. The only solution to the ongoing disputes over fishing rights, mineral rights, transportation rights and other rights of Alaskans, Canadians, and the federal government is the establishment of a maritime boundary.

HJR 54 also clarifies that the sovereignty, territory, jurisdiction, and property rights of Alaska must be protected. It resolves that any negotiations on a maritime boundary with Canada must include participation of representatives of State of Alaska.



Alaska Trollers Association

130 Seward St., No. 505
Juneau, Alaska 99801
(907) 586-9400
(907) 586-4473 Fax

December 2, 1997

Secretary Madeline Albright
U.S. State Department
2201 C Street, NW
Washington, D.C. 20520

Dear Secretary Albright:

I am writing to inform you about the concerns of commercial fishermen operating in the disputed waters between Alaska and Canada. Our association has requested relief on this issue since the late 1970s. Since that time, the U.S. and Canada have come no closer to resolving the maritime boundary dispute. The Alaska troll fleet has essentially been forced out of U.S. waters in Dixon Entrance, due to harassment by Canadian fishermen and enforcement officials. The Alaska Trollers Association (ATA) remains deeply concerned about the safety of Alaska fishermen who operate in Dixon Entrance and requests your assistance to ensure our boats can freely conduct their business.

This summer, at least one sport and four commercial fishermen were harassed by Canada's Department of Fisheries and Oceans Enforcement (DFO) while fishing legally in the disputed area of Dixon Entrance. DFO's conduct underscores the failure of reciprocal flag state enforcement, as agreed to by the U.S. and Canada in the 1978 Exchange of Diplomatic Notes.

Since signing the Reciprocal Fisheries Agreement with Canada in 1977, the U.S. has allowed Canadian vessels to operate within its EEZ at Dixon Entrance, in contravention of Section 307(2) of the Stevens-Magnuson Fishery Conservation and Management Act. This agreement and the subsequent exchange of diplomatic notes on June 2, 1978, provided for reciprocal flag state enforcement at Dixon Entrance. Simply put, Canada is to enforce fisheries regulations only on its fishing vessels and the United States is to enforce only on U.S. vessels fishing in the disputed area. However, by both its stated policy and enforcement conduct, Canada has clearly demonstrated its disregard for flag state enforcement in the disputed area.

DFO claims the Alaska troll fishery is not a "traditional" fishery subject to flag state enforcement. This is absurd. Our 120 year old troll fishery is neither new, nor should its "traditional" status be a matter of debate in this case, as is clearly pointed out in former Secretary Alexander Haig's July 13, 1981 memo to the U.S. Coast Guard. While the 1977 Reciprocal Fisheries Agreement included a provision on "traditional" fisheries, the more recent set of diplomatic notes includes only one element of that agreement, Article IX Reciprocal Flag State Enforcement.

ATA believes the U.S. must reaffirm its commitment to reciprocal flag state enforcement, by stating its expectation that Canada return to reciprocal procedures by January 1, 1998. In addition, the U.S. should insist that Canada recognize all U.S. fisheries presently operating in the disputed area. If Canada refuses to recognize the Alaska troll fleet, the U.S. should, in turn, consider the Canadian troll fleet to be illegally operating in Dixon Entrance and take appropriate enforcement action.

Furthermore, Canada should be reminded that the parties agreed to flag state enforcement only as an interim measure, *pending the resolution of questions pertaining to the delimitation of areas subject to the respective fisheries jurisdiction of each party*. In its own 1978 diplomatic note Canada stated it, *"reaffirms its commitment to pursue negotiations on maritime boundaries"*. It was on the basis of this commitment that the U.S. agreed in its responding diplomatic note to continue reciprocal flag state enforcement. Accordingly, in October 1985, Secretary Schultz suggested to Canadian Foreign Minister Joe Clark that the two countries attempt to resolve the boundary dispute. Late in 1986, Minister Clark informed the Secretary that it was not an opportune time for Canada to negotiate. To date, Canada has consistently refused to begin negotiations with the U.S. and remains unwilling to submit the matter to the World Court for resolution. Unless Canada honors its commitments to flag state enforcement and negotiation of the maritime boundary, the U.S. should not hesitate to enforce its EEZ in Dixon Entrance, as it deems appropriate.

The importance of this issue to U.S. fishermen should not be under-estimated. What effectively forced the U.S. fleet out of Dixon Entrance is not just the sporadic harassment of a few fishermen by DFO, but daily harassment by the Canadian fishing fleet. Canada's troll fleet did not have a large presence in the area until after the U.S. claimed its 200 mile limit. Since that time, the Canadian fleet has grown to the detriment of U.S. fishermen. The majority of the Canadian boats are large, efficient processor/trollers operations, fishing six lines of gear (U.S. trollers are limited to only 2 or 4 lines, depending on permit type). They target U.S. origin salmon to, redress "equity imbalances", as stated by Canada in Pacific Salmon Treaty negotiations. Apparently, some Canadian fishermen have come to believe that these waters are sovereign Canadian waters, and that U.S. vessels are fishing there illegally. The Canadian fishermen are not at all shy about taking matters into their own hands when it comes to driving out U.S. boats. We cannot expect the U.S. Coast Guard to referee chronic right of way skirmishes, nor can we expect U.S. trollers to subject themselves to intimidation in order to fish U.S. waters.

Management of the coastwide salmon resource has been confounded by Canada's unwillingness to provide timely and meaningful harvest and coded wire tag data from its boundary area fleet. This is particularly galling to U.S. fisherman, who must often release chinook salmon to rebuild runs, while the Canadian fisherman fishing next to him continues to catch chinook all summer long. Also disturbing is when U.S. fishermen are stopped from fishing to conserve weak coho salmon runs in both countries, as they were in 1997, and Canada continues to fish our waters for the same fish. In contrast, Alaska closed

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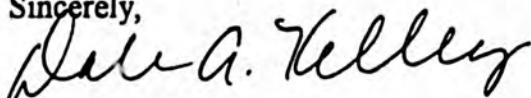
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Finally, tension over this issue contributes to our inability to effectively engage Canada in discussions in important fisheries management forums, such as the Pacific Salmon Commission.

It is the hope of our members that you will assist us by finally bringing resolution to this long-standing disagreement. Our hope is that timely resolution will assist in securing long-term goodwill between the two countries.

Thank you in advance for considering the perspective of ATA. If I can provide additional information on this or other issues of concern to our industry, please don't hesitate to contact me.

Sincerely,



Dale A. Kelley
Executive Director

Page 1, Line 3: Would read better as follows: "Whereas the United States and Canada have extensive maritime boundaries, including in the Dixon Entrance and in the Beaufort Sea;"

Page 1, Lines 7-8: Would read better as follows: "Whereas the extension of fisheries jurisdiction by the United States and Canada out to 200 nautical miles in the

1970's created the need for the establishment of agreed maritime boundaries between the two nations;"

Page 1, Lines 15-17: Would read better as follows: "Whereas the maritime boundaries between the United States and Canada in the Beaufort Sea, in the Dixon Entrance, seaward of the Strait of Juan de Fuca and in certain areas of the Gulf of Maine have not been agreed;"

Page 2, Line 1: Insert "agreed" before "maritime boundaries"

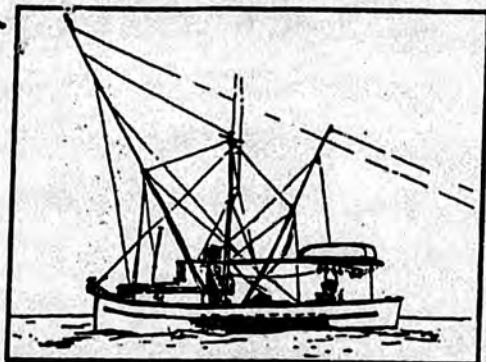
Page 2, Line 4: Replace "federal government" with "United States". Insert "agreed" before "maritime boundaries"

Page 2, Lines 7-9: Would read better as follows: "Whereas in 1984 the International Court of Justice delimited the maritime boundary between the United States and Canada in most areas of the Gulf of Maine;

Page 2, Lines 10-12: Would read better as follows: "Whereas the Government of Canada has repeatedly declined proposals by the Government of the United States to resolve the maritime boundaries in dispute between the nations;"

Page 2, Line 18: Insert "agreed" before "maritime boundaries". Replace "with Alaska" with "in the Dixon Entrance and in the Beaufort Sea."

Canada/Dixon Entrance/Dixon Issues 2-20-98.doc



Alaska Trollers Association

130 Seward St., No. 505
Juneau, Alaska 99801
(907) 586-9400
(907) 586-4473 Fax

December 2, 1997

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U.S. State Department
2201 C Street, NW
Washington, D.C. 20520

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Furthermore, Canada should be reminded that the parties agreed to flag state enforcement only as an interim measure, *pending the resolution of questions pertaining to the delimitation of areas subject to the respective fisheries jurisdiction of each party*. In its own 1978 diplomatic note Canada stated it, *"reaffirms its commitment to pursue negotiations on maritime boundaries"*. It was on the basis of this commitment that the U.S. agreed in its responding diplomatic note to continue reciprocal flag state enforcement. Accordingly, in October 1985, Secretary Schultz suggested to Canadian Foreign Minister Joe Clark that the two countries attempt to resolve the boundary dispute. Late in 1986, Minister Clark informed the Secretary that it was not an opportune time for Canada to negotiate. To date, Canada has consistently refused to begin negotiations with the U.S. and remains unwilling to submit the matter to the World Court for resolution. Unless Canada honors its commitments to flag state enforcement and negotiation of the maritime boundary, the U.S. should not hesitate to enforce its EEZ in Dixon Entrance, as it deems appropriate.

The importance of this issue to U.S. fishermen should not be under-estimated. What effectively forced the U.S. fleet out of Dixon Entrance is not just the sporadic harassment of a few fishermen by DFO, but daily harassment by the Canadian fishing fleet. Canada's troll fleet did not have a large presence in the area until after the U.S. claimed its 200 mile limit. Since that time, the Canadian fleet has grown to the detriment of U.S. fishermen. The majority of the Canadian boats are large, efficient processor/trollers operations, fishing six lines of gear (U.S. trollers are limited to only 2 or 4 lines, depending on permit type). They target U.S. origin salmon to, redress "equity imbalances", as stated by Canada in Pacific Salmon Treaty negotiations. Apparently, some Canadian fishermen have come to believe that these waters are sovereign Canadian waters, and that U.S. vessels are fishing there illegally. The Canadian fishermen are not at all shy about taking matters into their own hands when it comes to driving out U.S. boats. We cannot expect the U.S. Coast Guard to referee chronic right of way skirmishes, nor can we expect U.S. trollers to subject themselves to intimidation in order to fish U.S. waters.

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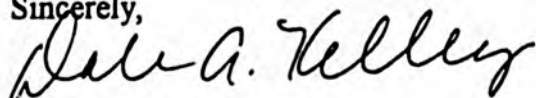
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Dale A. Kelley
Executive Director

SCOMM

102:22



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

SPONSOR STATEMENT HJR 55

HJR 55 speaks to the allocation of pollock and Pacific cod in the Gulf of Alaska and Bering Sea which will expire after this year. The North Pacific Fisheries Management Council is currently analyzing and reevaluating the current allocation proportions due to anticipated changes in harvest quotas and consequent economic impacts. The Council's actions will set the stage for economic gains or losses to coastal communities, the state through fishery business tax and landing tax revenues, and benefits in Alaskan employment and investment.

My resolution supports the current allocations of pollock and Pacific cod in the Gulf and an increase in percentage of the pollock resource from Bering Sea/Aleutian Islands exclusive economic zone for vessels that deliver to onshore processors and mother ship processing sectors of the industry. I believe a majority of the BSAI quota would provide the stability the inshore processing sector is seeking to help ensure viability for our communities.

The inshore sector businesses reside in our Alaska coastal communities. It is this sector which has fish businesses and offices and employees who are the fabric of city councils and little league teams. As an example, in 1995 the average number of individuals employed in the seafood industry on a monthly basis in Kodiak during 1995 was 2,138. Total wages and benefits paid to inshore processing employees during 1995 were \$50 million – that's 43% of the total employment opportunity in Kodiak.

While I appreciate recent employment outreach efforts on the part of the offshore sector, and their development of new competitive markets, I favor the inshore infrastructure as a more longterm partner in our communities. The State of Alaska needs to maximize benefits obtained from these offshore resources.

INSHORE/OFFSHORE ISSUE SHEET

I have sponsored HJR 55 which speaks in support of the current allocation of pollock and Pacific cod in the Gulf of Alaska and that a higher percentage, a majority, of pollock be allocated to the onshore sector in the Bering Sea. Currently of the Total Allowable Catch (TAC) in the Gulf of Alaska, 90% of the pollock is allocated to onshore and 10% is allocated to offshore processing. Of the TAC in the Bering Sea, 7.5% is taken off the top and given to the Community Development Quota (CDQ) program. Of the remaining TAC, only 35% of the pollock is allocated to inshore and 65% is allocated to the offshore processing. Plus 85% of the 7.5% CDQ is contractually harvested by the offshore processors. As you can see, more of the Bering Sea pollock is taken by the offshore pollock trawlers than the 65% in question. The controversy, highlighted by the media and the lobbyists, surrounds the proposed changes to the Bering Sea pollock allocation.

Our state legislature rarely participates in legislative issues of this financial magnitude, unless they are talking about our oil industry. It has been estimated that every percentage point change in the allocation of Bering Sea pollock is worth about \$5 million dollars annually. The foreign multinational corporations, particularly the one that reaps 43% of the offshore pollock quota, (American Seafoods - a Norwegian owned company) has purchased lots of media, several Alaskan lobbyists and new employees to improve their Alaskan image in the last year or so. These recent reactions by the Norwegians are in effort to keep millions of dollars from coming ashore and enhancing the economics of Alaska.

Let's talk about the foreign ownership involved in this reallocation. Norwegian-owned American Seafoods operates 16 factory trawlers in the Bering Sea which harvest 43% of the pollock quota. They have largely sponsored the ads you've seen in the newspapers and on TV telling us what great Alaskan partners they are. American Seafoods is owned by AkerRGI, the Norwegian multinational corporation, and is heavily invested in fish farms around the world, Norway Seafoods. Most of the offshore pollock factory trawler fleet has foreign ownership.

On the other hand, there is significant foreign ownership in Bering Sea onshore processors. Only four out of eight of the shoreplants are fully U.S. owned. The other four have parent companies affiliated with Japan. The distinction is that onshore processors buy their pollock from smaller shore based catcher vessels, 85 % of which have US ownership.

The other recipients of onshore pollock are the offshore motherships, floating processors which also purchase pollock from smaller catcher vessels. Recent analysis has shown that 63% of the ownership of the three true motherships is American. So well above half of the onshore sectors 35% goes to American interests. American companies process a significantly higher proportion of the 35% onshore pollock than the American interests receive from the 65% caught and processed by the offshore industry.

How the Japanese came to gain such a significant foothold in our onshore businesses is partly due to the evolution of this fishery. A small history lesson....

Up until 1976 there were major foreign fisheries activities within 3 miles of Alaska's coast. In 1976 the original Fishery Conservation and Management Act gave American fishermen first rights to access our fishery resources out to 200 miles. The intent was to Americanize the fishing fleet within the 200-mile limit although it took another ten years of joint ventures before American fishermen were able to displace the efforts of foreign fleets offshore. It worked well except for the loophole, which enables foreign-built processing vessels to enter our fisheries by simply switching their registry and operating under the US flag. The loophole is what has led to much of the over-capitalization and has already been addressed by this body in SJR 33.

In the 1980's, Congress and various Presidential Administrations assisted the domestic fishing industry with a policy called "Fish and Chips". This policy, primarily aimed at the Japanese, forced them to assist in the development of our domestic industry. Most of the pollock and cod are turned into surimi. The USA had very little knowledge about surimi at this time. The "Fish & Chips" policy required them to provide technical assistance and later purchase US harvested fishery products. The Japanese responded by investing onshore in order to keep access to the tons of fish upon which they had relied for so long. Essentially, the Japanese were encouraged to bring their technology to shore during that time period, and they did. The trade off for the technology was allowing the Japanese to purchase ownership in some onshore plants. We must also keep in mind that these large onshore processing plants became a major part of the economic infrastructure of the State of Alaska.

These inshore businesses have consistently paid fisheries business taxes, ASMI assessments, property tax and employment tax since inception. Their employees are the fabric of the many coastal communities. They employ thousands of Alaskans each year. These onshore processors are fixed assets on our coast, they do not float away. The factory trawler fleet is truly mobile known to operate its fleet off South America, Norway and Russia. We heard testimony in our fisheries committee indicating that smaller pollock catcher vessels who deliver onshore are far more likely to remain here throughout the year than their offshore counterparts, and, as a consequence, buy their fuel and groceries here and use our shipyards regularly.

Let's address the issue of taxes to the state. There has been the fisheries business tax or raw fish tax, which the in shore processors have paid since territorial days. Until 1994 there was no tax on the off shore processors. Representative Moses, the cosponsor of this legislation, introduced the Fishery Resource Landing Tax in 1993, effective January 1, 1994. Immediately, the off shore factory trawlers filed suit against the state in objection to paying tax to Alaska. The factory trawlers also fought against development of the CDQ program in the Bering Sea when it was first proposed. Coincidentally, about a year ago, the offshore processors realized they may want to work on their image with Alaska so they dropped the tax lawsuit, started hiring more Alaskans and began buying salmon from Bristol Bay fisherman.

Another point on taxes, it has been estimated by the NMFS and documented by the Council that factory trawlers have "leakage" of 17 %. That means 17 % of the pollock caught and processed offshore, a mere 115,500 metric tons, Alaska sees nothing for. Fish processed in the EEZ off Alaska's coast and never enter Alaskan waters are not subject to Alaskan state or local taxes.

In my mind, part of the justification for providing a bigger pollock allocation to the inshore sector is the "double dipping" fishing off of Russia by these same factory trawlers. The Bering Sea pollock biomass swims back and forth between US and Russian waters. When the TAC has been reached in the Bering Sea fisheries the pollock factory trawlers fish cross the US/Russia line and decrease the returning stocks available to harvest later in US waters. The losers are both the onshore processors and the small catcher-vessels that sell to motherships or onshore processors. Due to this double dipping and recent over-capitalization of factory trawlers, one mothership, the Ocean Phoenix, documents a 60 % reduction in product in the last 8 years.

I want to set the record straight on utilization of waste and bycatch. According to North Pacific Fisheries Management Council analysis there is nearly double the utilization achieved by the inshore sector than the offshore. The offshore fleet has a 19% utilization of pollock compared to the 35% utilization of the inshore fleet. When you compare this to the total catch of 1,100,000 metric tons of pollock, we can attribute the waste of 114,400 metric tons of pollock product as a cost of doing business with offshore factory trawlers.

On bycatch, the facts according to 1996 NMFS data says: The surimi factory trawlers bycatch or kill nearly four times more halibut, nearly 3 times more herring, ten times more red king crab, and nearly ten times more bairdi than the motherships and the onshore processors.

The onshore processors paid out \$327,500,000 for the fish they weighed and purchased from the local catcher vessels in 1997. As previously stated, only 7% of the inshore catcher vessels have Japanese interest. There is concern regarding the total amount of fish taken by the offshore fleet. The offshore processors fish and process 24 hours per day and they have only one observer onboard. When the observer is sleeping or eating, they are not monitoring the catch. Monitoring the catch on an offshore factory trawler is an estimation – offshore harvests are not weighed like they are for onshore processors, because the fish they catch are free, they don't have to pay for them. Compare this to the \$327 billion weighed and paid for by the inshore sector to the catcher vessels, 85 % of which are American-owned.

Twice, when the North Pacific Fisheries Management Council has deliberated the onshore/offshore issue, they found an increase was due the onshore sector, but the Secretary of Commerce modified the Council's actions and decreased the onshore sectors proportion of pollock. The last recommendation by the NPFMC was for 45% for onshore and 55% for offshore, but the Secretary of Commerce was successfully lobbied to changed it to the current 35/65. Let's face it, with the magnitude of dollars involved, expensive lobbyists are hired to influence the outcome of allocations.

Most of you will remember the Individual Fishery Quotas (IFQ) that the NPFMC placed on halibut and sablefish. The NPFMC has been considering for some time an Individual Transferable Quota (ITQ) for groundfish. This round of onshore/offshore is particularly intense due to the likelihood of ITQ's in the offshore fisheries. That means that participants in these fisheries at some point soon will be granted rights to fish in perpetuity in our 200-mile limit. Right now they do not own the fish they only have a right to fish for them. Early development of ITQ's is in the works, hence the increasing overcapitalization in the offshore sector. Like I said, the stakes are high. Before all of this fish is given away to offshore interests, we must get this fish allocated onshore so more Alaskan's will have the benefits, not foreign owned corporations.

Some people feel that the Alaska Legislature should not be involved in fishery allocation issues. When you consider fisheries inside the 3-mile limit, I concur that that is the Board of Fisheries' job. But when it comes to fishery issues outside the 3-mile limit and the allocation will be determined by the NPFMC, I strongly feel that the Alaska Legislature should be actively involved on issues affecting us as a state. We were remiss in not speaking out stronger on the issue of halibut and sablefish IFQ's. The NPFMC gave our halibut and sablefish away to a few lucky fishermen when they implemented the IFQ program. **I repeat the NPFMC gave away those fish.** The Alaskan Legislature definitely should involve itself on the distribution of our pollock resource.

HJR 55 supports a reallocation in which a majority of pollock would be provided to the onshore sector. Since the Council is planning on moving the motherships out of the offshore sector quota and creating a separate quota for them, this shift is not as dramatic as many perceive. If the Council finds that a reallocation is justified, the factory trawlers will not be eliminated, and therefore, their Alaskan village employment will not have to decrease. Let's be clear that the CDQ quota comes off the top and will not be affected.

I feel it's important for our legislature to weigh in on this decision. Bringing Alaska's resources onshore is smart for Alaska, it builds our infrastructure and tax base. You know, we always seek to maximize our resources by adding value here. We've acknowledged that policy with timber, oil and minerals, and we need to maintain that policy by having our fishery harvests come onshore.

Inshore/Offshore Background

- 1976 - Passage of the Magnuson Act with the intent to Americanize the harvest of resources in the US EEZ.
- 1986 - 100% of Bering Sea Pollock fishery is harvested by American catcher boats.
- 1989 - Factory trawlers harvest Gulf of AK quota in a few weeks, closing the Kodiak plants and causing hundreds of layoffs. The ships then return to the Bering Sea to continue fishing.
- 1991 - The NPFMC recommends kicking F/T's out of the Gulf pollock fishery, and also recommends an allocation of 45% onshore and 55% offshore.
- 1992 - Secy. Of Commerce accepts the Gulf plan but rejects Bering Sea split and decides on 35% onshore and 65% offshore. The basis of this decision has been proven flawed.
- 1998 - This 35/65 split has remained during a time of vast change in the fishery.

VIA FAX 907 465 4956

February 13, 1998

The Honorable Rep. Alan Austerman
Chairman, House Special Committee
On Fisheries
Room 434
State Capitol Building
Juneau, Alaska 99811

Dear Rep. Austerman,

I am writing on behalf of the North Pacific Seafood Coalition in support of House Joint Resolution 55, which promotes more of Alaska's pollock resources to the "inshore" sector. This sector includes shore plants, motherships, and catcher boats, all of which are represented by the Coalition.

Members of our coalition have invested hundreds of millions of dollars in Alaska over the past decade, and have made a commitment to Alaska's coastal communities. Our processing members all buy our fish from independent fishers, and we process products from essentially all of Alaska's fishery resources.

Many of our members have operated facilities in Alaska for decades, paid millions of dollars in state and local taxes, purchased services such as water, utilities, fuel and other supplies in the communities where we are located, and have provided an economic engine for much of coastal Alaska.

Our members have hired thousands of Alaskans, and continue to provide career opportunities for those interested in the seafood industry. Our year round employment base, community support, and facilities are often the key ingredient to the social and economic fabric of our states coastal communities and fishing industry.

Our industry represents the state's largest private sector employer, and second largest taxpayer. We very much appreciate your introduction of HJR 55, and we are pleased to offer you our support.

Please do not hesitate to call me if we can provide you with anything further.

Sincerely,

Glenn Reed
Executive Director

ALYESKA SEAFOODS, INC.

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(206) 547-2100

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303 N.E. Northlake Way
Seattle, WA 98105
FAX: (206) 547-1808

February 13, 1998

The Honorable Alan Austerman
Chairman, House of Committee on Fisheries
Juneau, Alaska 99811

Via Fax: 907 465-4958

Dear Representative Austerman,

I am writing in support of HJR 55, in support of more pollock allocation to the "inshore" sector.

Alyeska Seafoods, Inc. is a shore-side processor located in the Unalaska/Dutch Harbor area of the Bering Sea, and is jointly owned by American and Japanese interests. In addition, the American owners have a sizable investment in fishing vessels which serve this shore-side facility.

We employ 200 full-time and up to 250 seasonal workers. Alyeska accepts fisherman catches from approximately 80 independent vessels, with a fisherman crew size of two to six. This fish purchase effort injects several million dollars into the Alaskan community through crew payments, vessel fuel and supplies. Most of our full-time employees and their families have become residents of the local community, many serving on various municipal, community and civic endeavors.

Including fish vessels which service our processing facility, we have an investment of close to 90 million dollars dedicated to the shore-side processing of pollock, crab, Pacific cod, halibut, and many types of groundfish. Alyeska has operated since 1986. Alyeska contributes over 1.5 million dollars in local and state taxes. Alyeska purchases products and services, and provides transportation from the community in excess of 2.5 million dollars annually. Payroll in excess of 6 million dollars was injected into the community in 1997. All of our products are shipped from our plant, providing jobs for longshore, and Alyeska also supports many civic, educational and charitable causes, both on a local and state-wide level.

In order for us to sustain this operation and have the "inshore" sector prosper, additional pollock will have to be allocated onshore. I hope the HJR 55 will have the enthusiastic support of the Alaska legislature.

Page 2
The Honorable Alan Austerman
February 13, 1998

Thank you for your efforts on our behalf.

Very truly yours,



Alce W. Brindle
President

AWB/cp

bcc: Glenn Reed



Resource Development Council for Alaska, Inc.

121 West Fireweed Lane, Suite 250, Anchorage, Alaska 99503-2035
(907) 276-0700 Fax: (907) 276-3887 e-mail: rdc@aonline.com

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Resource Development Council, for Alaska Inc. 1998-1999 Legislative and Administrative Priorities

General Issues

Access

- Advocate for increased access to public lands for resource development.
- Encourage no net reduction in private, state and federal lands currently available for resource development.
- Support improvements and additions to the state's land, marine, and air transportation infrastructure.

Fiscal Policy

- Encourage a responsible, long-range state fiscal plan.
- Promote value-added opportunities in all resource sectors throughout Alaska and provide for the research, development, and marketing of Alaska resources.
- Support fair equitable tax and royalties policies which stimulate resident job creation, capital investment, economic development in Alaska.
- Further efforts to privatize Alaska state government services.

Education

- Educate business leaders, government officials, school children, and the general public on resource issues in Alaska.
- Administer a forum for discussion and analysis of responsible resource development activities in Alaska.
- Provide factual information on land, environmental and resource issues to RDC members, the general public, the media, and government entities.

Specific Issues

Fisheries

- Support fisheries policies which improve access, markets, and revenues for Alaska fishermen and a healthy competitive environment for an Alaskan seafood processing industry.
- Advance shore-based processing and fisheries policies that ensure access and revenues for Alaska's "home fleet."
- Support reduced fisheries waste and better utilization of Alaska fishery resources.

Page 2 RDC 1998-99 Legislative and Administrative Priorities

- Promote improved product value, development of new product forms and resource management policies ensuring the long-term health of Alaska fishery resources.

Forestry

- Advocate for a reliable long-term federal and state timber supply.
- Support adequate funding and enforcement of the Alaska Forest Practices Act which includes private land.
- Encourage funding of forest management initiatives to address beetle infestation and the Reforestation Fund.

Mining

- Support legislative and/or administrative initiatives to encourage new exploration and development of the state's mineral deposits.
- Advocate for expansion of the airborne geophysical mapping program.

Oil & Gas

- Advance legislative and/or administrative initiatives to encourage new exploration and development of the state's oil and gas deposits, as well as enhanced production from existing fields.
- Advocate for the continued use of the area-wide leasing program.
- Encourage public policy decisions which may improve the commercial viability of developing Alaska's stranded natural gas resources.
- Promote full leasing of the National Petroleum Reserve-Alaska with no new Special Areas.
- Educate and advocate the opening of ANWR to oil and gas development.
- Further federal legislation which provides impact assistance to state and local government from OCS funds.

Tourism

- Support increased access to tourism opportunities and improved infrastructure throughout Alaska.
- Advocate for construction of additional helicopter landing sites, airports and rural airstrips, ports, docks, and roadways.

Transportation

- Promote access corridors, expansion of road, rail, port and air infrastructure and facilities, maintenance of existing infrastructure and strong safety standards.
- Focus federal and state transportation funds on community needs not wants.
- Work with Pacific Legal Foundation to ensure settlement of ANILCA Title XI through the federal regulatory process.
- Support actions to designate and settle historic RS 2477 rights-of-way across public lands in Alaska.

Regulation/Permitting

- Advocate for clear streamlined state and federal regulations and permitting processes based on sound science which allow for responsible development of Alaska's resources.
- Monitor and participate in the regulatory arena on water quality issues, community wastewater needs, mixing zones, watershed classification, NPDES, reclassification of water bodies, and wetlands.

NORTH PACIFIC SEAFOOD COALITION
 Alaska Statewide and Coastal Community Survey
 Dittman Research Corporation of Alaska
 September 2-13, 1997
 Statewide n = 300
 Coastal n = 150

Alaska Statewide and Coastal Community RESEARCH HIGHLIGHTS

- ◆ From a statewide and coastal community perspective, Alaskans see major problems in the pollock fishery...

"...too much waste in the pollock fishery?"

(Described as using only part of the fish rather than all of it whenever possible.)

Statewide	Coastal
72% Problem	70% Problem

"...too much accidental by-catch in Alaska's pollock fishery?"

(Described as fishing for one thing, and accidentally catching and killing something else.)

77% Problem	75% Problem
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- ◆ And by wide margins, off-shore factory trawlers are seen as the primary cause...

"...who is most guilty of waste, on-shore plants or factory processors?"

67% Trawler	79% Trawler
8% On-shore	2% On-shore

"...who is guilty of accidental by-catch, on-shore plants or factory processors?"

71% Trawlers	74% Trawlers
4% On-shore	4% On-shore

- ◆ On the other hand, on-shore processors are much more highly favorable -- not only because they do less damage to the resource, but because of their benefits for Alaska

"Which do you feel buys the most goods, services and products in Alaska -- processing plants located on-shore or factory trawlers at sea?"

84% On-shore	77% On-shore
9% Trawlers	14% Trawlers

"The Magnuson-Stevens Act passed last year by Congress had a goal to localize the benefits of Alaska's fishing industry as far as possible. Which do you feel provides the greatest benefits at the local level -- processing plants on-shore or factory trawlers at sea?"

91% On-shore	81% On-shore
5% Trawlers	13% Trawlers

- ◆ So it's not too surprising that only 12% support the current pollock allocation being granted to factory trawlers -- 77-81% want a change...

"Currently, off-shore factory trawlers are allocated 65% of the pollock harvest, while on-shore processors are allocated 35%. Which do you think would be best -- leave the allocation as-is with factory trawlers receiving 65%; change so that on-shore and factory trawlers each receive 50%; or reverse the allocation so that on-shore processors receive 65% and factory trawlers receive 35%?"

Statewide	Coastal
12% As-is	12% As-is
38% Change to 50/50	35% Change to 50/50
39% Reverse	46% Reverse

- ◆ In fact, by huge margins, Alaskan's believe pollock allocations should be reviewed this year.

"...The North Pacific Fishery Management Council should or should not review the pollock allocation issue this year?"

95% Should	94% Should
4% Should not	5% Should not

- ◆ The main reasons given for increasing the pollock allocation to the in-shore fishing industry are generally considered to be "very convincing"...

Reasons for increasing the pollock allocation:

"...in-shore pollock industry generates millions in tax revenues for the state and coastal communities, while the factory industry pays no local sales taxes, and even filed a lawsuit in an effort to avoid paying state fish landing taxes until very recently..."

77% Very convincing	72% Very convincing
---------------------	---------------------

"... not fair that in-shore processors who have invested hundreds of millions of dollars in processing plants in Alaskan communities are allocated only 35% of the harvest, while factory trawlers owned predominantly by foreign countries receive 65% of the catch without having to make any serious investments in Alaska..."

81% Very convincing	71% Very convincing
---------------------	---------------------

"Because on-shore processors weigh all of their fish, it is much easier to regulate the in-shore fishing industry and accurately determine the total size of their pollock harvest to ensure compliance with state and federal fisheries laws..."

69% Very convincing	65% Very convincing
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- ◆ While the main reasons generally given for not reviewing the pollock allocation issue this year are broadly considered to be "not at all convincing"...

Reasons for not reviewing pollock allocation issues:

"...it would be a mistake to alter the current allocation system and risk destabilizing the industry..."

71% Not at all convincing	71% Not at all convincing
---------------------------	---------------------------

"...the North Pacific Fishery Management Council will have little time to devote to important decisions in Alaska's other fisheries..."

76% Not at all convincing	70% Not at all convincing
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①

To: Special Committee on Fisheries All members
FR: Shirley Maguardt Box 920021 Dutch Harbor, AK 99692
RE: HJR 55

Mr. Chairman and Members,

HJR 55 is a resolution brought forward for your consideration, that ~~has~~ many more questions than answers. Please bear in mind that the North Pacific Fisheries Management Council is the Body charged with the regulation and conservation of the Pollock fishery, and they have no answers yet to the numerous assumptions (their word) and questions that make up the whole question of A possible re-allocation of Pollock from one sector of Industry to another.

It is their job to gather the enormous amount of DATA and Information needed, and then apply it in the most responsible, scientific and truthful manner possible. They and their staff have not reached the stage where they can do that yet. How can you? And Further, why should you? IF the Pollock fishery is the goose, then it certainly laid TWO golden eggs, not just one, and they are both valuable to the people and State of Alaska. That some groups have you as legislators seriously contemplating the gradual destruction of such a significant part of Alaska's future is outrageous. I have heard all the "buzz" words, read the Ads and heard the

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sound bites. What I have not heard, is a truthful discussion of benefits from the At-Sea Fleet by any one other than At-Sea Processors themselves. Please look to the NPFMC - NOAA - NMFS - and to the AK DGC for employment info, as well as a sound fishing program for all participants. Remember, when you hear:

- ① "Massive fishing vessels", their size is a direct result of their function, processing and hauling up to 80 employees.
- ② "Waste of Fish" The vessels in the At-Sea Fleet started the Increased Retention/Increased Utilization program this "A" season. What ever they catch, they keep. Period.
- ③ "Bycatch - Bycatch - Bycatch" Dr. Carrillo of the NPFMC Council Scientific and Statistical Committee reports, and I ^{quote} ~~quote~~, "Pollock fisheries are extraordinarily species specific" 90% of the Total Allowable Catch, or TAC, is Pollock. Also, the SSC. statement to Council that "Discard rates between the two sectors are practically the same". Very small numbers for both, not significant in any way. This info can be found in the meeting minutes of the Sept. 22-28, 1997 NPFMC meeting done by the S.S.C.

Please don't jump into taking a stand you cannot defend or explain. Let the NPFMC Council do their job. And give the people of the State of Alaska

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the confidence that you are legislating by reason and knowledge, not by pressures and half truths. Thank you for your time and effort, and please do not support this resolution.

Respectfully,

Shirley Marguardt
~~Shirley Marguardt~~

FAX

NORTH PACIFIC SHIP SUPPLY
MILE 4 CAPTAIN'S DAY ROAD
P.O. BOX 920245
DUTCH HARBOR, AK 99692-0245

Date 2-16-98
Number of pages including cover sheet

To: SPECIAL COMM. ON FISHERIES From: JERRY RAMOS

Attn: MEMBERS

Phone

Phone

1-907-681-1700 or 2700

Fax Phone

Fax Phone

1-907-681-1767

RE

HJR 55

REMARKS☐ Urgent☐ For your review☐ Reply ASAP☐ Please comment

ANY RE-ALLOCATION OF THE POLLOCK QUOTA
IN FAVOR ^{OF} ONE SECTOR OVER THE OTHER WITH-
OUT A FULL STUDY DETAILING THE OVERALL
ECONOMIC IMPACT ON OUR COMMUNITY, I
BELIEVE WOULD BE ILL ADVISED. THE CURRENT
ALLOCATION HAS ALLOWED THIS COMMUNITY
TO GROW WITH BOTH IN-SHORE AND OFFSHORE
SECTORS BENEFITTING FROM THE SUPPORT
SERVICES THAT HAVE BEEN ESTABLISHED.

ANY CHANGE HAVING A MAJOR DETRIMENTAL
EFFECT ON ONE SECTOR HURTS ALL OF
US.

PLEASE CONSIDER EVERY ASPECT OF THIS
ISSUE BEFORE MAKING ANY DECISION.

THANK YOU,

Jerry Ramos