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Utermohle
5/16/03

CS FOR HOUSE JOINT RESOLUTION NO. 25(FSH)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered:
Referred:

Sponsor(s): REPRESENTATIVES SEATON, Crawford, Chenault

A RESOLUTION

1 **Supporting Alaska's commercial fisheries, supporting the decision of the North Pacific**
2 **Fishery Management Council to rationalize management of the Bering Sea and Aleutian**
3 **Islands crab fishery, and requesting reconsideration of the processor quota share**
4 **component of the crab fishery rationalization plan.**

5 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 **WHEREAS** the Alaska State Legislature supports the commercial fishermen of
7 Alaska, who are the lifeblood of our coastal communities; and

8 **WHEREAS** the Alaska State Legislature supports the Alaska fish processing industry
9 which provides investment and jobs in our coastal communities; and

10 **WHEREAS** the Alaska State Legislature recognizes that commercial fishing is and
11 will remain the predominant economic base for the majority of our coastal communities; and

12 **WHEREAS** the Alaska State Legislature recognizes that federal fishery management
13 in the 200 mile Exclusive Economic Zone of the United States can have dramatic effects on
14 the economic growth and stability of Alaska coastal communities; and

15 **WHEREAS** the Alaska State Legislature supports the efforts of the North Pacific

1 Fishery Management Council to rationalize management of the crab fisheries in the Bering
2 Sea and Aleutian Islands; and

3 **WHEREAS** the Bering Sea and Aleutian Islands crab plan incorporates processor
4 quota shares, which designate that 90 percent of the fishermen's catch must be sold to
5 designated processors; and

6 **WHEREAS** the North Pacific Fishery Management Council's recommendation to
7 issue processor quota shares for any fishery is unprecedented in the United States; and

8 **WHEREAS** processor quota shares in the Bering Sea and Aleutian Islands crab
9 fishery may have unfathomable consequences on coastal communities and may eliminate
10 competition opportunities for fishermen and processors; and

11 **WHEREAS** processors who are not granted processor quota shares for the Bering Sea
12 and Aleutian Islands crab fishery may be disadvantaged and may discontinue processing
13 which may affect other fisheries including salmon;

14 **BE IT RESOLVED** that the Alaska State Legislature supports healthy economic
15 relationships between fisherman, processors, and Alaska coastal communities; and be it

16 **FURTHER RESOLVED** that the Alaska State Legislature supports the decision of
17 the North Pacific Fishery Management Council to rationalize the Bering Sea and Aleutian
18 Islands crab fishery; and be it;

19 **FURTHER RESOLVED** that the Alaska State Legislature urges the North Pacific
20 Fishery Management Council to reconsider the processor quota share component of the
21 Bering Sea and Aleutian Islands crab fishery rationalization plan.

22 **COPIES** of this resolution shall be sent to the Honorable Don Evans, United States
23 Secretary of Commerce; to each member of the United States Senate Committee on
24 Commerce, Science and Transportation; to each member of the United States House of
25 Representatives Committee on Resources; to each member of the North Pacific Fishery
26 Management Council; and to the Honorable Ted Stevens and the Honorable Lisa Murkowski,
27 U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska
28 delegation in Congress.

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5/15/03

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THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Murkowski Leman

October 24, 2002

To the Alaska Fishing Community:

The campaign for Governor of Alaska is approaching its final days. I would very much appreciate your assistance in correcting some misinformation being spread about my fish policy. Please help me get this important information to residents of Alaska's coastal communities. Our fishing industry is too important to let it fail by continuing the neglect of the past eight years.

Processor shares:

This is one of the most fiercely debated fishery issues in the country. Issuing processor shares is a radical step that has not been adequately analyzed. *The key question is whether a proposed plan will preserve the welfare and diversity of our fishing communities.* That has been my position all along.

My opponent has suddenly started to claim that she opposes processor shares, and will order the State representative on the Council to ask for reconsideration of the Bering Sea crab plan. Don't be led down the primrose path by this shameless – and mostly meaningless – political rhetoric.

The Council process already requires that a complete socio-economic impact analysis be conducted before any plan can be sent forward. I will ensure the analysis will be done fairly and completely, and effects on coastal communities and fishermen are fully explored. When that's complete, the Council **MUST** take another look at the issue in the light of the new analysis as part of the normal Council process.

Does the latest in Fran Ulmer's ever-changing position on processor shares mean she wants the Council to change its position before a new analysis is done? Without new information, what are the chances for a different outcome? Or is she saying that she can order Council members to change their vote? If so, which Council members does she claim to control – and when did that happen?

Let's not forget who proposed the processor quota plan in the first place. The Knowles-Ulmer Administration presented it, cut deals to get an 11-0 vote for it, and nominated the Alaska members who allowed it to happen. That's typical of an administration that has treated both the Council and the Board of Fisheries as political extensions of the Governor's office, not as independent decision-makers. Fran Ulmer clearly sees the Council the same way.

To the Alaska Fishing Community

October 24, 2002

As Governor, I will be in a position to make several new nominations for North Pacific Council members. I will appoint knowledgeable members who are allowed to think for themselves and are told to do the right thing, not the politically correct thing.

I will make sure no final action will take place on the Bering Sea plan until we know the full story. And I will not allow the Bering Sea/Aleutian crab rationalization plan to control what happens in the Gulf of Alaska. Gulf fisheries are more complicated. Any changes must have the full support of fishermen and their communities, must recognize regional and local differences, and must allow new processing and fishing ventures to be developed in the future.

Fish Farms:

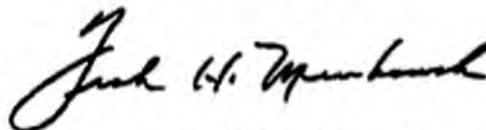
I am absolutely opposed to salmon farming anywhere in Alaska. The glut of farmed salmon is the most important factor in the current low price of salmon. Producing more farmed salmon won't help. Instead, we need to emphasize our high-quality wild fish. Both market research and the practical experience of our fishermen and independent entrepreneurs support that view.

However, it is wrong to tar all aquaculture opportunities with the same brush. I support the expansion of our shellfish industry, for example, as long as it is done in an environmentally sound way.

Salmon:

Returning our salmon industry to profitability will take a coordinated effort by fishermen, processors and the government. As part of that effort, we must be willing to consider management reforms that will increase the ability of fishermen and fishing communities to respond to the changing market. I will make sure that when those issues are discussed, Alaska's fishermen and fishing communities are front and center. We must ensure that any changes preserve economic and social opportunities for our communities. *Alaska's fishery management should be based on what's good for Alaskans, not what's good for outside interests.*

Very truly yours,



Frank H. Murkowski



filed 4/23/83

North Pacific Fisheries Association, Inc.

HEADQUARTERS:

BOX 796 • HOMER, ALASKA 99603

A RESOLUTION OF THE NORTH PACIFIC FISHERIES ASSOCIATION (NPFA) OF HOMER, ALASKA, URGING THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL, THE UNITED STATES CONGRESS AND THE STATE OF ALASKA TO REQUIRE STRONG STANDARDS FOR CONSERVATION AND COMMUNITY HEALTH BEFORE ANY NEW INDIVIDUAL QUOTA OR OTHER LIMITED ACCESS PROGRAMS ARE ADOPTED IN OUR FISHERIES RESOURCES IN ALASKA.

1. WHEREAS; The North Pacific Fisheries Assn. believes that strong conservation goals should be integrated into any new rationalization program and,
2. WHEREAS; The North Pacific Fisheries Assn. believes that a mechanism must be incorporated in a rationalization program so if the conservation goals are not met there is a means to change the program to meet the goals and,
3. WHEREAS; The North Pacific Fisheries Assn. believes that an independent review process needs to be incorporated into any new rationalization program and,
4. WHEREAS; The North Pacific Fisheries Assn. believes that any privatization program should include rewards to fisherman who convert to gear types that have low bycatch rates and minimal impact to the sea floor habitat and,
5. WHEREAS; The North Pacific Fisheries Assn. believes that any rationalization plan include measurable reductions in by-catch and fisheries waste and;
6. WHEREAS; The North Pacific Fisheries Assn. believes that good stewardship of the public's marine resources is a condition for continued participation in IFQ programs or other limited access programs and,
7. WHEREAS; The North Pacific Fisheries Assn. believes that any rationalization plan include viable entry-level opportunities to coastal community residents be incorporated and;
8. WHEREAS; The North Pacific Fisheries Assn. believes that the allocation of fishery resources be to independent fisherman, including hired skippers, operators, and crewmembers based on historic participation and,

9. WHEREAS; The North Pacific Fisheries Assn. believes that any new rationalization program should promote healthy community fishing economics and maintain diverse independent fishing fleets and,

10. WHEREAS; The North Pacific Fisheries Assn. recognizes the National Research Councils recommendations concerning processor allocations contained in the 1999 report to Congress entitled "Sharing The Fish: Toward a National Policy on IFQ's" p.205

Recommendation: ...*"Nor did the committee find a compelling reason to establish a separate, complementary processor quota system (the "two-pie" system)". and,*

11. WHEREAS; The North Pacific Fisheries Assn. believes that the allocation of fishery resources to processors will threaten the competitive balance between independent fishermen and processors and,

12. WHEREAS; The North Pacific Fisheries Assn. believes that any privatization programs created should not require an exemption to federal anti-trust laws and,

13. WHEREAS; The North Pacific Fisheries Assn. believes that any rationalization plan include eligibility for coastal communities and,

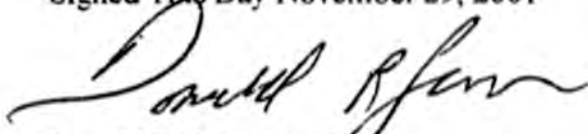
14. WHEREAS; The North Pacific Fisheries Assn. believes any rationalization plan maintain a high level of participation in fisheries by active fisherman and,

15. WHEREAS; The North Pacific Fisheries Assn. believes that any rationalization plan include mechanisms to promote and maintain a high level of professionalism and,

16. WHEREAS; The North Pacific Fisheries Assn. supports a funding mechanism to adequately support management and enforcement requirements of these fisheries.

NOW THEREFORE BE IT RESOLVED; that the North Pacific Fisheries Association of Homer, Alaska strongly urges the North Pacific Fishery Management Council, State of Alaska, and the United States Congress to develop the above elements into standards for any rationalization plan to ensure that conservation and community stability are met when establishing new individual quota or other limited access programs for our fishery resources in Alaska.

Signed This Day November 29, 2001



Donald R. Lane, president
North Pacific Fisheries Assn.
Homer, Alaska

WHEREAS. The City of Homer believes that the allocation of Alaska fishery resources should

07/23/2002 06:30 0000000000

CITY OF HOMER
HOMER, ALASKA

PAGE 01
Mayor Cushing
Yourkowski
Kranich
Ladd

RESOLUTION 02-06(S)

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA SUPPORTING LOCAL INDEPENDENT FISHING FAMILIES AND COMMUNITIES BY OPPOSING THE ALLOCATION OF ALASKA FISHERY RESOURCES TO PROCESSORS "THE TWO PIE SYSTEM" OR OTHER FISHERY RESOURCE ALLOCATION PROGRAMS THAT CREATE A CLOSED CLASS OF PROCESSORS.

WHEREAS, Decisions made by State and Federal Elected Officials and Resource Management regarding this issue will have some of the largest effects on this regions' economy for many years to come; and

WHEREAS, Commercial Fishing has been a major basis of the Homer area economy for the last 80 years; and

WHEREAS, This area's commercial fishing economy has survived major setbacks including fish stock changes and the fire loss and closing of the area's major processor, but the area has still managed to be the Nation's highest port in halibut landings, the last three years, as well as a significant port for other species; and

WHEREAS, This vitality is attributed to the resourcefulness and energy of area's independent commercial fisherman and the City of Homer's port structure that enhances these independent commercial fishing entities; and

WHEREAS, Any decisions made in these fisheries resources that allocates to processors is contrary to 80 successful years of an area and would have monumental effects on the area's economy; and

WHEREAS, This area's commercial fishing economy is similar to many other cities and areas of Alaska; and

WHEREAS, It is imperative to make decisions that don't contribute to the current threat of recession; and

WHEREAS, The City of Homer believes that the allocation of fishery resources to processors "the two pie system" will threaten the social and economic balance between independent fishermen and processors; and

WHEREAS, The City of Homer believes that any fishery resources allocation program that requires exemptions to the anti trust laws is bad for independent fishing families, coastal communities, and seafood consumers; and

WHEREAS, The City of Homer recognizes the National Research Council's recommendations concerning processor allocations contained in the 1999 report to congress entitled, "Sharing the Fish: Toward a National Policy On IFQs", p 203 "Recommendation:..." Nor did the committee find a compelling reason to establish a separate, complementary processor quota system (the "two-pie" system); and

Page Two

Resolution 02-06(S)

City of Homer

WHEREAS, The City of Homer believes that the allocation of Alaska fishery resources should include eligibility for coastal communities, independent fishermen, hired skippers, operators and crewmembers that live adjacent to the resource; and

WHEREAS, The City of Homer believes that strong conservation goals and measurable reductions in by-catch and fisheries waste be an integral part of any rationalization program; and

WHEREAS, The City of Homer supports the inclusion of an independent review process of new rationalization programs and a viable mechanism to adjust the system if the intent and/or goals of an implementation program are not being achieved; and

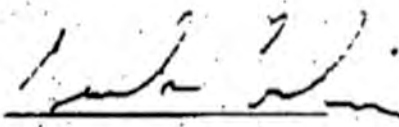
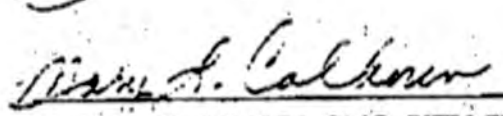
WHEREAS, The City of Homer believes that all Alaskan coastal communities have the right to participate in the public process concerning all Alaskan fishery resources issues.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Homer strongly urges the North Pacific Fishery Management Council, State of Alaska and the United States Congress to support the conservation principles contained within this Resolution and support local independent fishing families and coastal communities by opposing the allocation of Alaskan fishery resources to processors "the two-pie system" or any other fishery resources allocation program that creates a closed class of processor.

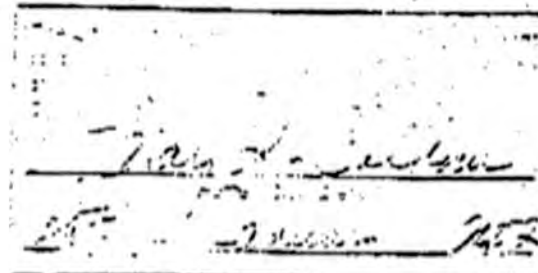
PASSED AND ADOPTED by the Homer City Council this 28th day of January, 2002.

CITY OF HOMER

ATTEST:


JACK CUSHING, MAYOR
MARYLL CALHOUN, CMC, CITY CLERK.

Fiscal Note: NA



POMS Main Menu

POMS Unviewed Message Summary for Representative Seaton

Main Menu

Extract

as

Comma Separated Format



Richard J Maher
Po Box 4203
Po Box 4203
Homer AK, 99603-4203

Email:

Constituent Supports

BILL#: HJR 25 COMMERCIAL FISHING & PROCESSOR SHARES

SUBJECT:

MESSAGE: Processor shares is a bad idea. There is no benefit to anyone in the fishing industry or support industries whatsoever. A very few owners will benefit. The whole concept of competition innovation pricing etc. will disappear. In short the PEOPLE of Alaska will lose.

DISTRIBUTION: 19

My name is Roger Rowland. My residence is in Unalaska. I fish salmon in Chignik, grey and black cod in Unalaska, and herring around the state.

I would like to draw your attention to something that has happened at Chignik over the past couple of years.

In 2001 we were presented with a new product possibility that substantially outperformed our traditional markets in ex-vessel price. Both of our traditional buyers told me personally that they were not interested in this new product and that it wouldn't work in the market place. To make a long story short in 2002 this new market returned \$1.00 lb ex-vessel price to the fisherman for sockeye salmon. Compare this to the \$.50 lb that Kodiak and area M average out to. These are the areas that border us on either side.

I know the current two pie discussion concerns crab stocks in the Bering Sea but I'm convinced that the same companies that would benefit from processor shares for crab would use this plan as a template for multi species Gulf Rationalization.

The miniscule 10% that is supposed to allow for the kind of competition I mentioned earlier would be laughable if it wasn't so tragic. Ask any of the existing processors if they could make it on 10%

In closing I support legislation that stymies the processors ability to dictate an unfair price to the fisherman.

Subject: [Fwd: HJR25 Comments]

Date: Fri, 25 Apr 2003 12:44:56 -0800

From: Paul Seaton <Representative_Paul_Seaton@Legis.state.ak.us>

Organization: Alaska State Legislature

To: Cameron Yourkowski <Cameron_Yourkowski@legis.state.ak.us>

Subject: HJR25 Comments

Date: Thu, 24 Apr 2003 14:24:29 +1200

From: "Tellmans" <wtellman@arctic.net>

To: <Representative_Paul_Seaton@legis.state.ak.us>

HJR25 Comments:

Hi Paul my name is Chris Price and I live in Unalaska. I have lived here for many years. I would like you to know that many people in Unalaska do not support processor quota shares as some would like you to think. In fact I would wager that most who support PQ here work directly for the industry. Not that processors do not play an important role in Unalaska and the State, but PQ gives too much away at too high a cost. And what for, the processors are not hurting are they? Why do they need total control?

As far as we can tell out here the processors are thriving as is, and unfortunately have taken control of the local political scene as well. PQ is not necessary. That may be how business is done in Japan but in the US we want free markets protected, and good conservation. Halibut and Sablefish show this is possible. I support HJR 25 as is. I also think this is a states rights issue. Federal management is one thing but not at the expense of good state governance, which means you may have to speak out against what is happening on the NPFMC.

By the way it appears that there is some movement behind the scenes on the council to at least reconsider their position on PQ at the next meeting in Kodiak. Apointees are not elected officials. You were elected, not appointed. You have the authority to have a separate opinion on the issue. One that fully considers the good of the communities and state. Thank you for your representation and your consideration. Chris

Subject: [Fwd: Processor quota shares]

Date: Mon, 28 Apr 2003 09:53:26 -0800

From: Representative Paul Seaton <Representative_Paul_Seaton@Legis.state.ak.us>

Organization: Alaska State Legislature

To: Cameron Yourkowski <Cameron_Yourkowski@legis.state.ak.us>,
Chris Knight <Chris_Knight@legis.state.ak.us>

Subject: Processor quota shares

Date: Mon, 28 Apr 2003 10:22:31 -0700 (PDT)

From: Mark Stophia <mark_stophia@yahoo.com>

To: representative_paul_seaton@legis.state.ak.us

Dear Representative Seaton:

I'm a staffer for Senator Lincoln, but writing on my own behalf. I want to commend you for taking on a resolution against processor quota shares. As a self-marketing salmon troller, I would not be free to sell my full catch myself under such a plan. This plan will inhibit new product development. As long as a processor can make a margin between what he pays fishermen and what he sells his processed product for, he can stay in business, even if fishermen cannot.

The argument that if this system would have been in place in Southeast Alaska, that Pelican and Yakutat would still be in business is perhaps naive. For Pelican, at least, their lack of air or road transportation is a serious impediment. If they cannot provide fresh halibut or black cod to market, they cannot compete in the world market. A system like this would promote more frozen product, and once we go there like we did for salmon and not respond to consumer demand, farmed halibut and black cod will soon be on the market to meet what consumers want: fresh fish. Structuring a system to protect processors will not succeed if it does not allow free market forces to react to market demand, and ultimately, it will hurt fishermen.

If this is such a good idea, then I think we should only allow processors to sell to those they have traditionally sold to once they process the harvest, and see how they would like that. If fishermen are not free to sell their product where they want, then processors should not be able to either.

Although there was debate that limited entry bars someone from going fishing, this is not the purpose of limited entry. Limited entry for fishermen is designed to provide an efficient way to manage fisheries for maximum sustained yield in a controlled way. By limiting effort, we can manage stocks closely to a guideline harvest level. It does not guarantee anyone a living or guarantee that you will catch a given amount of the resource. Only IFQ's do that. No one's right to go fishing or sell their fish to any given company is abolished. Anyone can buy a permit and get into the fishery, and if they are a motivated businessman, sell their catch themselves to make as much money as possible.

The NPFMC is stacked with processors. I believe Stosh Anderson is the only active fisherman on the council. I do not understand why he voted for the program, but he did. The last election showed that while processors may have the money, they only get one vote at the voting booth just like the rest of us, and the fact that former Governor Knowles, through his appointees on the council, voted for this plan had, I believe, a significant on the outcome of the election. I don't know if Gov. Murkowski will be any different, and I think more people voted against Knowles through Ulmer than they did in actual support of Gov. Murkowski. Our current commissioner of fish and game still supports the processor shares he voted for, and therefore, de facto, so does the governor, so the legislature is the only body left to represent

fishermen.

I urge you to stand tall in your continued opposition to processor shares. We put our heads in the sand when we thought that by banning fish farming, we'd ban competition from farmed salmon in the market place, and 20 years later, we know that ignoring what consumers want is not the way to go. Processors didn't respond to consumer demand then, and I see no reason why they would for crab, particularly if they are guaranteed product from fishermen.

No need to respond to this letter. I just want to urge you to keep up the fight. As an independent commercial fishermen, you have supported my interests extremely well in your short tenure in the House.

Thanks.

Mark Stopha
Alaska Wild Salmon Company
Smoked Coho Salmon and Salmon Pet Treats
4455 N. Douglas Hwy
Juneau, AK 99801
907-463-3115
www.alaska-wild-salmon.com

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[search](#)[TITLE 16](#) > [CHAPTER 38](#) > [SUBCHAPTER IV](#) > [Sec. 1851.](#)[Next](#)**Sec. 1851. - National standards for fishery conservation and management****(a)** In general

Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this subchapter shall be consistent with the following national standards for fishery conservation and management:

(1)

Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

(2)

Conservation and management measures shall be based upon the best scientific information available.

(3)

To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4)

Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be

(A)

fair and equitable to all such fishermen;

Search this title:[Search Title 16](#)[Notes](#)[Updates](#)[Parallel authorities](#)[\(CFR\)](#)[Topical references](#)

(B)

reasonably calculated to promote conservation;
and

(C)

carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(5)

Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(6)

Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7)

Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

(8)

Conservation and management measures shall, consistent with the conservation requirements of this chapter (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to

(A)

provide for the sustained participation of such communities, and

(B)

to the extent practicable, minimize adverse economic impacts on such communities.

(9)

Conservation and management measures shall, to the extent practicable,

(A)

minimize bycatch and

(B)

to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

(10)

Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

(b) Guidelines

The Secretary shall establish advisory guidelines (which shall not have the force and effect of law), based on the national standards, to assist in the development of fishery management plans

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**Issue Papers for the Bering Sea/Aleutian Islands Crab Rationalization
Program adopted by the NPFMC**

State of Alaska

June, 2002

Unanimous Council Approval of BSAI Crab Rationalization Program

The Council has been working on BSAI crab rationalization issues for almost four years; and the Alaska Board of Fisheries, who promulgates regulations to manage the crab fisheries day to day, has been compensating with fishery regulations to account for excess capacity and efficiency since 1990. This was a problem ripe for resolution.

The Council's problem statement was addressed thoroughly in the comprehensive motion for BSAI crab rationalization. Any solution was to consider "the lack of economic stability for harvesters, processors and coastal communities."

The motion was an outgrowth of options for rationalization developed by a broad industry-working group established by the Council. This work group met over a period of nearly three years to identify options and develop a majority opinion.

The motion responded to Congressional direction to consider a wide variety of approaches to a rationalized fishery, specifically requiring the Council to address:

- Protecting the communities' historic reliance on crab processing,
- Minimizing disruption to the processing sector,
- Protecting against excessive share of quota; and
- Maintaining an independent fleet and arms length price negotiations.

The rationalization plan was designed as a partnership to re-vitalize the economic health of harvesters, processors, and communities. It provides an incentive for all parties to work toward a mutually beneficial goal.

The plan advanced a voluntary three-pie cooperative, designed to recognize the prior economic interests and the partnership among harvesters, processors, and communities.

We designed a unique rationalization program that fits the dynamics and needs of this particular fishery.

- The program addresses the conservation and management issues associated with the open access fishery.
- It is designed to achieve reduced bycatch and associated mortalities.
- It includes mechanisms to reduce excess harvesting and processing capacities of the industry.
- It increases economic returns and hence stability for harvesters, processors and communities.
- It enhances efficiency by encouraging voluntary industry cooperation.
- It builds on experiences from the halibut and sablefish IFQ program in Alaska, and the American Fisheries Act program for Bering Sea pollock in Alaska.
- It achieves the goal of equity as described in the problem statement.
- It provides for mandatory binding arbitration to resolve price disputes.
- It provides for a discounted processing history, providing opportunities for new processors and increased harvester leverage in the price formation process.

- It includes controls on processor accumulation of harvesting privileges.
- It ensures multiple processors and markets in each crab fishery.
- It improves safety of participants in the fishery.
- It includes a comprehensive socioeconomic data collection program to provide adequate information for the Council to determine whether equity is being achieved.

This crab rationalization process has involved extensive committee deliberations by industry and interested public, repeated public testimony to the Council over a number of years, and extensive public debate prior to program selection.

The Council made it abundantly clear that the program we designed fit the nature of the industrialized Bering Sea crab fishery ONLY. It DOES NOT serve as a template for other fisheries that will be rationalized through the Council process.

The Council also made it abundantly clear that they have a continuing obligation to review program performance, especially with respect to impacts on all three partners, and that they WILL make necessary adjustments to achieve stated goals and minimize unintended consequences.

The crab rationalization program strikes a balance among the interests of harvesters, processors, and communities.

The crab rationalization program was unanimously approved by the Council based on exhaustive public input over four years, and because of the comprehensive, balanced approach that incorporates adequate safeguards, both short and long-term, to protect the interests of harvesters, processors, and communities.

Winner and Losers (Benefits for Communities, Harvesters, and Processors)

Summary

First and foremost, the Council's motion protects the crab resources of the North Pacific. It then creates a very stable three-legged stool, where harvesters, processors and communities each benefit from crab rationalization. Next in the line of benefactors are the fishermen. All eligible fishermen gain by having value attached to their fishing history. Some will have more value than others. Regardless of catch history all fishermen gain in safety and in ease of prosecuting the fishery. Having observed processor fallout from the harvester only allocation on IFQs for halibut and sablefish, and processor viability under AFA cooperatives, the Council made a deliberate choice to include processors in the rationalization program. Furthermore, the Council responded to Congressional direction to consider the need to protect investments made by the processing sector. Lastly, the Council chose to provide specific community protection measure to recognize the investment of communities in the development of the Bering Sea crab fishery, and the very real likelihood for those same communities to experience irreparable harm without protection.

Background

The Council chose to broaden the clearly articulated legislative intent of AFA to benefit both harvesters and processors by also recognizing community interests in its preferred alternative for the BSAI crab rationalization plan.

Resource protection is imbedded within the Council's plan. With extended, slower seasons it anticipated that deadloss will be greatly reduced and that the already low bycatch will decline further. With more time to prosecute the fishery, fewer pots will be lost and ghost fishing by lost or abandoned pots will be reduced even beyond the low level that the current regulatory safeguards have resulted in. To ensure that the resource remains a paramount benefactor of rationalization, increased monitoring (with fees to support it) will occur. With voluntary cooperatives, the regulatory units will be smaller and hence administrators and resource managers will benefit as well.

Fishermen's physical and economic well-being was critical in developing a rationalization program for one of the most dangerous and overcapitalized fisheries in the world. Extensive consolidation of the fleet is anticipated and significant economic gains to the remaining participants are expected; the safety benefits are discussed separately. The years selected for qualifying quota share determine the extent that each fishermen gains. The Council chose the years agreed to by the industry committee and recommended by the Advisory Panel. More recent years were also considered, and in a few cases adopted, based on NOAA general counsel's advice to consider recency for qualification determinations.

Because Alaskan coastal communities are remote and lack alternative economic base, stable seafood processing is critical to providing stable coastal communities in Alaska.

And this was what provided the impetus to provide for processor shares. Like the harvester plan, some processors will gain more than others. Those processing companies with the largest production during the qualifying years gain the most i.e. Trident and Maruha, and those with the least, such as NorQuest Seafoods, gain the least. However, it must be noted that the Council chose the years agreed to by the industry committee and recommended by the Advisory Panel.

Some concern has been raised about not including the year 2000 for the qualifying period of receiving processor shares. It is reported that including 2000 would have benefited Kodiak based processors. While this is true to some extent, the year 2000 was not included in the recommendations made by the industry committee which, incidentally, included Kodiak representatives who did not bring this concern forward. It should be noted that the year 2000 was not included for a number of reasons: (a) it was the only year that had a delayed start date of April 1 and some vessels did not participate with the season change date; (b) it was the only potentially qualifying year affected by the AFA processor sideboards; (c) a large storm greatly disadvantaged some small Alaskan vessels; and (d) a strike significantly advantaged the catch history of catcher processor vessels that continued to fish while the other vessels struck at the dock. As such, the year 2000 was seen as an anomaly and not included in the recommendations or in the Council actions. Nonetheless, processors in Kodiak will still benefit from the rationalization program, as they will no longer just be the port of last load delivery. With a slower, extended fishery fishermen will have the time to deliver mid-season to Kodiak processors. There are processors in Kodiak, such as Trident and Ocean Beauty, which will receive processor shares. Other processors in Kodiak have the option of buying processor shares or receiving 'open delivery' B-shares of crab. In fact, Kodiak, home to Alaska's largest crab fleet, is the port that is expected to benefit most from the 'open delivery' arrangement. To help ensure this, the Council made B-shares off limits to catcher processors.

Kodiak is not the only community to gain under the Council's rationalization plan. Dutch Harbor, St. Paul, St. George, Adak, Sand Point and all the communities under the CDQ program gain in the Council's three-pie approach to rationalization. Please see the paper entitled, The "Third Pie" of the Crab Rationalization Program: Community Protection to learn more about how these communities benefit.

There remains one more sector that benefits from the Council's action - catcher processors. Catcher processors have long had an advantage over all other sectors participating in the harvesting and processing of BSAI crab. This advantage comes about as being a 100% vertically integrated operation that does not have to purchase all their crab, nor pay taxes. The Council's action solidified this advantage through the creation of catcher processor shares. However, the Council chose not to allow this sector to use this advantage to grow at the expense of the onshore sector and disenfranchise Alaskan coastal communities. Hence, the Council's motion limits catcher processors to their historical aggregate level. In essence, the Council made the catcher processor sector whole without being punitive and for some fisheries such as the Aleutian Islands brown king crab, the Council chose qualifying years that advantaged catcher processors.

While imposing an allocation scheme automatically makes winners and losers among the participants, the Council strove to make all sectors – harvesters, processors, catcher processors and communities – win from BSAI crab rationalization. It was a challenging balancing act to say the least. However, through the hard work of the industry committee, the Council staff, the Advisory Panel and the community representatives, the Council motion does benefit all sectors.

Council action on Processor Shares

Summary

The Council's action includes a fair and balanced approach to the parties impacted by crab rationalization. With respect to the issue of harvesters and processors, the Council provided many protective measures to ensure that vessel owners are not disadvantaged. They include:

A discount of each processor's history, which will allow for new processors and give each vessel owner an IFQ for a portion of its harvesting history.

A system of binding arbitration that is to ensure a competitive price and that no harvester is forced to accept a price by a processor holding processor shares. The system will be conducted using an independent third party arbitrator when or if there is a price dispute between harvesters and a processor. It will include an opportunity for groups of harvesters to bargain collectively, as they have traditionally for Bering Sea crab prices, or to enter arbitration on an individual basis.

Processors will be required to give the regulators full, complete and detailed crab processing costs and crab sales revenues. This information will be useful for the Council to monitor the way revenues are shared with vessel owners.

The Council instituted caps on the amount of harvesting shares that can be owned by or affiliated with processors. This is intended to ensure that the processor will continue to need crab from independent harvesters.

The Council instituted caps on the amount of consolidation that may occur among the processors. The consolidation rules are far more restrictive than what would be required under normal antitrust laws, and they are intended to ensure multiple market opportunities.

The Council has studied this issue for over three years, with a detailed analysis of the issues including the needs of harvesters, processors, and communities. The Council held hearings in major ports and communities of Alaska, Washington, and Oregon. It employed specialists to assist them in their understanding of the impacts of the program on all parties.

The Council made it very clear that the program was one crafted specifically for the crab fisheries of the Bering Sea, and that in so doing none should assume a similar system for other fisheries under its jurisdiction. The Council made it clear that it would undertake an active and continuous review of the performance of the program, to ensure that the problems identified by the open access fishery are being addressed. The Council made it clear that it could amend or repeal any aspect of the program as needed to accomplish the Council's goals and responsibilities.

The processors in the crab fisheries have large, specialized and very remote investments that are based upon a derby style fishery. The crab vessel owners likewise made significant investments in vessels and gear in order to engage in the race for fish. By rationalizing the fishery, the capacity that each created will become surplus to the needs of harvesting and processing the crab. Each needed to be included in the rationalization to avoid a shift in the power of one sector over the other.

One of the primary reasons for rationalizing the crab fishery is to provide a safe working environment for both the fishermen at sea and the processing workers. There are also significant conservation benefits that likely can be gained by the program. Neither of those goals, by themselves, lead to a decision regarding the privileges to harvest or process in a rationalized fishery. The decision to grant those privileges to vessel owners and processors is in recognition of the investments each has in the fishery, and the damage to the investment of each if they were excluded from the program.

Background

There is a lot of speculation about the impact of processor shares on prices paid to fishermen. Here are some of the most common critiques we've heard and our reasoned responses:

Critique: If processor shares were established, fishermen would have a limited number of processors available to buy their crab.

Response: It is expected that processor shares will do just the opposite. Under the sablefish IFQ program (note: sablefish is a more appropriate comparison than halibut because sablefish did not change product form from frozen to fresh) only 25 of the 67 pre-IFQ firms survived the harvester only allocation of quota according to thorough analysis done by Washington State University. Furthermore, most of the surviving processing firms lost market share. Experience to date shows that harvester only allocation of shares results in fewer processors. Processor shares will allow the processing sector to more fully experience the efficiency gains of rationalization and thus remain viable. With the ability to trade and purchase processing shares up to a set limit, it is anticipated that the number of processors available to buy crab will actually increase. In the very least, award of processor shares should stabilize the crab processing sector so that the number of currently viable processors will remain the same. Keeping the existing processing base healthy while allowing for new entrants (who enter as purchases of either processor shares or "B" shares) should expand, not limit, opportunities for fishermen.

Critique: Giving the processors shares would put fishermen back into the early company town days in Alaska. All the bargaining strength would be in the hands of processors.

Response: Just as in open access, fishermen would be free to move from one processor to another processor because there is no linkage between harvester shares and processor

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Response: Just as in open access, fishermen would be free to move from one processor to another processor because there is no linkage between harvester shares and processor

shares. Detractors of the Council action like to falsely characterize the harvesting sector as hapless price takers. Nothing could be further from the truth. They are price makers who currently capture upwards of 87% of the wholesale price of crab. Crab harvesters are organized under the 1934 Act, into a monopolistic bargaining association. Currently, the crab harvesters negotiate price as one entity represented by the Alaska Marketing Association. This will not stop. The processors are not similarly organized and as such argue that the bargaining strength is all in the fishermen's hands. However, we recognize that, like beauty, bargaining strength is in the eyes of the beholder, or the potential loser in this case. Regardless of one's perspective, the Council chose to include a provision for binding arbitration in the event of failed price negotiations. The Council also discounted processing history, creating so-called B-shares, where 10% of the catch may be delivered to any licensed processor. The intent of this discount is to counteract any potential gain in processor bargaining power. An industry committee that was appointed by the council negotiated this feature. It tracks the same feature in AFA. What is more of a concern to going back to the company town mode is not processor shares but processor ownership of crab vessels. To address this concern of more vertical integration and a less independent fleet, the Council imposed a 5% cap on ownership of harvester quota share by processors.

Critique: Issuing processor shares tips the market balance in favor of the processors.

Response: This is a variant of the previous comment. Several additional comments are warranted. First, the Council looked to the AFA experience. There is a similar 10% discount on AFA processing history, i.e.; vessels may delivery up to 10% of their catch to any processor. Immediately after AFA passage, many harvesters tried to get the Council to amend the AFA agreement. They did so under the Dooley-Hall proposal, using precisely the same rhetoric, like *company towns* and *surfs working for feudal lords*. There were all sorts of wild claims the processors would capture all the profits. Interestingly, when the final Council debate occurred, key Dooley-Hall advocates were asked if they preferred no AFA or AFA as originally passed. Their answer was unequivocal: AFA as enacted by Congress! The Council similarly asked crabbers which they would prefer? Answer: the Council motion is preferred to open access. A final point is that the same AFA harvesters, who cried wolf, were the ones that besieged Congress 2-years after the program began, begging that Congress make AFA permanent. We doubt they did so to lose money forever.

A second point is that no processor will receive 100% of their processing history. They will receive 90 percent, leaving each processor to have to compete with other processors to secure the remaining 10 percent of processor shares. Based on the cost and wholesale data provided by crab processors, it does not make sense to discount processor history any more than the 10% level selected by the Council. Data was provided to the Council in public testimony that shows that processor margins are very thin, and probably non-existent in the small quota, slow-paced crab fisheries. With these low margins, processors will be hungry for all deliveries of crab, especially the crab delivered last. Once the start-up and initial operation costs have been covered, the remaining loads of delivered crab are where the margins increase and profits are realized. Additionally, crab fishermen (through their bargaining association) now allocate crab as a reward for a

company setting the price, a price that in turn is adopted by the rest of the companies. The amount allocated has been less than 5% to achieve this advantage. This demonstrates the power of having 10% (or less) of the crab to allocate to processors as a reward for higher price. As such, the notion that the fishermen delivering last will become a price hostage is a notion unsupported by existing economic reality. No one will fish A-shares without a contract. There will be no "last harvester leaving the grounds."

Furthermore, with the adoption of voluntary cooperatives between fishermen and a processor of their choice, it is anticipated that price and profit-sharing arrangements will: a) cover all the crab the harvester intends to deliver, including the 10% 'open delivery' portion; b) address profit sharing across vessels participating in the Coop; and c) be agreed to well in advance of the season. This is the experience of the AFA pollock cooperatives and since many of the processors are the same, there is ample justification to expect the same Coop price agreements to occur in crab.

While it is more likely that catcher vessels will use their B-shares to leverage a higher value of A-shares, individual vessels could load their B-shares on a single vessel and deliver a combined load to Kodiak, Sand Point, or some other community.

Safety Concerns

Summary

Implementing an IFQ cooperative management regime will eliminate the derby style race for fish and surely reduce fatalities associated with fishing in unsafe conditions, by allowing fishermen to place more emphasis on weather when deciding to fish.

Background

The current management scheme of the BSAI crab fisheries results in a derby-style "race for fish". This system often puts pressure on participants to fish in unsafe weather conditions, work continuously for long periods without rest, and potentially overload their vessels with fishing gear in an attempt to improve returns. Falling Guideline Harvest Levels (GHLs) and over capacity in all crab fisheries has reduced fishing periods and increased the "race" for crab, thus exacerbating safety concerns for BSAI crab vessels.

According to the 1997 and 2001 Occupational Safety and Health studies, the Alaskan commercial fishing industry had a fatality rate 28 times the national occupational average. Within this high-risk industry, the BSAI crab fisheries were found to account for a disproportionately high level of injuries and death. From 1990 to 2001, there were a total of 25 vessels lost, resulting in 40 fatalities. Twenty-one more lives were lost as a result of being swept overboard, crushed by crab pots or entangled in lines or winches. These losses are unacceptable. It is these losses that compelled the Council to act and end the dangerous "race for fish."

Examining safety statistics in the Alaskan halibut fishery suggest that rationalization of that fishery has been a force in improving safety. In the five years preceding implementation of the halibut IFQ program (1990 to 1994), 17 fatalities occurred in the halibut fishery. In the 7 years after implementation of the program (1995 to 2001) the number of fatalities in the fishery declined to 4. While no one can predict the number of lives saved, it is anticipated that rationalizing BSAI crab, the most dangerous fishery in the U.S., will have a similar affect on reducing fatalities.

It should also be noted that to the extent that a rationalized management system results in a sustainable, economically viable fishery, then improvements in safety should follow. In sustainable and economically viable fisheries, harvesters are able to make a profit, and vessel owners are able to invest in better quality equipment, proper vessel maintenance, and hire, train and keep professional skippers and crews. All of these factors help improve safety.

Despite these significant safety benefits from rationalizing the BSAI crab fishery there are a few participants still opposed to the Council's plan for rationalization. They cite

that the issuance of processor shares will give processors the power to direct fishermen when to fish for certain market windows. This assumes that a processor has no regard for weather or safety and that the motivation for profit prevails above all else. The Council's motion includes provisions for custom processing and encourages voluntary cooperatives. Both of these arrangements give additional protections and options for fishermen choosing when to fish. AFA has shown that cooperatives, in fact, provide vessels with more scheduling opportunities, not less. With the harvest window expanding as a result of rationalization, it anticipated that Coop agreements will cover a fishing period long enough to both avoid inclement weather, maximize the delivery of high quality crab, and provide individual vessel flexibility. If it doesn't, one would not expect a fisherman to enter such an agreement.

Trailing Amendments

Summary

Although the Council selected a preferred alternative, its work on the rationalization program will continue as it develops several aspects of the program in trailing amendments. These program elements include:

- An unparalleled data collection program to aid the Council in evaluating the success of the program;
- Sideboard caps limiting harvests of Gulf of Alaska groundfish by participants in the BSAI crab fisheries;
- Possible additions to the program of community protections;
- Details associated with an allocation of 3 percent of available harvest quota share as captain shares; and
- A program of binding arbitration for resolving price disputes between the harvesting and processing sectors.

Background

The Council has made it abundantly clear that these trailing amendments will be part of the final package. Pending adoption of these trailing amendments should not preclude Congress from approving the elements needing Congressional authority to implement the North Pacific Fishery Management Council's Crab Rationalization program. The public, the Council, the industry and the communities were committed to rationalizing this industry, and we are all equally committed in finishing the job.

The Council previously appointed industry committees to aid the process of developing the data collection and binding arbitration components, and a third committee has been appointed to develop the program of captain's quota shares. It is anticipated that these trailing amendments will be evaluated and adopted by the Council before the crab rationalization program is implemented, and that these elements will resolve the few outstanding concerns remaining.

The initial NEPA review of the analytical package describing these trailing amendments will be in October, and final decision will occur in December of this year. These are timeframes that are consistent with Congressional approval.

Antitrust Issues

Summary

The Department of Justice has not found any anti-competitive effects in the division of whiting allocations among catcher-processors or the division of pollock allocations among AFA Coops. It is expected that the Department will view the crab rationalization plan in a similar light.

The same anti-competitive issues that were brought up under consideration of the American Fisheries Act (AFA) are being raised under crab rationalization. Since the processor provisions of the AFA had no anti-competitive effects, then the less restrictive processor elements included in the Council motion on BSAI Crab Rationalization should be viewed similarly. The less restrictive provisions of Bering Sea/Aleutian Islands (BSAI) crab rationalization program include: 1) no closed class of processors (new processors can purchase 'open delivery' B shares or allocated shares from a qualifying processor); and 2) no direct linkage between fishermen and processors (fishermen are free to deliver to any processor holding processor shares).

Background

The 1934 Fisherman's Marketing Act contains an explicit statutory exemption from the antitrust laws allowing fishermen to bargain collectively in price negotiations with fish processors. The fishermen are allowed to decide, as a group, on their bargaining position, an activity that would violate the federal antitrust laws without the exemption.

The Whiting Cooperative (vertically integrated factory-trawlers) and the AFA inshore cooperatives have each submitted to the Department of Justice a request for a "business review letter" concerning planned cooperative activities (a precise procedure laid out at 28 CFR 50.6). Each cooperative described its proposed activities of allocating pollock quotas among member vessels. In response, the Department of Justice has issued the requested business review letters stating that the Department of Justice finds that the described activities are not anti-competitive and the Department intends to take no enforcement action. Section 210 of the AFA requires each Coop to request a business review letter prior to submitting the Coop contract to the Council and the Secretary. However, the AFA does not require the Coop to have received a business review letter and the AFA does not grant an exemption to the antitrust laws. If Congress says yes to the Council's crab rationalization plan, this is a non-issue.

The "Third Pie" of the Crab Rationalization Program: Community Protection

National Standard 8 of the Magnuson-Stevens Act directs Fishery Management Councils to take into account a) the need for sustained participation of fishing communities and b) minimizing adverse economic impacts to such communities. The North Pacific Fisheries Management Council (NPFMC) chose to address communities and National Standard 8 through a "three pie" approach to rationalizing the crab fisheries in the Bering Sea/Aleutian Islands. Quite simply, the first pie addresses harvesters, the second pie refers to processors, and the third pie captures communities. There are two key elements to the community third pie. These are a combination of: a) market-based allocations to community interests and b) measures to protect communities from potentially adverse effects. Following are the specific elements of the 'community third pie' adopted by NPFMC on June 10, 2002 and discussed in the public record:

A. Market-based Allocations to Community Interests

1. Expand the CDQ program (includes 65 Western Alaska communities) to include all crab fisheries approved under the rationalization program with the exception of Western AI brown king crab. (Element 4.2)
2. Increase the CDQ allocation of crab from 7.5% to 10%. (Element 4.3)
3. Allocate the percentage of Western AI brown king crab not used during the base period to the community of Adak (Element 4.5) and require that up to 50% of the "A" share brown king crab be processed in Adak. (Element 3.1 Suboption)
4. Allow for purchase of Processing Quota by CDQ groups through first right of refusal or by communities not included in the CDQ program (Trailing Amendment).

B. Community Protection Measures

1. Establish two regions to protect historical, primary delivery patterns of various crab species and attach regional designations to crab harvested with Class A shares and to processing quota shares. (Elements 3.1 – 3.2.5)
2. Establish a processor quota program to protect the sizeable investment made by processors in Alaska's remote coastal communities i.e. plants, labor housing, docks, tender vessels. (See explanation below about how the 'second pie' overlaps with the 'third pie'.)
3. To maximize the benefits of regionalization on the communities of St. Paul and St. George, minimize the amount of harvester shares exempt from a regional designations, i.e. make Class B shares 10% of the total amount of crab that may be purchased by any processor on an open delivery basis. (Elements 2.4 and 2.5)
4. To assure that at least two plants will always be operating in the Northern Region, during the opilio crab fishery require an annual processing use cap of 60% for that region. (Element 2.7.2)
5. Limit the future expansion of the offshore catcher processor fleet so that more crab might be processed in community based plants. (Element 1.7.2.3 option 8)

6. Require that a portion (equivalent to the increase received) of CDQ crab be delivered to shore-based plants. (Element 4.3)
7. Allow for the transfer of catcher processor shares to shore-based processors. (Element 1.7.2.4)
8. Provide a 3% allocation to help captains, some of who reside in coastal communities, leverage future employment opportunities in a rationalized crab fishery. (Element 1.8.1.2)
9. Exclude small, under utilized crab stocks from the rationalization program so that a small vessel, state water fishery could be developed near communities. (See explanation below)

The direct allocation of harvesting and processing shares, and purchase of processing shares by communities, translates into direct benefits to Alaska's coastal communities. These actions (A 1-3 above) by the Council in conjunction with the regionalization elements comprise the 'meat of the third pie.' Essentially, these actions put communities on the same level as harvesters and processors . . . a pie for each. However, the community pie would not be whole without the additional protection measures listed under B. The Council recognized this and responded to all of National Standard 8 by creating a whole pie for communities; a pie inclusive of allocation and protection measures. Furthermore, the Council reserved the right to do more for communities by identifying other community protection options to be considered as a trailing amendment (Element 3.4)

The trailing amendment contains alternative options to further provide community protection. These include: the alternative to allow a first right of refusal to purchase IPQ by CDQ groups; an alternative for community purchase of IPQ to insure continued processing activity within a community; and an alternative to provide compensation to communities to off-set processor activity leaving a community. Each of these proposed alternatives could provide continued economic activity in remote coastal communities and will be analyzed as such.

Although processor shares are typically viewed as part of the second pie, the issuance of such shares has direct implications for the protection of a community's processing base. Experience to date with the issuance of harvester only allocation in Alaska reveals a dramatic reduction and shift in shore based processing operations. While the causes for this shift and reduction are complex and debatable, it is clear that a one-pie approach is designed to compensate only the harvesting sector for investments made when the fishery was an open race. Processors and communities have also vested capital in the race for crab. Communities have spent considerable capital on docks, water and sewer systems, roads, emergency support facilities and community administration. While processors have considerable capital invested in plants, cold storage, labor housing, tenders etc.

The second pie of the allocation to processors, compensates processors and communities in a manner that is likely to reduce the fallout effect of a one-pie allocation that has shown to impact communities and processors that are anchored to a geographic site. Under a quota system that includes processing, firms may choose to lease quota or have

their share custom processed when crab stocks are low rather than sell out completely to a more competitive firm, which in turn should result in less concentration of processing facilities and more buying entities. The more processors that survive the transition to a 'rationalized fishery' the better the community's economic base will be. Such a system inherently benefits communities as well as processors. Furthermore, the establishment of processor shares allowed for the creation of additional community protection measures (See items B 1, 3 and 4 above). Without processing shares it would be extremely difficult to implement these measures, particularly the regionalization component of the Council motion. Processor shares make regionalization work. The processor pie helps makes the community pie whole.

The other aspect of protecting a community's economic base is to have crab come ashore and be processed in a community. When processing occurs within a community, considerable benefits accrue to that community through taxes (property, raw fish tax and local sales tax), through jobs (both temporary and permanent), and through the development of infrastructure and support facilities. In turn, the community harbors and support facilities expand fleet support and result in more community usage as well community growth. As such, the more crab coming onshore, the more the economic benefits ripple through Alaska's coastal communities. Recognizing that catcher processor do make some contributions to the economy of fishing dependent communities, the Council motion encourages (see items B 5-7 above) more crab to come ashore without being punitive to catcher processor's share of harvesting and processing history.

Another community protection measure needing further clarification is item B. 8 above. The exclusion of the unsurveyed, small nearshore stocks of king and tanner crab may provide future opportunities for developing local, small scale, state waters crab fisheries. Experience to date show that when small stocks are removed from a federal program and incorporated into a state-waters fishery, smaller vessels tied to a nearby community are advantaged over the larger, more distant water fleet. By removing a few small stocks of king and tanner crab that have no recent participation history from this federal rationalization program, the State Board of Fisheries will have an opportunity to create additional opportunities for these smaller, community-tied vessels to compensate the communities for the losses from consolidation which occurs under rationalization.

When the third pie is viewed in the context of community protection as well as community allocation, the pie is quite large and significant. Through these collective community actions listed above, the NPFMC has raised the bar in meeting National Standard 8 of the Magnuson-Stevens Act.



Congressional
Research
Service

Memorandum

July 16, 2002

TO: Honorable Patty Murray
Attention: Anna Knudsen

FROM: Janice E. Rubin
Legislative Attorney
American Law Division

SUBJECT: Whether the Fishery Management Regime for Allocating Alaskan Crab Resources Proposed by the North Pacific Fishery Management Council Violates the Federal Antitrust Laws

This brief memorandum follows and expands upon a telephone conversation with a staff member in your office in which we were asked to review and evaluate differing assessments of the antitrust implications of a proposal for managing the Bering Sea/Aleutian Islands crab harvest. Under that proposal (greatly simplified here in the interests of time and space), put forward by the North Pacific Fishery Management Council (NPFMC or "Council") in an attempt to rationalize the issues associated with the crab harvest, including those associated with the processing of the crab harvest, individual crab fishermen would be allotted certain quotas, and directed to deliver a large proportion of those quotas to processors also subject to quotas; the proposal contemplates binding arbitration to resolve any disputes concerning the price(s) which harvesters receive from processors. In other words, NPFMC's plan would impose the quotas it proposes, obviating the ability on the part of private entities (actual or potential competitors) to agree among themselves concerning the establishment of those quotas.¹ Objections to the proposal have been raised, nevertheless, alleging that it would result in violations of the federal antitrust laws because it contemplates the kind of market division the antitrust laws prohibit. We conclude for the reasons given below that the federal antitrust laws are likely to be deemed irrelevant in the context of the subject proposal, and provide some examples of similar activity to support our conclusion.

The North Pacific Fishery Management Council was authorized in 1976 pursuant to 16 U.S.C. § 1852 (§ 301 of P.L. 94-265, (*Magnuson-Stevens*) *Fishery Conservation and*

¹ Although a complete discussion of the so-called *Noerr-Pennington* doctrine is beyond the scope of this memorandum, suffice it to say that even the concerted, anticompetitive efforts of private individuals in lobbying legislative or other governmental bodies to take actions that would violate the antitrust laws if carried out by the private entities in the absence of governmental action are immune to the antitrust laws. Cf. *Eastern R.R. Presidents Conf. v. Noerr Motor Freight, Inc.*, 365 U.S. 127 (1961), *United Mine Workers of Am. v. Pennington*, 381 U.S. 657 (1965).

Management Act, 16 U.S.C. §§ 1801 *et seq.*, hereinafter *Magnuson Act*), which provides for 11 voting members, to include "the principal State official with marine fishery management responsibility and expertise in each constituent State [Alaska, Washington, Oregon] ..., the regional director of the National Marine Fisheries Service [of the National Oceanic and Atmospheric Administration] ..., and members appointed by the Secretary of Commerce "from a list of individuals submitted by the Governor of each applicable constituent State."² Pursuant to 16 U.S.C. § 1854, each fishery management proposal of a Council shall be transmitted to the Secretary of Commerce, who shall, after publication in the Federal Register and opportunity for public comment, "approve, disapprove, or partially approve a plan"³ According to an Opinion of the Office of Legal Counsel advising as to the status of the Councils' litigating authority, "[t]he Councils have neither express statutory authority nor that freedom from *executive control* that would give rise to some inference supportive of their having independent litigating authority," especially given that the Councils' recommendations cannot be implemented absent approval by the Secretary of Commerce.⁴ In another Opinion, the Office of Legal Counsel concluded that the facts that "the Councils were established to execute a Federal function ... [and] to assist the Secretary of Commerce in his official endeavors ... militates toward a finding that they are 'Federal Agencies' under the Federal Tort Claims Act and are protected by that degree of immunity the Constitution and the Federal statutes provide Federal agencies."⁵

When it enacted the *Magnuson Act*, Congress stated that a primary purpose was "to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States."⁶

While we are aware of no direct language to the effect that the federal antitrust laws are not applicable to the Federal Government or its agencies, there is sufficient indirect case language to establish that fact. In a landmark case in which several oil companies were charged with (and found guilty of) price fixing on account of their attempts to stabilize gasoline prices by means of removing excess supply from the market, the Supreme Court said,

[as] to knowledge or acquiescence of officers of the Federal government little need be said. The fact that Congress through utilization of the precise methods here employed could seek to reach the same objective sought by respondents does not mean that respondents or any other group may do so without specific Congressional authority.⁷

In a case involving a challenge to actions of the Interstate Commerce Commission's approval of certain motor-carrier mergers, which mergers would probably have constituted violations of the antitrust laws if undertaken solely by the private carriers, the Court's language is

² 16 U.S.C. §§ 1852 (b)(1)(A), (b)(1)(B), (b)(2)(C).

³ 16 U.S.C. §§ 1854(a)-(c).

⁴ 4B Op. O.L.C. 780 (1980) (emphasis added).

⁵ 1 Op. O.L.C. 240 (1977).

⁶ 16 U.S.C. § 1801(b)(5).

⁷ *U.S. v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 195 (1940).

instructive and not distorted by substituting "Secretary" for "Commission," "proposal" for "consolidation," and "marine management" for "transportation":

"In short, the Commission must estimate the scope and appraise the effects of the curtailment of competition which will result from the proposed consolidation and consider them along with the advantages of improved service, safer operation, lower costs, etc., to determine whether the consolidation will assist in effectuating the over-all transportation policy."⁸

In a footnote to a case concerning allegations that certain labor union activities constituted a violation of the antitrust laws, the Court noted that

... clearly the law was inspired by the predatory competitive tactics of the great trusts and its primary purpose was the maintenance of the competitive system in industry.⁹

Supreme Court language in the context of its line of "state action" cases, establishing both that the federal antitrust laws are not applicable to either the states themselves, or to private individuals or entities acting either at the direction of the state or pursuant to its authorization, is also instructive. In *Parker v. Brown*, generally considered to be the seminal "state action" case, for example, the Court was reviewing the antitrust legality of a California prorate plan for the marketing of raisins. Pursuant to the plan, as set out in the California Agricultural Prorate Act, a 9-member Agricultural Prorate Advisory Commission (eight of whose members were appointed by the governor and confirmed by the State Senate, the State Director of Agriculture being the ninth member, *ex officio*)¹⁰ was given authority to grant the petition of at least 10 producers for creation of a prorate marketing plan and to approve or modify the prorate plan formulated by a Commission-appointed program committee upon making a finding that the plan was "reasonably calculated to carry out the objectives of the Act" (not at all unlike the mandates in 16 U.S.C. § 1651(a) that "[a]ny fishery management plan prepared, and any regulation promulgated to implement any such plan ... shall be consistent with [each of several enumerated] national standards for fishery conservation and management"; and in 16 U.S.C. § 1854(b)(1) that the Secretary evaluate NPFMC's proposed regulations to assure their "consistency with the fishery management plan"). The Court found no violation, emphasizing that

... it is plain that the prorate program was never intended to operate by force of individual agreement or combination. It derived its authority and its efficacy from the legislative command of the state and was not intended to operate or become effective without that command.¹¹

Even if the primary action is considered to be that of the affected private entities, given that it would be mandated (or at least authorized) by a governmental entity, the case law militates in favor of a finding of probable antitrust legitimacy. In *California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc.*, a case involving the wine-pricing system mandated by state statute, which required all wine producers and wholesalers to file price schedules with

⁸ *McLean Trucking Co. v. U.S.*, 321 U.S. 67, 87 (1944).

⁹ *Apex Hosiery Co. v. Leader*, 310 U.S. 469, 493 (fn. 11) (1940) (Citations omitted).

¹⁰ The Commission at issue in *Parker* was, seemingly, not entirely dissimilar to the NPFMC.

¹¹ *Parker v. Brown*, 317 U.S. 341, 350.

the state, and which schedules were solely the products of the producers and wholesalers with no input or supervision of the state, the Court refused to grant the exemption:

The state simply authorizes price setting and enforces the prices established by private parties. The State neither establishes prices nor reviews the reasonableness of the price schedules ... The State does not monitor market conditions or engage in any 'pointed reexamination' of the program.¹²

According to the State of Alaska, the North Pacific Fishery Management Council recognizes its "continuing obligation to review program performance ... and ... WILL make necessary adjustments to achieve stated goals and minimize unintended consequences."¹³

To summarize, NPFMC was established in a federal statute; is considered an agency of the Federal Government; its proposal (1) contemplates no private, anticompetitive action and (2) must be approved by the Secretary of Commerce before it can become effective; the federal antitrust laws are applicable neither to the federal nor state governments; and, even in the event that any private action occurs or is required, it is exempt from antitrust scrutiny if it is the product of a "clearly articulated" legislative policy and is "actively supervised" by an official entity. Although it is undoubtedly true that the quota system envisioned will result in a *de facto* division of markets for crab harvesting and processing, it is not a result, therefore, that would appear to violate the antitrust laws.

You have asked that we provide some examples of other, similar programs that have been, or are currently, in effect. The raisin prorate program created by the California Agricultural Prorate Commission has already been cited and discussed above. In addition, we note the existence of the scheme of milk marketing orders promulgated pursuant to the *Agricultural Marketing Agreement Act of 1937 (AMAA)*,¹⁴ pursuant to the policy objectives set out in 7 U.S.C. § 602, *inter alia*, in order to regulate prices in an otherwise price-disorderly market. The Supreme Court, in 1939, in *U.S. v. Rock Royal Co-op, Inc.*, recognized the Act's constitutionality (challenged as violating the Commerce Clause):

The Act authorizes and the Order [being challenged] undertakes the fixing of minimum prices for the purchase of milk 'in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce' in milk ... The challenge is to the regulation 'of the price to be paid upon the sale by a dairy farmer who delivers his milk to some country plant.' It is urged that the sale, a local transaction, is fully completed before any interstate commerce begins and that the attempt to fix the price or other elements of that incident violates the Tenth Amendment, U.S.C.A. Const. But where commodities are bought for use beyond state lines, the sale is a part of interstate

¹² *California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc.*, 445 U.S. 97, 105-06 (1980) (footnotes omitted). In other words, the Court found, in order for the exemption to apply, the activity must not only be one "clearly articulated and affirmatively expressed," it must also be "actively supervised" by the state itself. 445 U.S. at 105.

¹³ Issue Papers for the Bering Sea/Aleutian Islands Crab Rationalization Program adopted by the NPFMC, June 2002.

¹⁴ 7 U.S.C. §§ 601 *et seq.*

commerce. ... Power to establish quotas for interstate marketing gives power to name quotas for that which is to be left within the state of production.¹⁵

In the course of its opinion, the Court also spoke to the issue of "lobbying" by affected entities:

If ulterior motives of corporate aggrandizement stimulated their activities, their efforts were not thereby rendered unlawful.¹⁶

¹⁵ 307 U.S. at 369-370 (citations omitted).

¹⁶ *Id.* at 360.

Alaska Crab Coalition Supports Strengthened Crab Rationalization Plan

For Immediate Release

Seattle, April 24, 2003—The Alaska Crab Coalition, a trade association representing the owners of Bering Sea crab fishing vessels and marine service and supply companies from Alaska, Washington and Oregon, has decided to support a strengthened crab rationalization plan.

"I am gratified that the Board, by unanimous vote, decided to support a strengthened Bering Sea crab rationalization plan. The ACC has worked extremely hard to help forge a fair compromise that balances the interests of harvesters, processors, and communities. The ACC expects that the North Pacific Fishery Management Council will go the last mile to ensure just that result," said Arni Thomson, the ACC Executive Director.

In the Consolidated Appropriations Act of 2001, the U.S. Congress set the stage for the crab rationalization plan:

The North Pacific Fishery Management Council shall examine the fisheries under its jurisdiction, particularly the Gulf of Alaska groundfish and Bering Sea crab fisheries, to determine whether rationalization is needed. In particular, the North Pacific Council shall analyze individual fishing quotas, processor quotas, and quotas held by communities. The analysis should include an economic analysis of the impact of all the options on communities and processors as well as the fishing fleets....

During the several years that followed, the Council held extensive public hearings and developed an exhaustive analysis. The major provisions of the plan, adopted by a unanimous vote of 11-0, at the June 2002 meeting, provide for harvester and processor shares and community protections.

"With the crab resources under serious stress, and the industry and communities suffering the economic consequences, there was bound to be controversy on the future of the fishery. However, there was also an understanding that a failure to find a balanced compromise to end the race for crab would leave industry in a death spiral and threaten the economic viability of small coastal communities," said Thomson.

At its April meeting, the Council concluded its work on "trailing amendments" to the earlier adopted package. The details of harvester/processor arbitration to ensure fair prices were debated, and several harvester groups, including the ACC were dissatisfied with the outcome.

"The ACC has concluded that we must not lose sight of the fact that implementation of the plan will be kept under close scrutiny, not only by the Council, but also by Washington, D.C., and that if there is any unfairness, it will have to be remedied. This ongoing process will strengthen the plan. The ACC is confident that crab harvesters will be provided the comfort level they expect and deserve," concluded Thomson.

Contact: Arni Thomson, Executive Director, Alaska Crab Coalition 206/547-7560

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

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February 13, 2003

Barry T. Hill, Director
Natural Resources and Environment
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Hill:

This letter is in response to your report to Congress entitled "GAO Report on Individual Fishing Quotas (GAO-03-159)." While the State of Alaska concurs with the report's conclusion that more information from fishery participants is needed to analyze the impacts of Individual Fishing Quota programs, the state raises strong objection to the report's conclusion regarding the study we conducted concerning distributional impacts of the Alaska Halibut and Sablefish IFQ programs on processors. Fishery management policies are vital to the state, its residents, and its coastal communities. Thus, it is essential for the state to analyze the impacts of fishery management policies; our study met that need.

We reviewed the GAO report and also asked Dr. Scott Matulich, the Principal Investigator for our study, to do the same. Our detailed comments are attached, together with correspondence between the GAO and Dr. Matulich. The state concludes that the GAO distorts our research into the Halibut and Sablefish IFQ program, and the GAO relies upon faulty analysis. There are many reasons we draw this conclusion; a few are summarized below.

- The GAO report misrepresents the distribution of halibut sales revenues before and after IFQs. For some reason, the GAO failed to account for product recovery despite being informed in October of its error. (See the enclosed October 8, 2002 correspondence between Mark Metcalfe, GAO, and the October 11, 2002 reply from Professor Matulich.) When product recovery is included in your calculation, halibut processors are, on average, demonstrably much worse off, losing roughly half of their pre-IFQ share of the wholesale price to harvesters. Dismissing the importance of product recovery with a footnote that says the GAO chose not to include it is particularly ironic because three years earlier, GAO/RECD-99-196 noted that one of the important benefits of the American Fisheries Act rationalization was increased recovery (p. 7). The halibut fishery is different; here recovery declined substantially due to policy-induced changes in product form and value added processing.
- The GAO drew the counterfactual conclusion that there were no significant community impacts from the new IFQ policy in halibut. That conclusion was based on a comparison of community landings in 1995 and 1999. Both of those years followed IFQ implementation, and therefore, cannot support the GAO conclusion. The GAO further states community-landing information could not be obtained prior to 1995. The GAO never asked the State of Alaska for that information, which was and is readily available. Those data demonstrate a significant change in landing patterns following IFQ policy implementation. Contrary to the GAO report, the policy was not neutral with respect to community interests that are of vital importance to the State of Alaska.
- The GAO criticizes the study because it does not include data from all participants before and after the implementation of the IFQ policy. We concur that more data would be better however, the

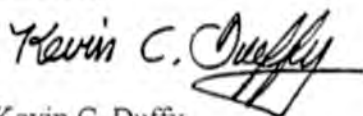
federal policy change included no provision to gather data to determine economic impacts of the program. Nevertheless, our study, which was voluntary, covered more than 50% of pre- and post-IFQ purchases. We regard this coverage sufficiently representative of the conditions both before and after the policy change, especially in light of the non-proprietary and incontrovertible empirical evidence noted in the first bullet. Furthermore, the estimated \$0.06 per pound increase in variable, non-fish processing costs has no impact on the qualitative conclusions of the state study.

- The GAO asserts that the results of our study could not be replicated and may be biased because the proprietary data we used was not available to GAO. The GAO never tried to acquire the same or similar data to validate the study results. We are also disappointed the GAO failed to note that much of the data was obtained from original source documents and that data compiled by firms was subjected to a very thorough verification/authentication process. The allegation of bias due to strategic misrepresentation is specious.
- GAO concludes that those processors that did go out of business may have done so for reasons other than the change in halibut and sablefish management. The GAO cites some specific examples of plants that changed buying practices, and notes possible explanations for that change. That assertion may be true but it has little to do with the fundamental policy question we posed in this study: "Were there distributional impacts on processors and communities by a change in the policy to IFQs?" The answer in the state's study is an unequivocal "Yes." Nothing in the GAO report disputes that conclusion, other than the GAO's faulty analysis of processor price margins.

The State of Alaska stands by its study concerning the distributional effects of the Halibut and Sablefish IFQ policy. Had the GAO correctly calculated the processor price margin, it too would have concurred with our qualitative findings. GAO Report 03-159 violates the GAO's "*commitment to the core values of accountability, integrity and reliability*." The GAO report should be removed from its web site, advising the public that it was removed because it contained numerous errors. Leaving this report on your web site continues to malign the state and the principal investigator, without cause.

Please contact me at any time if you have further questions on this matter. I look forward to your response.

Sincerely,



Kevin C. Duffy
Acting Commissioner

Enclosures: 1) ADFG Comments on GAO Report 03-159.doc
 2) Metcalfe GAO 10-8-02 e-mail.doc
 3) Matulich Reply to GAO comments 10-11.doc
 4) Metcalf reply to Matulich Oct 11 e-mail.doc

cc: The Honorable John Kerry
 The Honorable Olympia Snowe
 The Honorable Ted Stevens
 The Honorable Lisa Murkowski
 The Honorable Maria Cantwell
 The Honorable Don Young
 The Honorable Patty Murray
 John Katz, State/Federal Relations and Special Counsel

ADF&G COMMENTS ON GAO REPORT 03-159

Did GAO try to replicate the results to the extent possible? No. The GAO never attempted to obtain gross operating margins from processors nor did they ask the State to help the GAO access participating firms.

Did the GAO have the opportunity to get appropriate cost data from processors? Yes. Earl Krygier (ADF&G) told three GAO staff in his office that he would be happy to call Don Giles, CEO, Icicle Seafoods to secure his participation. A GAO staff member declined, noting he couldn't just look at one firm. Icicle has testified to Congress repeatedly about the damage IFQs had on its business; GAO had to know this. Had GAO talked to Icicle, we believe it is likely that one firm would soon become 2, 3, 4, ... Perhaps the GAO only needed to ask.

Did the GAO find evidence of damage to processors? Yes. The GAO examined how wholesale price was shared between processors and harvesters, i.e., the processor price margin. See Table 1-3 below and comments concerning P. 26a. The wholesale price margin provides partial but compelling insight into the policy issue—whether the IFQ design caused policy-induced redistribution of asset values. The evidence provided in Table 1 below shows post-IFQ harvesters gained a greater share of the wholesale price, moreover, they benefited from the policy intent of reduced variable fishing costs, which was not measured. Processors lost approximately half their pre-IFQ share of the wholesale price once the industry adjusted fully to the policy. The only way the pre-IFQ processing sector could have benefited, on average, was if it realized offsetting efficiency gains. Non-fish variable processing costs would have had to drop by half—the statewide average reduction in the share of wholesale price retained by processors. The required doubling of economic efficiency in the processing sector is facially inconceivable. In fact, non-fish variable processing costs were estimated to increase \$0.06 per pound following implementation of IFQs. There is also compelling theoretical evidence that price concessions were inevitable, leading to policy-induced losses in the processing sector (Matulich, Mittelhammer and Reberte 1996, Anderson 2000 and Anderson 2002).

The GAO asserts the data set included in the report may not be representative of all processors. Of course, more data is better. However, some data were unavailable because firms disappeared and were out of business, others could not be included because their data could not be verified as accurate, others that were willing to participate couldn't because their data was contained in an outdated electronic format, and still others chose not to participate in the study. The sample size (in excess of 50% of all fish both pre- and post-IFQ) was deemed sufficient for the qualitative conclusions reached in the report.

The GAO asserts the data could be biased because participants were informed that the data would be used to determine the distributional impacts of the IFQ program. The assertion is specious. The State report detailed unprecedented measures taken to avoid potential strategic misrepresentation. We are struggling to understand why the GAO would make this allegation and then, fail to note that much of the data was obtained from original source documents and, with minor exception, data compiled/summarized by firms were subjected to a very thorough verification/authentication process. Verification/authentication of data

compiled/summarized by firms covered 78-93% of retained survey data (measured in pounds of fish) across the four years, 1992-1993 and 1999-2000. Data that could not be verified were not used. Presumption of bias is unwarranted and certainly not even-handed. Government entities must disclose their purpose when seeking cooperation from the private sector. Otherwise, cooperation would never be forthcoming. GAO, itself, explains why it is seeking cooperation (as it did to arrange plant tours for this study).

Specific comments

- P22. ADF&G is unaware of any NMFS data set that contains broker/reprocessor data unless the broker/reprocessor is the buyer-of-record. There are legal reasons why industry convention is for custom processors that land fish to complete the fish tickets, as buyers-of-record. Broker/reprocessors are masked because they typically do not fill out fish tickets or file COAR reports. Furthermore, the GAO failed to comment on the price arrangements associated with fish that are custom processed for the new broker/reprocessors. Custom processors are paid a posted tariff that is a very small fraction of the wholesale price.
- P23-4. a) The anecdotes given by GAO illustrate only that there was restructuring. Notably absent are comparable anecdotes from firms that failed because of IFQs, some of which were reported in newspapers. Moreover, the GAO fails to note that the State report used firm-level data not plant data, making most of the GAO anecdotes irrelevant, and worse, misleading.
- b) GAO reports community market shares for two years, both of which are IFQ years. The only meaningful analysis is **with** (after) **and without** (before) the policy. Contrary to the claim that such data does not exist prior to 1995, the GAO could have obtained pre-IFQ information from the State of Alaska merely by asking for it.
- P25 a) GAO states proprietary data precluded them from validating or replicating the study. The GAO made no attempt to acquire the same or similar data.
- b) GAO states that the request for information may have biased participant responses. Absent legal requirements to compel provision of sensitive, firm-specific economic data, ADF&G is unaware of any study where a request for such data is made without notifying potential participants of purpose. In fact, ADF&G is unaware of any fisheries economics study that ever compiled such detailed, firm-specific data. The State finds it particularly ironic that the principal GAO recommendation is to compel collection of economic data for the purpose of evaluating management programs. Moreover, the State report clearly explained what we regard as an unprecedented data verification audit that was conducted to prevent strategic misrepresentation of facts. The researchers collected much of the data personally from original source documents. Data that were compiled by companies were subjected to an on-site, ex-post verification/authentication audit. There were few exceptions to this process representing a very small fraction of the total fish accounted for in this study.

c) The GAO criticizes the report because factors other than IFQ policy may have contributed to some of the observed impacts. The authors were careful to make this caveat explicit. The GAO noted this. We find it odd that the GAO would not find that caveat suitable and instead, reiterate it as a criticism.

d) GAO alleges the wrong welfare measure was used because the State's report failed to include costs other than direct operating variable costs. We are particularly disappointed that the GAO drew this false conclusion without ever discussing it with the State or our Principal Investigator, instead preferring to defer to a 4-page report by a consultant hired to find fault with the State report. His brief paper centers on the alleged theoretical error. Halverson argues fixed costs must be included because change in profit, not change in quasi rent (total revenues minus total variable costs), is the appropriate welfare measure. First, fixed costs generally are not separable in multi-species plants. There is no meaningful or accepted method to allocate common fixed costs like docks, buildings, general overhead or management to one species, except in a capricious and *ad hoc* manner that risks serious distortions across heterogeneous firms. Second, he constructed a hypothetical example to illustrate his criticism that actually illustrates the States conclusion of damage. Halverson's example indicates higher variable costs and thus, lower residual returns to capital, i.e., policy-induced damage to processors. Firms would not adopt labor-increasing technologies unless more than offset by increased revenues, which he holds constant. If by chance firms are compelled to adopt labor-intensive technologies because of IFQ policy, they must abandon the more capital-intensive technologies and thus, lose the stream of capitalized quasi rents that would have flowed from those abandoned capital asset, in the absence of the policy. Third, had he constructed the only other possible counter example—policy-induced investment in capital for the purpose of increasing efficiency (reducing variable costs)—offsetting annualized capital expenditures would have to be netted out. And then, Halverson would have to explain the unexplainable...why processors were investing in capital targeted at the IFQ species when: a) the processors' share of the wholesale price collapsed more than the percentage increase in the wholesale price (see comment 26a), b) the point of rationalization is decapitalization, particularly in the sector that received no quota, and c) there was no efficiency-enhancing technology change over the study period. Finally, Halverson's hypothetical example conveniently holds the wholesale price constant, belying a primary benefit of the policy—increased wholesale price due to product form changes and value-added processing. On average, harvesters captured considerably more than the entire economic benefit of the IFQ policy because raw fish price concessions exceeded the increase in wholesale prices. Comparing the six-years prior to IFQ and six years after, statewide average ex-vessel price increased \$0.65 per pound (up 39%), while wholesale price increased only \$0.46 per pound (up 20%). This empirical evidence would have been obvious had the GAO properly calculated the processor price margin. See comments 26a below.

e) GAO makes a legitimate claim that the pre- and post-comparison years used in the study may overstate the numerical redistribution of revenues between the harvesting and processing sectors. Choice of one of the base years (1992) was, in hindsight, unfortunate, though driven by data availability. But why didn't GAO go on to say that their own

evidence supports the qualitative conclusions that processors were damaged, as illustrate by Dr. Matulich's October 11, 2002 reply to Mark Metcalfe, GAO? See comments 26a below. Instead, the GAO comments set a tone of no damage and misrepresentation by the State of Alaska and its principal investigator.

f) The GAO claims in footnote 10 the methodology used for sablefish is unclear. This is curious because it is the same methodology used for halibut, which apparently was not unclear to the GAO. The GAO interviewed numerous ADF&G employees and Professor Matulich, at great length, over the course of several days. No question was raised concerning methodology.

- P26. a) The GAO asserts that the price margin achieved by processors pre- compared to post-IFQ was incorrectly reported by the State in its study. The GAO sets out in Table 5 what it believes is the correct margin, noting in a footnote that "*We did not incorporate recovery rates (the amount of raw product required to produce the finished product) or product mix in price margin calculations.*" This is like saying $2+2 = 27$, and dropping a footnote that the law of mathematics was not followed. We are astounded that the GAO would dismiss the essential adjustment for product recovery. Mark Metcalfe (GAO, San Francisco) asked Professor Matulich in an October 8, 2002 e-mail whether the State's conclusions and in particular, halibut price margins, were dependent on years chosen. The attachment to Mr. Metcalfe's e-mail contained the material included in the final report on pp. 26-27, including Figure 9 and Table 5. Mr. Metcalfe was given a careful and detailed reply on October 11, 2002, pointing out that he made a significant error calculating the processor price margin—he failed to adjust for product recovery, which is essential whenever one compares ex-vessel and wholesale prices.

The results presented in Figure 9 and Table 5 of the GAO report still fail to adjust for recovery, which official State of Alaska records show changed dramatically after introduction of IFQs. There is no explanation as to why the processor price margins discussed on page 26 and reported in GAO Table 5 (top of page 27) continue to be miscalculated. This is a serious and fundamental error. All results and implications deriving from this error are false and misleading, yet, essential to the GAO opinion. The State does not understand why the GAO did not fix this error when informed about it. This failure misrepresents material facts that lie at the heart of the policy question. We find the GAO's unwillingness to correct the error particularly curious because an October 16, 2002 e-mail from Mr. Metcalfe to Professor Matulich acknowledged that the information "helps greatly." He subsequently phoned Professor Matulich asking why recovery was so different pre- and post-IFQs. There is no question that the GAO was aware of the importance of recovery rates.

The significance of this error is easily demonstrated. Table 1 below reports the halibut product recovery rates (sold weight/bought weight) and price margins calculated without and with adjustment for product recovery. The data used in this table came from Susan Shirley, ADF&G and are precisely the same data that were provided to Mark Metcalfe and used by Mr. Metcalfe in his October 8, 2002 correspondence with Professor Matulich. The statewide average processor's share of wholesale price should be

calculated after adjusting ex-vessel price for product recovery, so that both prices are on a finished weight basis. The appropriate price margin calculation is:

$$((WP-(XP/Rec))/WP$$

where WP is the wholesale price, XP is ex-vessel price and the recovery factor, Rec, is calculated as (sold weight/bought weight). The "without" column omits the recovery rate adjustment to ex-vessel price and instead calculates the margin as:

$$(WP-XP)/WP.$$

Three things are unmistakable in Table 1 below. First, GAO's exclusion of recovery overstates the price margin in **every** year, and most dramatically, once the IFQ program was fully implemented in 1995 (highlighted) and the market adjusted to the new management regime. Second, post-IFQ processors retained a smaller share of the wholesale price and harvesters gained. Equally unmistakable is that after full implementation and market adjustment to IFQs, the statewide processing sector, on average, retained just 6% of the halibut wholesale price, 1999-2001 (see bracketed red entries). That is, processors retained just 1/5th of the pre-IFQ average margin earned during the six years prior to policy implementation (1989-94).

Table 1. Processor Price Margins Without and With Product Recovery Adjustment, 1989-2001.

Year	Product Recovery	Processor Price Margin Without Recovery Adjustment	Processor Price Margin With Recovery Adjustment
1989	0.943	24.6%	20.1%
1990	0.871	27.9%	17.2%
1991	0.985	21.9%	20.7%
1992	0.937	55.4%	52.4%
1993	0.854	38.6%	28.1%
1994	0.961	24.4%	21.3%
1995	0.961	29.1%	26.3%
1996	0.922	26.9%	20.6%
1997	0.951	23.4%	19.5%
1998	0.940	38.6%	34.7%
1999	0.791	26.6%	[7.2%]
2000	0.874	21.8%	[10.4%]
2001	0.751	25.1%	[0.3%]

Source: Calculated from ADF&G COAR data, various years.

Table 2 below recreates GAO Table 5, p. 27 "Price Margins in Selected Pre- and Post-IFQ Years," this time, without and with an adjustment for product recovery. The purpose of Table 2 is to emphasize the significance of GAO's error in the context of their precise argument. This comparative table illustrates that by dismissing recovery, the GAO

overstated the true processor price margin by 5-22% in the pre IFQ years and by a whopping 36-77% in post-IFQ years. Had the GAO corrected their analytical error when advised of it, they would have drawn the same qualitative conclusion as the State report; processors were, on average, damaged by a policy-induced redistribution to harvesters. The evidence is unmistakable and not subject to allegations concerning use of proprietary data or survey bias. We wish to note that we were unable to reproduce exactly the GAOs erroneous (without recovery adjustment) calculation, though the difference is at most 1.6%. We used the State data that we gave the GAO and made correct calculations.

Table 2. Comparison of Two-Year Average Processor Price Margins Without and With Recovery Adjustment, (GAO Table 5)¹

Years	Pre-IFQ Processor Price Margin		Years	Post-IFQ Processor Price Margin	
	Without Recovery Adjustment	With Recovery Adjustment		Without Recovery Adjustment	With Recovery Adjustment
1991-1992	38.7%	36.6%	1998-1999	32.6%	21.0%
1992-1993	47.0%	40.3%	1999-2000	24.2%	8.8%
1993-1994	31.5%	24.7%	2000-2001	23.5%	5.4%

¹ We were unable to reproduce exactly the GAO price margins (without recovery adjustment) reported in GAO Table 5. We used the State of Alaska COAR data that we provided the GAO. We differ by less than 2% in each of the years.

Source: Calculated from ADF&G COAR data, various years.

Table 3 shows halibut processor price margins, properly adjusted for recovery, over various comparison periods. This table raises additional serious questions concerning the GAO's qualitative conclusions that differ from the State's report. The second column is processor share of the wholesale price (identical to last column of Table 1) and last column is the residual, i.e., the share retained by harvesters. The bracketed red entries again draw attention to the relative shares once the market adjusted to the IFQ program in 1999. Also as before, 1995, the year of policy implementation, is highlighted. The third column presents the two-year average margin corresponding to the ADF&G study period (1992-93 and 1999-2000). Processors retained just under a quarter of their pre-IFQ share. Looking at the five-year average, 1990-1994 and 1996-2001 in column 4, the average processor share of the wholesale price still dropped by half. The six-year average, 1989-94 and 1996-2001, tells the same story; processing share of the wholesale price dropped by 44%. Statewide average ex-vessel price increased \$0.65 per pound (up 39%), while wholesale price increased only \$0.46 per pound (up 20%). **These results further demonstrate that while the absolute numerical findings of the State report may be overstated because 1992 appears to be an outlier, the qualitative conclusions are correct—pre-IFQ processors, on average were damaged by the policy design. Furthermore, the GAO conclusions would concur with the State had the GAO**

correctly calculated the processor price margin. Mr. Metcalfe was informed of the qualitative consistency in the opening comments of Professor Matulich's October 11, 2002 letter to Mark Metcalfe. *First, regarding your question as to whether base years matter: Of course they do—Quantitatively, not qualitatively! Your own margins (which I believe may be inaccurate) confirm this conclusion.*

TABLE 3. Distribution of halibut wholesale price between processor and harvesters, 1989-2001 and 2-, 5- and 6-year average processor share, nominal dollars.

Price Margin (processor share of wholesale price)					
Year	Yearly Processor Share	2-Yr Ave Share 92-93 : 99-00	5-Yr Ave Share	6-Yr Ave Share	Yearly Fisher Share
1989	0.201				0.799
1990	0.172				0.828
1991	0.207				0.793
1992	~~<0.524>~~				~~<0.476>~~
1993	0.281	0.403			0.719
1994	0.213		0.277	0.266	0.787
1995	0.263				0.737
1996	0.206				0.794
1997	0.195				0.805
1998	~~<0.347>~~				~~<0.653>~~
1999	[0.072]				[0.928]
2000	[0.104]	0.088			[0.896]
2001	[0.003]		0.1440	0.154	[0.997]

Source: Calculated from ADF&G COAR data, various years.

We find it ironic that the GAO report on the American Fisheries Act noted that the 25% increase in yield (recovery) was an important benefit of rationalization in the pollock fishery (GAO/RECD-99-196, p. 7). Now the GAO dismisses recovery as irrelevant, even after being told of its importance three months prior to release of the report.

b) We fail to understand how the National Marine Fishery Service opinion contained on page 43 of your report could "concur with and appreciate" the flawed GAO analysis. NMFS analysts surely understand the importance of recovery.

c) A basic criticism by the GAO is potential misrepresentation of sector-wide impacts because of the years chosen. But then, the GAO does precisely what they criticize in the last sentence on page 26, basing the analysis on outlier. The GAO compares 1993-94 with 1998-99. They state that processors' share of the wholesale price actually rose 1.1%. Setting aside the fact that the GAO failed to calculate the price margin correctly (in fact the processor's share decreased over this period), the conclusion is dependent on one post-IFQ year (1998) that is clearly anomalous. The blue highlighting and numbers

bracketed by < > in Table 3 above show that 1992 and 1998 are both outliers. The ADF&G report explains the rationale for choosing 1992-93 and 1999-2000. Consistent with the rationale given the State report, Mr. Metcalf was also informed in the October 11, 2002 letter that the years were chosen because

...insufficient firms retained financial data longer than seven years, primarily because of IRS rules. This kept me from maintaining adequate survey coverage prior to 1992. The particular years chosen satisfied minimal data coverage requirements, while providing maximal separation from the distortions associated with 1995 policy implementation.

The GAO's justification for choosing a pair of years that includes the outlier, 1998, is unclear.

X-Mailer: Novell GroupWise Internet Agent 6.0.2
Date: Tue, 08 Oct 2002 18:51:41 -0400
From: "Mark R Metcalfe" <MetcalfeM@GAO.GOV>
To: <matulich@wsu.edu>
Cc: "Charles W Bausell Jr" <BausellC@GAO.GOV>
Subject: question
Mime-Version: 1.0
Content-Type: multipart/mixed; boundary="=_15498682.BFDEB2D0"
X-Virus-Scanned: by amavisd-milter (<http://amavis.org/>)
X-UIDL: 83b7d6610b695f6b18ab43a63e21329b
Status: RO

Prof. Matulich,

I am working with Charles Bausell at the US GAO on the issue of examining the economic impacts of IFQs in the Alaskan halibut and sablefish processing industries. We have been working on this issue and comparing our findings with those in your study for the State of Alaska entitled "Efficiency and Equity Choices in Fishery Rationalization Policy Design". We have a question concerning your choice of base years and the potential impact this choice of years may have on your results. I have attached a brief description of our findings and we would be interested in hearing your comments. If you would be interested in responding please feel to email me or call me at (415) 904-2176.

Thank you for your time,
Mark

Mark R. Metcalfe
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fax: (415) 904-2111
metcalfem@gao.gov

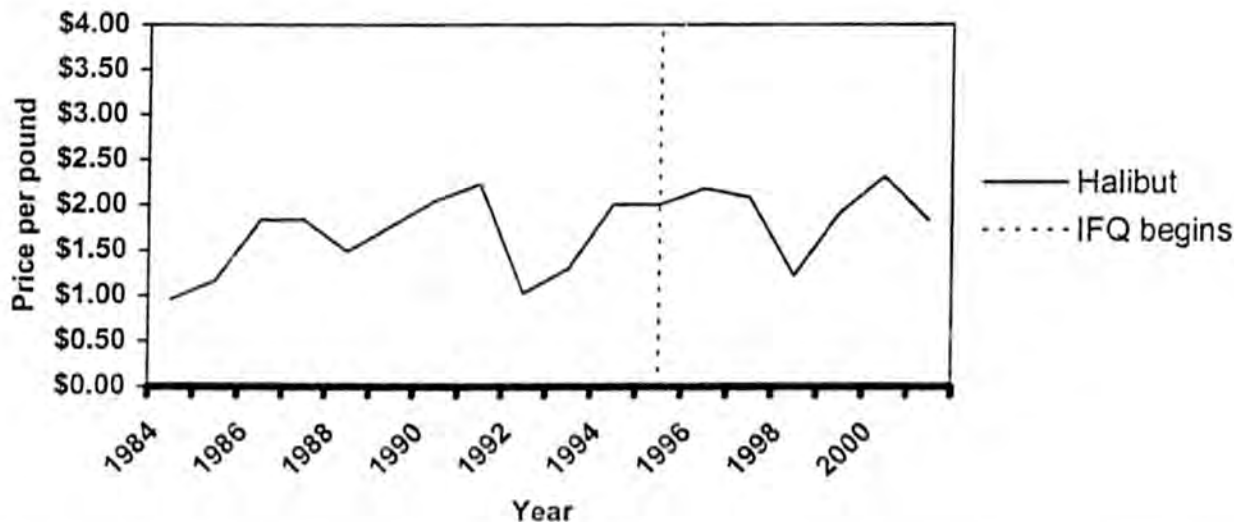


Comments on Base Years Chosen in State of Alaska Study.doc <<<see following 3 pages

Comments on Base Years Chosen in State of Alaska Study

The change in gross operating margins before and after the IFQ program may be overstated because of the base year chosen. The study used 1992 and 1993 as representative of the pre-IFQ environment. However, prices in these years were lower than in 1994 and in other years predating the 1995 introduction of the halibut IFQ. Consequently, by comparing these base year prices with halibut prices in 1999 and 2000, the study indicates a larger increase in halibut prices than if some other pre-IFQ time period had been selected. Specifically, using the study's time periods, prices in 1999 and 2000 were 45 percent higher than in 1992 and 1993. However, if another base year had been chosen, such 1993 and 1994, and compared with 1999 and 2000, the increase would have been 22 percent. The figure below shows the dip in prices in 1992 and 1993.

Ex-Vessel Halibut Prices, 1984 through 2001



Note: Ex-vessel halibut prices adjusted to 1996 dollars using the Bureau of Economic Analysis's Gross Domestic Product implicit price deflator.
Source: GAO analysis of Alaska Department of Fish and Game, Commercial Operators Annual Report (COAR) data.

The importance of choosing a base year is demonstrated by looking at the difference between the price the processor paid for raw fish and the price the processor receives for the processed fish—the processor's price margin. We calculate price margins using State of Alaska Commercial

Operators Annual Report Data. The table below shows, the price margins in 1992-1993 and 1999-2000, the years examined in the State of Alaska study, are very different, 47.4 percent compared to 24.0 percent, suggesting a significant decrease in price margin occurring after implementation of the IFQ. However, comparison of the calculated price margin in 1993-1994 and 1999-2000 shows less of a difference, 37.1 percent to 24.0 percent, and comparison of 1993-1994 with 1998-1999 yields very little difference at all, 30.5 percent to 31.7 percent. So, the magnitude of the economic effect is dependent on the years examined.

Price Margins in Selected Pre- and Post-IFQ Years

Pre-IFQ		Post-IFQ	
Year	Price margin ^a	Year	Price margin ^a
1991 – 1992	37.1	1998 – 1999	31.2
1992 – 1993 ^b	47.4	1999 – 2000 ^b	24.0
1993 – 1994	30.5	2000 – 2001	23.9

^aPrice margin is the percentage by which real wholesale price exceeds real ex-vessel price, excluding other variable costs.

^bYears used in the State of Alaska study.

Source: GAO analysis of Alaska Department of Fish and Game, Commercial Operators Annual Report (COAR) data.

October 11, 2002

Via e-mail

Mark R. Metcalfe
U.S. General Accounting Office
301 Howard St.
Suite 1200
San Francisco, CA 94105

Dear Mr. Metcalfe,

I reviewed the October 8, 2002 e-mail and attachment you sent me. This letter addresses your inquiry. The essence of my comments center on the fact that your brief attachment reaches the same qualitative conclusion as my report but differs as to magnitude. Also, I **suspect** your Price Margins may be incorrect and thus, importance you ascribe to choice of base year may be overstated.

First, regarding your question as to whether base years matter: Of course they do—Quantitatively, **not** qualitatively! Your own margins (which I believe may be inaccurate) confirm this conclusion. I elucidate the suspected error below under the section Details, subsection 1. A related though unasked question may be “Why did I choose 1992-93 and 1999-2000 for my study?” The complete answer is provided in my report. Insufficient firms retained financial data longer than seven years, primarily because of IRS rules. This kept me from maintaining adequate survey coverage prior to 1992. The particular years chosen satisfied minimal data coverage requirements, while providing maximal separation from the distortions associated with 1995 policy implementation. Second, looking only at price margins does great disservice to the issue at hand. The central policy issue addressed in my report concerns policy-induced redistribution of asset values, i.e., changes in quasi rents. One cannot get at this without including omitted policy-induced cost and market share changes. Though unmeasured, we know harvesting variable costs had to decline under a rationalized fishery (or there was no reason to rationalize), while processing costs had to rise. Market share of traditional processors also had to change due to policy-induced exit, which you presumably observed in the COAR data—that is where I obtained the data to examine market share issues. Entry of broker/reprocessors, which you couldn’t observe (item 3 below), also changed prices. Third, I suspect you are unable to calculate meaningful post-IFQ margins because the COAR data do not include information on brokers/reprocessors. I will expand on these, one at a time, after I address your bottom line.

Bottom Line:

Assume, for the moment, that your 1992-93 and 1999-2000 Price Margins are correct (47.4% and 24%, respectively). The 1999-2000 margin is half as large as the 1992-93 margin. Since prices are functions of all sorts volatile things, not the least of which are quantity and product

forms, let's take an average of the three pre- and post-IFQ years presented in your Price Margins table. The 1998-2001 average margin (38.3%) is two-thirds as large as the 1991-94 average margin (26.3%). This conclusion simply says the relative redistribution was less. It does not say wealth was not redistributed. If your margins are inaccurate, and I am pretty sure they are, then the degree of unintended wealth redistribution probably worsens.

The general "qualitative" conclusion of my report is unchanged—an allocation of IFQ only to harvesters transfers *status quo ante* wealth from processors to harvesters. Apart from my peer-reviewed articles explaining why a harvester-only quota allocation unintentionally transfers wealth from processors to harvesters, other well-known fisheries economists have drawn the same conclusion, e.g., Lee Anderson *Natural Resource Modeling* (2000) and Lee Anderson *Marine Resource Economics* (2002). The GAO is no doubt aware of the 2000 article, however the 2002 article just came out. Here is an excerpt from this article.

If harvest rights were granted to vessels with no restrictions on where the fish may be processed, it is likely that processors would be forced into a bidding war for product with the same result that the entire TAC would be processed by only a subset of existing plants that would be paying high ex-vessel prices. All gains from rationalization would accrue to the owners of the harvest rights (p. 208).

Simply put, quota is wealth and power; it is like a sponge that captures the resource value. Whoever is given the quota is given all the wealth and power. Give it all to me and I will capture all the wealth and power. Efficiency will still be maximized, subject to potential, minor transaction cost leakage. This conclusion is perfectly consistent with many of GAO's own reports to Congress concerning other policy contexts, like changing federal water pricing and grazing fees.

Details:

1) I do not know exactly how you calculated your margins from aggregated data. Did you calculate the Price Margins by adjusting for recovery? COAR data is a blend of product forms that change across time; POUNDS SOLD are not equal to POUNDS PURCHASED and their numeric relationship is always changing. According to the COAR data, statewide recovery was 93.7% and 85.4%, respectively, in 1992 and 1993. The 1992-93 weighted average recovery factor (weighted by purchased pounds) was 0.8978 (see spreadsheet below), which is vital to calculating a valid Price Margin. There are two equivalent adjustments that must be made if accurate Price Margins are to be calculated. Equation A calculates the Price Margin on a finished weight basis by adjusting the exvessel price upward to reflect recovery. In essence, equation A pays harvesters more per pound but on the lesser finished pounds. Equation B makes the calculation on a raw weight basis, adjusting the wholesale price downward by the recovery factor to reflect wholesale price in terms of the larger raw pound equivalents.

Eq. A. $[(\text{wholesale price} - (\text{exvessel price}/\text{recovery factor})) / \text{wholesale price}]$

Eq. B. $[(\text{wholesale price} * \text{recovery factor}) - \text{exvessel price}] / \text{wholesale price} * \text{recovery factor}]$

I raise this issue because the 1992-93 Price Margin reported in your table (47.4%) is 23% larger than implied by my report (38.6%). I show the 1992-93 exvessel price was 61.4% of a \$1.82

wholesale price paid by participating firms. While the firm-specific data I used is unavailable to you, I used raw COAR data as an outlier test for these firms (as noted in my report). My firm-specific price-quantity data was virtually identical to the corresponding firm-specific COAR data. Moreover, participating firms were a reasonably representative cross-section of firms and geographic areas. These facts raised a question about your margin calculations, and more specifically, about your wholesale prices, which are not reported.

All of this prompted me to dust off the COAR data to calculate the 1992-93 weighted average Price Margin. I am including my Excel spreadsheet below. I left the worksheet unprotected so you can check the cell calculations. Based exclusively on the highlighted price-quantity data from COAR, which you have, the 1992-93 Price Margin is **0.418** not 0.474. I suspect you did not properly adjust for recovery. This is a pretty common source of confusion for those who do not routinely work with fisheries data. If my suspicion is correct, you will need to re-do your Price Margins for every year. Please note that adjusting for inflation has no impact on this calculation because all weighted average prices are adjusted by a constant weighted average inflation index.

1992-93 WEIGHTED AVERAGE PRICE MARGIN, COAR DATA

	Wholesale Price	Finished Pounds	Ex-vessel Price	Raw Pounds	Recovery Factor
1992	\$2.132	42,829,892	\$0.950	45,697,356	0.9373
1993	\$1.985	35,405,002	\$1.220	41,441,483	0.8543
Total		78,234,894		87,138,839	
Actual Wtd. Ave. Prices	\$2.065		\$1.078		
Wtd Ave Prices: Finished Basis	\$2.065		\$1.201		
Wtd Ave Prices: Raw Wt Basis	\$1.854		\$1.078		0.8978
Price Margin: Finished Wt. Basis		0.418			
Price Margin: Raw Wt. Basis				0.418	

This 3% difference in Price Margin (41.8% vs 38.6%) is pretty minor considering the report is based on a sample of processors, uses none of this COAR data and includes detailed information concerning custom processing and brokers/reprocessors that are overlooked in the COAR data.

2) Price Margins fail to address what actually happened. The objective is to isolate policy-induced distributional issues. Price ratios are very weak proxies for wealth and distributional effects that stemmed from the switch to IFQs. There is a related issue concerning price volatility and quantity volatility. One would never expect a single price margin across time. Even within a given management regime, the margin volatility would reflect, among other things, changes in costs, inventories, foreign markets, spatial and temporal issues concerning stocks and catch, etc. However, one would expect cost changes to mitigate at least partially the non-policy-induced changes in Price Margins.

3) COAR data understate the true first wholesale price because these data include none of the finished prices from brokers/reprocessors. This omission became increasingly serious starting around 1998 or 1999, when significant use of brokers/reprocessors began. Brokers/reprocessors continue to increase market share today, accounting for about 30% of all Alaska halibut. They

are highly efficient with little overhead to service, making entry and expansion relatively easy. Of course, you cannot see this dramatic rise in market share in the state and federal data, even if you had access to the raw COAR data. The state of Alaska had no idea how significant broker/reprocessors were/are. COAR data stops at the first buyer-of-record, well before first wholesale, in many cases. (See the second full paragraph of page 15, i.e., the 3rd paragraph under the section heading Data.) I presume you learned in your tour of Alaska that traditional processors who now custom process for broker/reprocessors are paid a posted "tariff". Implications of this structural change need to be accounted for in any analysis of the program. Unfortunately, COAR data does not allow one assess such impacts.

There are a lot of nuances in the fishing industry that I am only starting to learn—even after years of working with the State of Alaska, the North Pacific fishing and processing industries, and the federal oversight agencies. Although I do not have much time left in Pullman before heading overseas on professional leave, I would be happy to answer any questions you may. Please feel free to call me.

Regards,

Scott C. Matulich
Professor

Metcalf reply to Matulich Oct. 11 e-mail

Date: Wed, 16 Oct 2002 18:31:55 -0400
From: "Mark R Metcalfe" <Metcalfem@GAO.GOV>
To: <matulich@pullman.com>
Subject: Re:
Mime-Version: 1.0
Content-Type: text/plain; charset=US-ASCII
Content-Transfer-Encoding: 7bit
Content-Disposition: inline

Scott,

Thank you for your phone message. That helps greatly. If I have any additional questions I will give you a call at your home number in the next couple days.

Mark

Mark R. Metcalfe
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Suite 1200
San Francisco, CA 94105
(415) 904-2176
fax: (415) 904-2111
metcalfem@gao.gov

>>> Matulich <matulich@pullman.com> 10/11/02 11:45AM >>>
Mark,

Attached is my reply to your 10-8-02 e-mail. I am sending this from home,
so, if you wish to discuss any aspect of it, feel free to contact me here. Contact info is in the signature file.

Scott



Alaska Marine Conservation Council

Box 101145, Anchorage Alaska 99510
(907) 277-5357 • (fax) 277-5975
amcc@akmarine.org • www.akmarine.org

Testimony Before the House Fisheries Committee on HJR 25 April 23, 2003

Thank you Mr. Chairman and members of the Fisheries Committee. My name is Dorothy Childers. I am the executive director of the Alaska Marine Conservation Council (AMCC). We are a community-based organization with over 900 members most of whom are Alaska coastal community residents. They are fishermen, subsistence harvesters, small business owners, other local residents and families. AMCC supports rationalization of the crab fisheries and is working at the North Pacific Fishery Management Council to advance conservation and community benefits of groundfish rationalization plans that are currently under development.

We offer our support today for HJR 25. We are concerned about processor quota because of the controlling effect this system will have on markets, fishermen, communities and the public process for managing fisheries. Having said that, we very much recognize the important role that the processing sector fills in our communities.

The question of whether or not Congress should legalize processor quota should not be reduced to a processor versus fisherman battle as some would like to make it out to be. Everyone knows the two sectors are mutually dependent. Rather than asking what will it take to get fishermen and communities to accept processor quota, we should be asking a completely different question: What is the appropriate way to support each sector of the seafood industry in order to better serve conservation management of the fish, stability of our communities, and preservation of the American competitive, free enterprise system.

AMCC, as a conservation organization, is involved in this because we see processor quota as much more than an ordinary allocation decision. We think processor quota in the crab fisheries -- and certainly if it is subsequently applied to groundfish and salmon -- will have tremendous impact on the face of the seafood industry, governance of the public's fishery resources and day-to-day challenges for fishing families and smaller processing companies. We strongly believe that having the government allocate market share in the form of processor quota cannot be glossed over as a "creative solution for rationalization." Rather, it will create a kind of cartel that will squelch innovation and entrepreneurial opportunities, and ultimately exert an unacceptable degree of control over Alaska's fishing families and over fishery managers themselves.

Fishery managers have a huge responsibility as the experts at the conservation management of our fish on the fishing grounds. Not only is processor quota not good public policy, it is also not the job of fishery managers to take on the role of designing and managing market systems for fish after they are caught.

We urge the committee to support HJR 25. The resolution will encourage Congress and resource managers to find more appropriate ways to support Alaska's fishery dependent communities, including the processing sector, as we move down the road to rationalizing more of our fisheries.

Thank you, Mr. Chairman, for your consideration of HJR 25 and this opportunity to testify.

C.R.A.B. GROUP

Crab Rationalization and Buyback Group

907 747-7807 • P.O. Box 1004 • Sitka, Alaska • 99835 • Juneau, Alaska • P.O. Box 2004 • Kodiak, Alaska • 99575 • 907 486-0572

April 25, 2003

Rep. Paul Seaton, Chairman
Rep. Peggy Wilson, Chairman
Fisheries Committee
Alaska House of Representatives
Juneau, Alaska

RE: Support for HJR 25

In testimony before the Committee last Wednesday, the Processor Attorney, Mr. John Garner, indicated that he possessed a memo from the U.S. Congressional Research Service [CRS], which "shows that there are NO anti-trust problems with the crab rationalization proposal, whatever." This statement can only be defended in the most specialized and limited sense. In fact, the CRS memo states the obvious: That Congress writes anti-trust laws, and that Congress may make exceptions to those laws.

Congress can pass laws creating a monopoly if they wish. They can also create duopolies and oligopolies if they wish. For years they permitted phone service and cable service to be provided by a single monopoly provider in each market. They created a cell phone duopoly for a while. And for many years the railroads operated as an oligopoly. In the case of each of the examples cited above, Congress later discovered that these legislative monopolies, duopolies, and oligopolies were bad for competition and bad for consumers, so they repealed or modified the laws that created those situations.

A truth table representation for Mr. Garner's assertion is equivalent to that of an advocate gesturing at an open window, and stating: "There is no bar to stepping out that window, whatever." The truth of this assertion is of course irrelevant to questions of fundamental importance. 'How far is the window above the ground, outside? Would stepping out the window result in serious injury, or possibly death?'

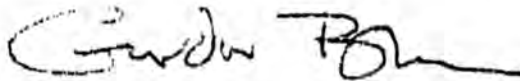
The Congressional Research Service did not do any analysis of the anti-competitive impacts of the crab rationalization plan. Nor did the North Pacific Fishery Management Council [NPFMC] include such analysis in their report. In fact, when NPFMC-hired expert economists reported on

these impacts, the experts found that Processing Quota are so constraining, that they may very well result in there being NO value for Fishing Quota shares, afterward. The NPFMC excluded this finding from their report: obviously, as it does not support the 'preferred alternative,' which includes Processor Quota.

Mr. Garner has invited you to step out that window, without considering that you are high above the ground. The question for the Alaska legislature is whether or not you support the recommendation by an unelected Federal fishery management council that Congress should adopt a law that creates an oligopoly for the processing of crab caught off Alaska. Further, does the Alaska Legislature support such a recommendation even though it means that a significant portion of that crab will be processed by foreign fish processors — the same foreign processors who historically have abused Alaska fishermen.

Finally, it must be understood, that by supporting the Council recommendation the Alaska legislature would be effectively abdicating your authority to manage fish processors operating in Alaska, to an unelected Federal panel.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gordon Blue", with a stylized flourish at the end.

Gordon Blue, President

Attachment: Antitrust Problems With Individual Processing Quotas in the Alaskan Crab Fishery

Sher & Blackwell LLP

June 14, 2002

**ANTITRUST PROBLEMS WITH INDIVIDUAL
PROCESSING QUOTAS IN THE ALASKAN CRAB FISHERY**

BACKGROUND

The North Pacific Fishery Management Council ("the Council"), through the Secretary of Commerce, may propose legislation that would establish a new fishery management regime for allocating Alaskan crab resources. Under the proposal recently approved by the Council, crab fishers would receive an "individual fishing quota" (IFQ) such that each fisher would be given the opportunity to harvest a set percentage of the annual total allowable catch (TAC) for crab. This system would allow the fishers to proceed with the harvest at a workable pace¹ while respecting conservation goals. In addition – with no conservation or fishery management rationale – the proposed scheme would give certain historic crab processors "individual processing quotas" (IPQs). The IPQs would grant each eligible processor a set percentage of the crab processing market. This allocation would be enforced by requiring each harvester granted an IFQ to deliver at least 90% of their IFQ catch to a processor holding unused IPQ shares. This system would effectively bar new entry into the crab processing market and significantly reduce, if not end entirely, price competition among processors. The IPQ proposal will horizontally

1

In contrast with the current "race for fish" situation, in which fishers work frantically to catch as much as they can before the TAC for all fishers is reached.

1

Sher & Blackwell LLP

June 14, 2002

divide markets among competitors, which makes the proposal a *per se* violation of the antitrust laws that would be illegal absent an explicit waiver of the antitrust laws by Congress.²

ANTITRUST OVERVIEW

The purpose of federal antitrust laws is to promote free and open competition in all sectors of the Nation's economy. The antitrust laws, and in particular the Sherman Antitrust Act (15 U.S.C. 1-7), prohibit horizontal market divisions on the grounds that such divisions reduce or eliminate both price competition and open participation in markets. The proposed IPQ system, for example, would restrict which processor or processors a crab fisher could sell his catch to. This, in turn, would limit the opportunity for the fisher to obtain the best possible price for his crab.

Two economists hired by the North Pacific Council to review the impacts of the IPQ proposal have concluded that it will substantially reduce the opportunity for fishers to obtain the best price, and in fact could lead to the IFQ issued to the fisher having no value

2

Processors argue that IFQs represent a division of markets among crab harvesters. However, this argument overlooks the fact that Congress has granted explicit antitrust immunity to fishers in order to permit them to form cooperatives for the marketing and processing of their fish. Congress did this in the Fishermen's Collective Marketing Act of 1934 (15 U.S.C. 521-522), with the specific intent to help offset the disparity in economic power and negotiating position between processors and fishermen. *See United States v. Hinote*, 823 F. Supp. 1350 (S.D. MS. 1993). IFQs are consistent with the Congressional intent behind the Fishermen's Collective Marketing Act. In contrast, IPQs are in direct conflict with that intent.

2

Sher & Blackwell LLP

June 14, 2002

at all.³ Several other economists have reached similar conclusions,⁴ and the National Academy of Scientists specifically recommended alternative approaches be used when they reviewed the IPQ concept in their 1998 study of IFQ systems entitled *Sharing the Fish*.⁵

Horizontal market division can occur on the basis of territory, customers, or product markets. The basis for the division is incidental to the antitrust analysis; it is the existence of the horizontal market division that matters. The leading case on horizontal market divisions is *United States v. Topco Associates*, 405 U.S. 596, 607 (1972). *Topco*

3

Milon, J. Walter and Hamilton, Stephen F. (2002), "A Comparative Analysis of Alternative Rationalization Models for the Bering Sea/Aleutian Islands (BSAI) Crab Fisheries," prepared for the North Pacific Fishery Management Council, March 2002, pp. 42-43 (available at <http://www.fakr.noaa.gov/npfmc/Amendment%20Analysis/April%20Crab%20Draft/MilonHamiltonCrabReport3.pdf>).

4

See, e.g. Testimony of Dr. Robert Halvorsen before the United States House of Representatives Subcommittee on Fisheries Conservation, Wildlife and Oceans, February 13, 2002 (available at <http://resourcescommittee.house.gov/107cong/fisheries/2002feb13/halvorsen.htm>).

5

Sharing the Fish: Toward a National Policy On Individual Fishing Quotas, National Academy Press, Washington, D.C. 1999, p. 205 ("Nor did the committee find a compelling reason to establish a separate, complementary processor quota system (the "two-pie" system). If the regional councils determine that processors may be unacceptably disadvantaged by an IFQ program because of changes in the policy or management structure, there are means, such as buyouts, for mitigating these impacts without resorting to the allocation of some different type of quota, with a concomitant increase in the complexity of the IFQ program... Whatever method is chosen, it should not have the effect of subsidizing excess processing capacity.").

3

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concerned a supermarket purchasing association through which small and medium sized stores shared "Topco" as their house brand. The purchasing association enforced strict rules regarding the territory each member could sell in, and also set wholesaling practices. The Supreme Court held that these actions constituted a *per se* (or absolute) violation of section 1 of the Sherman Act, noting:

It is only after considerable experience with certain business relationships that courts classify them as *per se* violations of the Sherman Act. One of the classic examples of a *per se* violation of §1 is an agreement between competitors at the same level of the market structure to allocate territories in order to minimize competition. Such concerted action is usually termed a "horizontal" restraint.... This Court has reiterated time and time again that horizontal territorial limitations are naked restraints of trade with no purpose except stifling of competition....
We think that it is clear that the restraint in this case is a horizontal one, and, therefore, a per se violation of §1.

Id. at 608 (citations omitted) (emphasis added). The *Topco* Court thus rejected the inherent efficiencies of the group purchasing association because of the overwhelmingly negative effects on competition.

The Supreme Court later extended the *Topco* ruling to cover even potential competitors in *Palmer v. BRG of Georgia, Inc.*, 498 U.S. 46 (1990) (per curiam): "Such agreements [not to compete in each other's territory] are anticompetitive regardless of whether the parties split a market in which both do business or whether they merely reserve one market for one and one market for the other." *Id.* at 49-50.

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Lower courts have repeatedly reiterated the *Topco* ban on horizontal market division. See, e.g., *United States v. Brown*, 936 F.2d 1042, 1045 (9th Cir. 1991) (no need to consider facts peculiar to business, history of restraint, or reasons for restraint because "a market allocation agreement between competitors at the same market level is a classic per se antitrust violation"). See also *United States v. SunTar Roofing, Inc.*, 897 F.2d 469 (10th Cir. 1990); *United States v. Cooperative Theatres, Inc.*, 845 F.2d 1367 (6th Cir. 1988); *Midwest Underground Storage, Inc. v. Porter*, 717 F.2d 493-497 n.2 (10th Cir. 1983) ("the essence of a market violation ... is that competitors apportion the market among themselves..."). All these cases treat horizontal market allocation as a per se violation of the Sherman Act.

In certain cases, however, lower courts have applied the "rule of reason" rather than the per se rule to horizontal market allocation cases. The rule of reason (which the Supreme Court has never utilized in a horizontal market division case) allows a court to examine the potential pro-competitive benefits of an action that would otherwise be forbidden by the antitrust laws. See, e.g., *Polk Brothers, Inc. v. Forest City Enterprises, Inc.*, 776 F.2d 185, 188 (7th Cir. 1985) (per se rule not intended for "agreements that facilitate productive activity"); *Northrup Corp. v. McDonnell Douglas Corp.*, 705 F.2d 1030, 1050 (9th Cir. 1983) (contractor teaming arrangement which led to market

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allocation novel enough to warrant rule of reason analysis).

The proposed IPQ regime, however, would not stand up even to rule of reason scrutiny, because not one economist, even the lone economist supporting the IPQ proposal, has argued that there are any pro-competitive benefits to the proposal. In fact, the only benefit of the IPQ system that has been identified even by its proponents is that the IPQ system protects the processors that receive them from a perceived transfer of wealth to the fishers.⁶

In the case of the crab processors, the IPQ system would allow the processors to divide the market by both territory and customer/supplier. The proposed plan calls for the separation of the crab fishing area into northern and southern territories, creating a partial territorial division. The primary division would be of the crab fishers – who may be seen as both customers of crab processing services and suppliers of raw crab.⁷ In either case,

⁶

Matulich, Scott C. and Michael Clark, "Efficiency and Equity Choices in Fishery Rationalization Policy Design: An Examination of the North Pacific Halibut and Sablefish IFQ Policy Impacts on Processors," Regional Information Report No. SJ02-02, Alaska Department of Fish and Game, January 24, 2002, at p. 27 ("Instead, an IFQ policy benefits harvesters to the detriment of processors.").

⁷

Case law dealing with market division through supplier allocation is sparse, as the ability for purchasers to successfully band together to allocate who each will buy from occurs only rarely. Supplier allocation has been the basis for an antitrust suit. See *Bogan v. Hodgkins*, 166 F.3d 509, 515 (2nd Cir. 1999) (facts did

6

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the crab fishers would effectively be locked into dealing with a predetermined buyer (either on the basis of past business dealings between the fishers and the processor or due to other processors having reached their IPQs). The net effect of the IPQ proposal is to force each crab fisher to deal with a monopoly supplier of crab processing services (i.e., the processor with the IPQ), who would be able to pay as little or as much for raw crab as the processor cared to, without regard for the price paid by other processors.

The IPQ proposal adopted by the North Pacific Fishery Management Council suggests a course of action that without question would be illegal as a *per se* violation of the federal antitrust laws. Given that Congressional legislation to adopt an IPQ proposal will likely leave numerous details of any IFQ/IPQ program for future resolution by the North Pacific Council, the Secretary of Commerce would be well advised to request an explicit waiver of the antitrust laws to avoid unnecessary litigation when the Secretary seeks to promulgate regulations to implement the final program and any later amendments to that program.

Mere passage of the IPQ scheme by Congress may not be enough to avoid

not support allegation of supplier allocation). Courts have repeatedly defined the antitrust laws as reaching buyers as well as sellers. See *Mandeville Island Farms v. American Crystal Sugar Co.*, 334 U.S. 219 (1948).

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antitrust problems with the regulatory implementation of that scheme. In general, Congressional grants of antitrust immunity must be explicit. See *United States v. Philadelphia National Bank*, 374 U.S. 321, 350-51 (1963) ("Repeals of the antitrust laws by implication from a regulatory statute are strongly disfavored..."). If a regulatory statute does not contain an explicit waiver, evidence of specific Congressional intent in the legislative history may be needed to help a court conclude that a waiver was intended. See *Austin Municipal Securities, Inc. v. National Association of Securities Dealers*, 757 F.2d 676, 695 (5th Cir. 1985).⁸ In the absence of an explicit waiver, the Secretary of Commerce could be placed in a difficult legal situation each time the North Pacific Council recommended changes affecting IPQs in the crab rationalization scheme.

8

The Department of Justice has stated in a letter to the Secretary of Commerce that the American Fisheries Act (AFA) is an example of an implied waiver by Congress. However, it is important to note that the implied waiver was much more limited in scope. In the case of the AFA, the Department of Justice ruled that the participation of processor controlled fishing vessels in cooperatives formed under the Fishermen's Collective Marketing Act of 1934 (15 U.S.C. 521-522) was required under the terms of the AFA in order for the cooperative to comply with the requirements for the allocation of a quota of fish to the cooperative. Therefore, processor controlled fishing vessels could participate in the cooperative without the cooperative losing its antitrust immunity. That participation, however, is limited to participation by the processor controlled fishing vessel in the allocation of fish to the cooperative, as well as the catching of the fish by the cooperative, but does not include participation by such vessel in price negotiations between the processor and the cooperative. The explicit anti-competitive impacts of IPQs cannot be limited in the same fashion.

8

To: ~~Ethan Bernhardt~~ Paul Sator
~~disconnected~~

Fr: Dorothy Childers

Re: Processor Quote - HJR 25

3 pp to follow

I hope this is useful!



Alaska Marine Conservation Council

Box 101145, Anchorage Alaska 99510

(907) 277-5357 • (fax) 277-5975

amcc@akmarine.org • www.akmarine.org

Processor Quota – Support HJR 25 Factsheet April 2003

"It's not quite slavery but it's the next best thing."
- Clem Tillion

"I want our leaders to look out for the next generation of fishing families. Let's keep our livelihoods from going the way of the family farm."

Linda Behnken
F/V Morgan

What is Processor Quota?

Processor quota is an anti-competitive system that will give control of Alaska's fisheries to a small number of seafood processor corporations. Processor quota will limit who can buy Alaska's fish to a select pool of corporations.

Congress is considering legislation to legalize a processor quota plan for the Bering Sea crab fisheries which would require fishermen to sell at least 90% of their catch to designated seafood processors.

Processor quota is gifting of market share by the government to certain corporations, a policy forbidden by federal law in other industries. Processors in Alaska who will benefit include foreign-owned companies and others part-owned by ConAgra, the multi-national agribusiness giant. Processors will be able to consolidate quota by selling it, transferring it through leasing or purchasing other companies holding quota. There are no effective limits on how much quota a single corporation could control.

Processor Quota is More than Allocation

Processor quota is much more than an ordinary fishery allocation decision. Processor quota in the crab fisheries -- and certainly if it is subsequently applied to groundfish and salmon -- will have tremendous impact on the face of the seafood industry, governance of the public's fishery resources and day-to-day challenges for fishing families and smaller processing companies. It will create a kind of cartel that will squelch innovation and entrepreneurial opportunities, and ultimately exert an unacceptable degree of control over other sectors of industry and over fishery managers themselves.

(over)

The question of whether or not Congress should legalize processor quota should not be reduced to a processor versus fisherman battle as some would like to make it out to be. Everyone knows the two sectors are mutually dependent. Rather than asking what will it take to get fishermen and communities to accept processor quota, we should be asking a completely different question: What is the *appropriate* way to support each sector of the seafood industry in order to better serve conservation management of the fish, stability of our communities, and preservation of the American competitive, free enterprise system.

Crab Today, Groundfish and Salmon Tomorrow?

Because Congress is considering processor quota for the Bering Sea crab fishery, there is political pressure to have processor quota for groundfish and salmon as well. There is already a strong push from Gulf of Alaska groundfish processors for a processor quota system. Last year, the U.S. House Resources Committee approved a bill authorizing processor quota in any Alaska fishery.

Support HJR 25

The resolution supports rationalization of fisheries but encourages Congress and resource managers to find appropriate alternatives to the processor quota component in future rationalization programs. There are other ways to provide benefits to processors that are not permanent rights to buy Alaska's fish.

- Defend free enterprise in the seafood industry
- Support coastal communities and the entrepreneurial spirit
- Protect Alaska's fishing families
- Safeguard the public process

Our fisheries don't need corporation control; they need good stewardship, sound management and healthy markets.

For further information, contact:

Dorothy Childers, AMCC 277-5357

Alan Parks, AMCC 235-3826

Bob Storrs, Unalaska Native Fisherman's Association 581-2225

AMCC is a community-based organization with over 900 members most of whom are Alaska coastal community residents including fishermen, subsistence harvesters, small business owners, other local residents and families. AMCC supports rationalization of the crab fisheries and is working at the North Pacific Fishery Management Council to advance conservation and community benefits of groundfish rationalization plans that are currently under development.



Alaska Marine Conservation Council

Box 101145, Anchorage Alaska 99510

(907) 277-5357 • (fax) 277-5975

amcc@akmarine.org • www.akmarine.org

January 2003

Processor Quota: Facts about the Bering Sea Crab Plan

The Bering Sea crab plan, developed by the North Pacific Fishery Management Council, requires that independent fishermen sell 90% of their catch only to certain processor corporations holding processor quota. Processor quota will create an anti-competitive system by limiting participation in the market to select companies.

Eighty companies processed Bering Sea crab between 1991-2000. The crab plan allows only 24 to be eligible for processor quota. Of those, over 90% of the quota will go to 12 corporations and more than 50% will be allocated to four corporations. They will be awarded larger shares of quota than they historically processed. Five of them are owned by foreign-owned parent companies.

In 1976, Congress passed the Magnuson Act primarily to "Americanize" the fishing fleet in our 200-mile zone around the U.S. coast. Ironically, the Bering Sea crab plan will give control of domestic fisheries back to foreign corporations.

Processor	Owner
Unisea	Nippon Suisan Kaisha of Japan
Peter Pan Seafoods	Nichiro Corporation of Japan
Stellar Seafoods	Nichiro Corporation of Japan
Alyeska Seafoods	Maruha Corporation of Japan
	Marubeni, Inc. of Japan
Westward Seafoods	Maruha Corporation of Japan

These foreign-owned corporations will be given:

- 39% of the processing quota for snow crab
- 49% of the processing quota for red king crab

Processors will be able to consolidate quota by selling it, by transferring it through leasing or purchasing other companies holding quota.

Processor quota will allow processors unprecedented leverage and control over harvesters and communities. Processor quota will allow processor quota owners to permanently remove processing activities from communities which have had active processing, and bar future processing activity there. Processor quota will change seafood processing from a State regulated activity, into a permanent Federal entitlement that can irreparably harm communities.

All crab fisheries are currently at very low levels today compared to the past. If crab populations rebound and the fishery expands again, the percentage that each corporation controls will represent another enormous windfall, orders of magnitude more valuable than today's fishery.

Sources:

- Government Accounting Office. 2002. Individual Fishing Quotas, Better Information Could Approve Program Management. (See full report at www.gao.gov)
 - North Pacific Fishery Management Council. May 2002. Bering Sea Crab Rationalization Program Alternatives, Public Review Draft.
 - NPFMC. 2002. Motions passed in June, September and December.
- (All NPFMC documents are available at www.fakr.noaa.gov/npfmc)

People throughout Alaska working to protect the health and diversity of our marine ecosystem

Citizens Against Gambling Expansion

10 Things to ask you Legislators about Video Poker, Slot Machines and Other Electronic Gambling Machines

1. The Liquor Industry claims Alaska will become a \$2,000,000,000 (2 Billion Dollars) gambling state. Is this true? Where will this money come from?
2. Why will the Liquor Industry make almost \$90,000,000 per year off of Gambling? That is \$78,936 for every bar in Alaska. Why do bars get all of this money?
3. The Liquor Industry says there will be 5,596 Video Poker and Slot Machines in our Alaskan neighborhoods. Is this true? Is it true some in the Liquor Industry want to have 11,192 Video Poker and Slot Machines in our neighborhoods?
4. Is it true as the Liquor Industry claims that Alaska would be a state in which every man, woman and child gambles \$3,350 per year? Why do we want to have everyone in our great state gambling so much?
5. Would Anchorage really have over 1,300 Video Poker and Slot Machines as the Liquor Industry claims? Is this really equal to a Video Poker or Slot Machine on every block?
6. Would the \$2,000,000,000 (2 Billion Dollars) that the Liquor Industry claims Alaskans would gamble each year come out of the money that they would have otherwise spent on buying groceries, children's shoes, or gasoline or paying electric bills, rent or doctor bills? If not, where would this \$2,000,000,000,000 come from?
7. Would Alaska need gambling addicts to keep the money coming in? If not enough Alaskans gamble, will the State advertise to get more to gamble?
8. If we have these Video Poker and Slot Machines, will Native Alaskans have the right to have Native Casinos? The old Governor said they would have such rights.
9. How much will the Suicide, Divorce, Crime and Bankruptcy rates go up after Video Poker and Slot Machines are made available?
10. Why do they call these Electronic Gambling Machines "Convenience Gambling"? Why are they called the Crack Cocaine of Gambling?

**Be sure your Legislators answer these questions
before they get Alaska Drunk on Gambling!**

CAGE

CAGE@kpunet.net

C.R.A.B. GROUP

Crab Rationalization and Buyback Group

907 747-7967 • P.O. Box 1064 • Sitka, Alaska • 99835 • • • Juneau, Alaska • • • P.O. Box 2684 • Kodiak, Alaska • 99615 • (907) 486-0872

By Fax from: 907 747 4954

to: 907 465-8689

7 pages total

May 1, 2003

Please provide the following information to Rep. Seaton, ASAP.

Thank you,
Gordon Blue

Gordon Blue
2902 Sawmill Creek Rd.
P.O. Box 1064,
Sitka, Alaska 99835

May 1, 2003

Representative Peggy Wilson
Alaska State House of Representatives
Juneau, Alaska

Dear Peggy:

I know that the decision on HJR 25 must be a difficult one for you. You have a division in your district. On the one hand, two large, Seattle-based businesses which employ constituents, processors Icicle and Norquest. On the other hand, a powerful business constituency composed of many independent small businesses and their employees, fishermen.

Please consider this decision carefully. If you do so, I am confident that reason will bring you to support the resolution. Although the NPFMC and others have spent years creating complications, do not be daunted. Although the NPFMC unanimously approved a report to the U.S. Congress last year, do not be deceived. The NPFMC could only muster a 6-5 vote in favor of the plan, last month.

This vote determined the actual elements which the NPFMC has described as 'crucial' to protect the communities and fishermen. The 11/0 vote, a year ago, was made on the basis of a 'guarantee' of these protections, by the representative of the State of Alaska. That 'guarantee' is void. The NPFMC will revisit the issue at their next meeting, in June, and again, in September, when there will be a new NPFMC Chair. With help, they will decide differently.

If the Alaska House of Representatives Special Committee on Fisheries votes to send HJR 25 out, that will help fishermen. This will be true, even if the Resolution lacks time to move through the remaining committees and come to the floor. Otherwise, processors will use this inaction to goad the present, lame-duck NPFMC into more precipitous moves.

I do not know any fishermen in our legislative district, besides shareholders in Icicle and Norquest, who favor Processor Shares. I know quite a few fishermen. I don't know any crab fishermen, anywhere, who actually support the NPFMC crab plan, as it stands. Everyone is worried about what they will be paid, if nothing else.

Even the Icicle-employee fishermen who testified last week in opposition to HJR 25, could only offer weak support. They said: "We need to rationalize the crab fisheries for the sake of the fishermen. Since the processors (i.e. 'the Boss') oppose the program without PQ, give them PQ." It is remarkable that such weak argument was summoned, because employee-fishermen believe they have a great deal to gain. Their candid discussions with us have run like this: "Somebody will have to catch the crab. If everyone else is out of the business, then that somebody will be me."

The Seafood Producer's Cooperative, a very successful, locally-owned processor here in Sitka, is opposed to Processor Quota Shares. Rich Davis, who lives in Juneau, is the CEO. Perhaps you could have someone on staff give him a call. The other large processor in Sitka, Sitka Sound Seafoods, is owned by a Japanese company, Marubeni. Marubeni is a partner in Westward Seafoods, of Unalaska, which has American Fisheries Act pollock rights, and is a member of the North Pacific Processors Association processor lobby group for PQ. Marubeni employees have testified in favor of processor shares.

For communities and fishermen, the issue is simple: Processing Quota shares grant too much power to too few companies. The NPFMC would grant processors the right to 'consolidate' their shares until there are only one or two companies processing crab. The price fishermen receive would be set by a type of binding arbitration. An independent study commissioned by the NPFMC, showed that this type of arbitration would produce a fixed price which was much lower than a competitive market price. Fishermen would have no choice but to accept the low price, they could not sell elsewhere.

For processors, the issue is simple, as well. Fishermen want and need IFQs, and processors are content with things as they are. Processors have nothing to lose and everything to gain by refusing to compromise.

The American Fisheries Act 'caps' the amount of crab an AFA processor may process. This protects the non-AFA processors, and has eliminated most competition between crab processors. Processors have been able to reduce the amount of processing capacity in service in the crab fisheries, and thus, enjoy many of the economic benefits of a rational fishery management structure. This is what fishermen lack, and wish to have, by implementing IFQs.

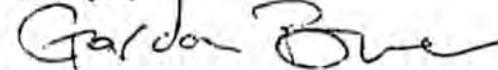
Individual Fishing Quota shares are resented by processors. They claim 'fishermen get something' while 'processors do not'. This is not true. Processors own crab fishing boats. The NPPA gave the NPFMC a list which showed crab boats processors own. The boats were those required to be reported under the American Fisheries Act. The NPPA estimated that the IFQs these boats (thus, their owners, NPPA processors) would receive, would be between 13% and 18% of the total.

This list is reported as though it were comprehensive. That is deceptive: the total is woefully understated. It fails to disclose vessels which are 'owned' by family members and senior employees of owners of the AFA pollock processors - even when the AFA companies have provided very favorable 'financing' terms. It fails to disclose any of the vessels owned by one of the AFA companies, because that company no longer operates its crab processor, and is thus not required to report crab vessel ownership. Yet, the company would receive both PQ and IFQs for crab, and has recently been on a bit of a crab boat buying 'spree.' It fails to disclose the vessels owned by non-AFA processors, their affiliates and their officers. We estimate that NPPA processors will control at least 30% of the original-issue IFQs. PQ simply gilds the processor lily.

An impression was voiced during the hearings on HJR 25 Opposing Processor Quota Shares, that testimony was nearly evenly divided, for and against the resolution. This is only true in the narrowest sense of a 'head count' on those asked to testify. It is far from true, if shared financial interests are considered. It is far from true, if the representation of constituents is considered.

The numbers show that there is overwhelming opposition to Processor Quota, among interested Alaskans. PQ would be very bad for Alaska. Please vote to support HJR 25.

Thank you,



Gordon Blue

Following: Three pages of tabulation of HJR 25 hearing testimony.
One page tabulation of community resolutions.

Cc: Rep. Paul Seaton
Alan Austerman

TESTIMONY IN FAVOR OF HJR 25:**Associations:**

Alaska Longline Fishermen's Association
100+ members, Sitka & S.E.
Linda Behnken (fisherman, Ex. Dir.)
Former 3-term NPFMC Member

Alaska Marine Conservation Council
900+ members, Statewide
Dorothy Childers (Ex. Dir.)

Crab Rationalization And Buyback Group
[CRAB Group]
100+ members, Bering Sea vessels
Gordon Blue (fisherman, Pres.)

K-Bay Fishermen's Association
200 (?) members, Homer vessels
David Polushkin (fisherman, Ex. Dir.)

North Pacific Longline Association
50 (?) members, Homer vessels
Buck Laukitis (fisherman, Pres.)

Unalaska Native Fishermen's Association
50 (?) members, Unalaska
Bob Storrs (fisherman, Pres.)

Unangan, Unalaska Native Tribal Ass'n.
300 (?) members, Unalaska
Walter Tellman

United Southeast Alaska Gillnetters
250 (?) members, S.E. vessels
Ken Duckett (Ex. Dir.)

Processors:

Alaska Fresh Seafood - non-AFA, Kodiak
Dave Woodruff (CEO, owner)

Municipal, ANCSA:

Kodiak City
Linda Freed - mayor

Seldovia City
Keith Gain - city council

St. Paul Village Corp.- Tanadgusix, [ANCSA]
950 Aleut shareholders
Ron Philemonoff, Chairman

TESTIMONY IN FAVOR OF HJR 25:**Individual Fishermen (vessel owners):**

Ron Briggs, Kodiak
Bering Sea & Aleutian Is. crab

Dan Falvey, Sitka
Longline
NFMCA Advisory Panel

Steve Fish, Sitka
Longline

Linda Kozak, Kodiak
Salmon, BSAI crab consultant

Joe Macinko, Kodiak
Longline, crab

Bob Ness, Unalaska
Aleutian Is. crab, longline, salmon

Walt Pasternak, Sitka
Longline

Dick Powell, Kodiak
BSAI crab, longline

Roger Roland, Unalaska
Salmon, longline, crab

Tammie Schrader, Homer
Longline

Grant Thompson, Sitka
Salmon, longline

Mimi Tolva, Homer
BSAI crab

Individual:

Janice Krukof, Unalaska - tribal Elder

TESTIMONY TO AMEND HJR 25

David Hillstrand, Homer

Bering Sea crab vessel

TESTIMONY OPPOSED TO HJR 25Associations:

Western Gulf of Alaska Fishermen's Assoc.
15 (?) Trident fishermen, Seattle
Joe Childers, consultant

Alaska Dragger & Processors
15 (?) members, Kodiak
Julie Bonney, Ex. Dir.

North Pacific Processor's Association, Seattle
9 (?) members, all headquartered outside
- Seattle and Japan.

Six have American Fisheries Act
entitlement: Alyeska, Icicle,
Trident, Peter Pan, Unisea,
Westward, Yardarm Knot

Three are non-AFA: Norquest, Royal
Aleutian, SnoPac

John Garner, Ex.Dir.

Frank Kelty, Unalaska, ex-officio

Alyeska Seafoods: AFA pollock, cod,
crab, halibut, sablefish
Sinclair Wilt, Unalaska, manager

Norquest: Salmon, crab, shrimp,
halibut, sablefish, herring
John Garner, Seattle, shareholder
Dave Ohlmer, P'burg, shareholder

Icicle: AFA pollock, cod, salmon, crab,
shrimp, halibut, sablefish,
herring - fully vertically
integrated: #17 distributor of
seafood in U.S. with \$230
million in annual sales

Kris Norosz, Petersburg, lobbyist
John Hansen, Anchorage, skipper/
employee

Jessie Nelson, Homer, herring/salmon
fisherman, shareholder family(?)
'25 year market'

Charlie Parsons, Homer, small
trawler, shareholder family (?)
'25 year market'

Charlie Rehder, Homer, crab
fisherman/Icicle contractor

TESTIMONY OPPOSED TO HJR 25

N.P.P. Association Processors, continued. . . .

Icicle, continued. . .

Sue Weaver, Homer, vessel
partnership w/ Icicle manager

Royal Aleutian: crab
Steve Stubbe, Unalaska, manager

Trident: AFA pollock, cod, salmon, crab,
shrimp, sole/flatfish, halibut,
sablefish, herring - fully
vertically integrated: #4
distributor of seafood in U.S.
with \$600 million in annual sales
Greg Hathaway, Kodiak, manager

Unisea [Nippon Suisan, USA]: AFA
pollock, cod, crab, halibut,
sablefish, herring - vertically
integrated: #6 distributor of
seafood in U.S. with \$575
million annual sales.

Don Graves, Unalaska, manager
Tom Enlow, Unalaska, manager,
NPFMC Advisory Panel

Municipal:

St. George

Max Malavansky - city manager

St. Paul

Simeon Swetzof, Jr. - mayor
Phyllis Swetzof - city clerk
John R. Mergulief - city manager
Phillip Lestenkof - city council
Steve Minor, Seattle, consultant
Heather McCarty, Juneau, lobbyist

COMMUNITY RESOLUTIONS:
COMMUNITIES OPPOSED TO
PROCESSOR QUOTA

(HJR 25 opposes PQ)

(Underline indicates Borough resolution)

Aleutians East Borough: 2,729

Akutan

Belkofski

Cold Bay

False Pass

King Cove

Nelson Lagoon

Pauloff Harbor

Sand Point

Unga

Lake & Peninsula Borough:

Chignik 79

Chignik Lagoon 103

Kenai Peninsula Borough: 51,187

Anchor Point

Beluga

Clam Gulch

Cohoe

Cooper Landing

Crown Point

Diamond Ridge

Fox River

Fritz Creek

Funny River

Halibut Cove

Happy Valley

Homer

Hope

Kachemak City

Kalifornsky

Kasilof

COMMUNITIES OPPOSED TO
PROCESSOR QUOTA, cont.

Kenai

Lowell Point

Miller Landing

Moose Pass

Nanwalek

Nikiski

Nikolaevsk

Ninilchik

Port Graham

Primrose

Ridgeway

Salamatof

Seldovia

Seldovia Village

Seward

Soldotna

Sterling

Sunrise

Tyonek

Kodiak Is. Borough:

Kodiak 6,334

Unorganized:

Whittier 170

Total population: **60,432**

COMMUNITY RESOLUTIONS:
COMMUNITIES IN FAVOR OF
PROCESSOR QUOTA

St. George 147

St. Paul City 533

Total population: **680**



Alaska State Legislature

Please enter into the record my testimony to the House Special Com. on Fisheries
committee name

Committee on HJR 25 / Processor Quota dated 4-25-03
bill # / subject

The Alaska Legislature is not being asked to oppose the Bering Sea Crab Rationalization Plan. Our representatives are asked by their constituents to oppose the use of processor shares as a part of the Crab Rationalization Proposal.

It is essential to the fishing industry as a whole ~~that~~ and to coastal communities that Processor Quota Shares not become a tool used ultimately to control all levels of the industry by processors. Thank You.

Signed: Steve Fish

Testifier

Representing (Optional)

self - fisherman.
PO Box 6448 SITKA AK 99835
Address

Phone Number

email address



Alaska State Legislature

Please enter into the record my testimony to the FISH committee name

Committee on HJR 25, dated 4/25/3
bill # / subject

PEGGY — I have 25 years fishing crab!
CRAB Group IS the crab fishermen!!
~~104 VESSELS~~
SO ARE MANY of the folks that are wanting:

Charlie Rehder
Mimi Tolva

~~GENERAL~~
Dick Powell

AND RON PHILEMONOFF IS
CERTAINLY FROM THE AREA
HE IS CHAIRMAN OF THE St Paul ANCSA
SO ARE UNFA and the other UNALASKA NATIVES

Signed: ~~THIS IS ALMOST~~

Testifier

THE TREND HERE IS CLEAR —

Representing (Optional)

IF YOU WORK FOR A PROCESSOR, YOU

Address

SPEAK FOR PQ — otherwise, against.

Phone Number

email address

Gordon Blue

PAGE 1

4-24-83

RAY Bellamy

F/V FARRAR SEA

F/V Kuntataw

Homer, AK

Fax 907-235-4076

to Legislative Affairs
Fisheries Comm.

Fax 907-465-3472 + 465-3175

Pete Sutton + Peggy Willson

I'm writing this in concern about
the attempt to take away the processor
Quota in the Bering Sea CRAB
fisheries

I myself did not get what I would
like from the north Pacific Council,
but with standing that the system has
done its thing, and has worked. I do not
like to see the state legislative, try to
change this system by 2nd guessing them,
a system they help put together in the 1st
place, if this is done every time why do we
have the Council in the 1st place.

I'm involved with two vessels in the
CRAB fisheries, and do not feel that it
is right for a special interest group
to 2nd guess the Council's decision.

most of the people who are involved in
the CRAB fishing, that I know feel that we
will be able to work with the processors
on this. They would rather see the
Program go forward as it stands now.

No system is perfect, and they will always be those who do not get what they want, will fight to get there way. Even if it means trying to change the system that they help start, or were glad to see.

With that said I would like to add, that we need these fish co. as much as they need us fisherman, and with out processors having put in the time, money and a lot of effort, there would not have been the CAD fisheries in the 1st place.

The processors have have a hard fight just to keep there doors open in the last few years, Putting to much pressure on them or taking away something that might be making some profit for them, may just make more of them have to close there doors.

Both sides need to stay healthy to stay in business

Please let this go throu, as it has already been worked out.

Thank you
Ray Bellamy

Alaska Crab Coalition Supports Strengthened Crab Rationalization Plan

For Immediate Release

Seattle, April 24, 2003—The Alaska Crab Coalition, a trade association representing the owners of Bering Sea crab fishing vessels and marine service and supply companies from Alaska, Washington and Oregon, has decided to support a strengthened crab rationalization plan.

"I am gratified that the Board, by unanimous vote, decided to support a strengthened Bering Sea crab rationalization plan. The ACC has worked extremely hard to help forge a fair compromise that balances the interests of harvesters, processors, and communities. The ACC expects that the North Pacific Fishery Management Council will go the last mile to ensure just that result," said Arni Thomson, the ACC Executive Director.

In the Consolidated Appropriations Act of 2001, the U.S. Congress set the stage for the crab rationalization plan:

The North Pacific Fishery Management Council shall examine the fisheries under its jurisdiction, particularly the Gulf of Alaska groundfish and Bering Sea crab fisheries, to determine whether rationalization is needed. In particular, the North Pacific Council shall analyze individual fishing quotas, processor quotas, and quotas held by communities. The analysis should include an economic analysis of the impact of all the options on communities and processors as well as the fishing fleets...

During the several years that followed, the Council held extensive public hearings and developed an exhaustive analysis. The major provisions of the plan, adopted by a unanimous vote of 11-0, at the June 2002 meeting, provide for harvester and processor shares and community protections.

"With the crab resources under serious stress, and the industry and communities suffering the economic consequences, there was bound to be controversy on the future of the fishery. However, there was also an understanding that a failure to find a balanced compromise to end the race for crab would leave industry in a death spiral and threaten the economic viability of small coastal communities," said Thomson.

At its April meeting, the Council concluded its work on "trailing amendments" to the earlier adopted package. The details of harvester/processor arbitration to ensure fair prices were debated, and several harvester groups, including the ACC were dissatisfied with the outcome.

"The ACC has concluded that we must not lose sight of the fact that implementation of the plan will be kept under close scrutiny, not only by the Council, but also by Washington, D.C., and that if there is any unfairness, it will have to be remedied. This ongoing process will strengthen the plan. The ACC is confident that crab harvesters will be provided the comfort level they expect and deserve," concluded Thomson.

Contact: Arni Thomson, Executive Director, Alaska Crab Coalition 206/547-7560



**LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE INFORMATION OFFICE
210 LAKE STREET, SITKA, AK 99835**

Phone: 747-6276 Fax: 747-5807

Email: sitka_lio@legis.state.ak.us

DATE:

TO: House Special Committee on Fisheries

FAX: 465-3472

2 pages, including cover sheet

FROM: two fishermen from Sitka commenting on HJR 25

MESSAGE: Please add this to the committee folders for HJR 25

To: House Fisheries Comm

Fr: Dorothy Childers

Re: Testimony for
hearing on HJR 25

1 p. to follow

TRANSACTION REPORT

APR-25-2003 FRI 07:16 AM

FOR: 7373739722594

907 465 3472

RECEIVE

DATE	START	SENDER	PAGES	TIME	NOTE	M#
APR-25	07:14 AM	00000000000	1	1' 50"	COM. E-10	



**LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE INFORMATION OFFICE**

210 LAKE STREET, SITKA, AK 99835

Phone: 747-6276 Fax: 747-5807

Email: sitka_lio@legis.state.ak.us

DATE:

TO: House Special Committee on Fisheries

FAX: 465-3472

11 pages, including cover sheet

FROM: C.R.A.B. Group

MESSAGE: Please include in the Committee's packets for HJR 25



Alaska State Legislature

Please enter into the record my testimony to the _____ House Special Committee On Fisheries
committee name

Committee on _____ HJR 25 _____, dated April 23, 2003
bill # / subject

I am opposed to processor quota shares. I support the comments in HJR 25.

I feel that processor quota shares would benefit foreign owned processors and seriously threaten Alaska's independent fishermen. Many processors have demonstrated a reluctance to move away from the traditional methods of marketing and processing. This has given rise to many independent fishermen taking on entrepreneurial ventures for markets and value added processing. Many of the recommendations of fish forums and the task force have been to move in this direction.

Processor quota shares would seriously impact or even eliminate these endeavors by regulating fishermen to deliver to processor at set price.

The very idea of free enterprise would be negated and our independent fishermen in the coastal communities would be even more threatened. The commercial fishermen need to be protected and supported for the sake of Alaska's economy.

Signed: _____
Grant Miller
Testifier

F/V Heron
Representing (Optional)

P.O. Box 6097, Sitka, AK 99835
Address

907-747-7870

Phone Number

email address

ALASKA LONGLINE FISHERMEN'S ASSOCIATION

403 Lincoln Street, Ste. 237

Sitka, AK 99835

April 22, 2003

On behalf of the Alaska Longline Fishermen's Association's (ALFA) approximately 100 members, I would like to submit the following testimony in support of HJR 25 - - - Oppose Processing Quota.

First, let me express my appreciation to Representative Seaton for introducing this Resolution, and to Representatives Crawford and Chenault for supporting it. The State has been silent on this issue for far too long.

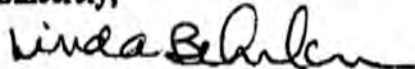
As the Committee may be aware, processor quota can only be implemented through an Act of Congress. Current law allows the regional fish councils to regulate harvest, not land-based activities; current law also requires fish processors to abide by anti-trust laws that prohibit market control. In other words, the fishing Council's are responsible for safe-guarding the resource, not controlling land-based activities or awarding market control to individuals, corporations or anyone else. Exempting Alaska's processing industry from such laws seems illogical at best. That the State would allow such an exemption is all but unthinkable.

ALFA's membership considers processor quota the most significant threat currently facing independent fishermen and fishing communities in Alaska. Alaska's fisheries have thrived through careful stewardship, the innovation of determined people, and free enterprise. Processor quota threatens to undermine each of these cornerstones. Processor quota will allow processing corporations, many of them foreign owned, to take control of the resource and the market, driving independent fishermen out of business. Processing corporations will then hire fishing "sharecroppers" to harvest the resource on company boats, dictating price and life-style. Alaska's coastal communities will become company towns, with those who remain struggling to support themselves and their families.

The North Pacific Fishery Management Council has selected a preferred alternative for the Bering Crab fisheries that includes processor quota. Council members are discussing a similar program for the Gulf of Alaska. As far as I am aware, every independent fishermen and every coastal community in Alaska opposes these programs. On behalf of ALFA's membership, I urge the committee to support HJR 25 and to take aggressive action to prevent implementation of a processor quota program in Alaska.

Thank you for your attention to this important issue.

Sincerely,



Linda Behnken, director ALFA

- address St. Paul's concerns with regional delivery requirements
- oppose any amendment that excludes Gulf from this Resolution



Alaska State Legislature

Please enter into the record my testimony to the _____ House Special Committee On Fisheries
committee name

Committee on _____ HJR 25 _____, dated April 23, 2003
bill #/ subject

I am opposed to processor quota shares. I support the comments in HJR 25.

I feel that processor quota shares would benefit foreign owned processors and seriously threaten Alaska's independent fishermen. Many processors have demonstrated a reluctance to move away from the traditional methods of marketing and processing. This has given rise to many independent fishermen taking on entrepreneurial ventures for markets and value added processing. Many of the recommendations of fish forums and the task force have been to move in this direction.

Processor quota shares would seriously impact or even eliminate these endeavors by regulating fishermen to deliver to processor at set price.

The very idea of free enterprise would be negated and our independent fishermen in the coastal communities would be even more threatened. The commercial fishermen need to be protected and supported for the sake of Alaska's economy.

Signed: _____
Grant Miller
Testifier

F/V Heron
Representing (Optional)

P.O. Box 6097, Sitka, AK 99835
Address

907-747-7870
Phone Number

email address

Amendment # 1

To: HJR 25

sponsored by Rep. Ogg *Seaton*

Page 1, line 2,

After the words "processor quota shares" *insert* the following

in the Bering Sea Aleutian Islands crab rationalization plan.

Page 2, line 2,

After the word "area" Delete the following

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

Page 2, line 7 insert the following Whereas

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

Page 2, line 18,

After the words "processor quota "shares." insert the following and re-punctuate.

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

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HJR 25
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Legislature
Title "Supporting Alaska's independent BRU Legislative Council
commercial fishermen and Alaska's fish processing industry and " Component Council and Subcommittees
Sponsor Representatives Seaton, Heinze, ...
Requester Representative Seaton Component No. 783

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUE ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This resolution has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director Phone 465-3852
Division: Administrative Services Date/Time 4/22/03 10:22 AM
Approved by: Pamela A. Varni, Executive Director Date 4/22/2003
Agency: Legislative Affairs Agency

ALASKA STATE LEGISLATURE

Chair
FISHERIES

Vice-Chair
EDUCATION

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
STATE AFFAIRS



REPRESENTATIVE PAUL SEATON
House District 35

Session:
State Capitol Building
Juneau, Alaska 99801
Phone 907-465-2689
Fax 907-465-3472
1-800-665-2689
Rep.Paul.Seaton@legis.state.ak.us

Interim:
345 W. Sterling Highway
Suite 102B
Homer, Alaska 99603
Phone 907-235-2921
Fax 907-235-4008

HJR 25

Supporting Alaska's Independent commercial fishermen and Alaska's fish processing industry and opposing the establishment of processor quota shares.

Commercial fisheries are managed by the federal government in waters 3-200 miles offshore. Recently, the North Pacific Fisheries Management Council recommended a rationalization plan for the Bering Sea and Aleutians Islands' (BSAI) crab stocks. The council's recommendation granted exclusive processing rights, which incorporates a plan designating 90% of the crab to named processors. Creating processor quota shares eliminates free enterprise and further limits community access to the processing industry. House Joint Resolution 25 sends a clear message that the BSAI rationalization plan hurts local fishermen and limits the free enterprise system in coastal communities. HJR 25 will be sent to our Congressional delegation and to the federal administrators overseeing the crab rationalization plan.

These BSAI crab fisheries occur in close proximity to many of Alaska's coastal communities, providing jobs and millions of dollars in revenues. Processor quota shares are unprecedented, giving processors rights for all future crab allocations. In fact, the processors named as recipients are not tied to a location. A processor may choose to process their shares elsewhere, leaving current coastal communities without any source of revenue or jobs. On average, over 45% of the total crab catch, will be processed by foreign companies, demonstrating the potential devastating affects of resources leaving Alaskan communities.

This plan places local communities at a serious disadvantage in the processing industry. Processors without processor quota shares may be forced to downsize without having crab-processing opportunities. New companies interested in processing would also be less inclined if the ability to buy crab stocks was disallowed under the crab rationalization. By preempting local communities from processing crab, jobs and economic opportunities may never reach many of Alaska's coastal communities and those communities with current crab processors may lose them altogether.

Under the plan, independent fishermen will be unable to sell their catch at the best price or even find the highest bidder. Fishermen would be mandated to sell their catch to specific, named processors. The impetus for processors to compete for crab fishermen would ultimately be negated, because fishermen are mandated to sell their crab already.

HJR 25 supports Alaska's fishermen and allows the legislature to send a message that the current crab rationalization plan hurts Alaska's coastal communities and hurts Alaska's independent commercial fishermen.



P.O. Box 2117
Homer, Alaska
99603

PQS

March 25, 2003

In regards to: Bering Sea Processor Quota Shares

Dear Representative Paul Seaton,

My name is Mimi Tolva, I am part owner of a crab/tender vessel in Homer, Alaska.

The North Pacific Fishery Management Council has put forth tremendous time and effort in the ongoing Bering Sea Crab Rationalization Program. I can only imagine some of the headaches and frustrations they must be dealing with.

There is one aspect of the proposals concerning Processor Quota Shares that I am very concerned about and wanted to bring to your attention. As we know, the anti-trust laws in our country are there to prohibit dominant companies in a particular industry from conspiring with other companies in a manner that could substantially decrease competition. One of the tactics prohibited by these laws is "anti-competitive acquisitions". Any time an exemption from anti-trust laws is requested, this raises very serious questions and concerns.

We must protect our Alaska processors. However, without the need to competitively bid on product, the market system would collapse. Fishermen MUST be able to negotiate a fair price. Total control by a few canneries would negatively affect price negotiations for the crab industry, and also put boat owners/operators at a severe disadvantage when negotiating tender contracts. It reminds me of the "Coal miner/Company Store"

The A-share/B-share system can work, but not at the 90-10 split ratio that is currently under review. The B-share does not give fishermen enough negotiating power for price. It eliminates competition. Also, with the B-shares representing such a small part of the fishery, their value as a price indicator for the A-shares would be minimalized. I think a system with 50% A-shares and 50% B-shares would be more fair and workable. The Processors would still be protected with a guaranteed amount of product each season. The price would be based on market demand. Harvesters would have the option of selling all of their product to one processor, or taking half of it to a competitor. The processors would have more incentive to actively seek new markets and to offer the best possible price. Also, the balance of B-Shares to A-Shares would provide a better market price indicator at the beginning of each season. A binding arbitration system with unbiased arbitrators would serve to iron out differences. To ensure that this system is protected, the B-Shares must be protected from being bought up in large quantity by any one Processor or its affiliates.

We certainly do not want to put our processors in a financial bind, but neither do we want too much control in the hands of a few big companies. I think this would spell disaster for the industry, and for the free market.

Thank you so much for your time and consideration in this matter.

Sincerely,

Mimi Tolva

January 13, 2003

The Honorable Ted Stevens
U.S. Senate
522 Hart Senate Office Building
Washington, DC 20510

Dear Senator Stevens,

We are leaders in our communities and have come together in opposition to the processor quota share element contained in the Bering Sea crab rationalization plan that is being recommended by the North Pacific Fishery Management Council as of their meeting in June 2002. In all due respect to the Council, we believe it is the job of Congress to carefully consider this precedent-setting policy change.

Our government and fishermen organizations have all passed the enclosed resolutions opposing processor quota shares. Hundreds of our community members have signed the enclosed open letter opposing processor quota shares. As Americans and Alaskans, we oppose the award of processor quota because of the controlling effects on markets, fishing families, coastal communities, and the public process. We do not support government mandating to whom Alaska's independent fishermen can sell their catch. The last time this happened was before Statehood when canneries controlled the salmon resource, fishermen, communities and the markets.

We strongly urge you to hold Senate hearings on this massive shift in fishery management policy. Please allow us the opportunity to testify to you, your committee and Congress on this important decision that will affect thousands of Alaskans dependent on a competitive business environment as a central feature of a healthy and innovative economy.

Senator Stevens, you have been a leader in progressive fisheries management policy for the nation and the world. We deeply appreciate your many successes. The proposed Bering Sea crab plan is fundamentally flawed. For example, it gives away almost 50% of Alaska's valuable Bristol Bay red king crab to five 100% foreign-owned corporations. Please do not let this program be your lasting legacy.

Thank you for considering our concerns.

Sincerely,

City of Chignik
Richard Sharpe, Mayor

Chignik Lagoon Village Council
Laura Stepanoff, Chairman

City of Homer
Jack Cushing, Mayor

City of Seldovia
Keith Gain, Councilman

Alaska Longline Fishermen's Assn.
Linda Behnken, President

North Pacific Fisheries Association
Buck Laukitis, President

City of Kodiak
Carolyn L. Floyd, Mayor
Lydia M. Olsen, Councilwomen
Barbara J. Stevens, Councilwomen
Charles E. Davidson, Councilman
Thomas D. Walters, Councilman
Jesse V. Vizcocho, Councilman
Dave Woodruff, Councilman

Kenai Peninsula Borough Assembly
Chris Moss, Assemblyman

Unalaska Native Fisherman's Assn
Emil Berikoff, President

Alaska Marine Conservation Council
Jim Brennan, Vice-Chair

C.R.A.B Group
Gordon Blue, President

RESOLUTION 02-1/25

A RESOLUTION OF THE VILLAGE COUNCIL OF CHIGNIK LAGOON ALASKA SUPPORTING LOCAL INDEPENDENT FISHING FAMILIES AND COMMUNITIES BY OPPOSING THE ALLOCATION OF ALASKA FISHERY RESOURCES TO PROCESSORS "THE TWO PIE SYSTEM" OR OTHER FISHERY RESOURCE ALLOCATION PROGRAMS THAT CREATE A CLOSED CLASS OF PROCESSORS

WHEREAS The Chignik Lagoon Village Council believes that the allocation of fishery resources to processors "the two pie system" will threaten the social and economic balance between independent fishermen and processors and,

WHEREAS The Chignik Lagoon Village Council believes that any fishery resources allocation program that requires exemptions to the anti trust laws is bad for independent fishing family's, coastal community's, seafood consumers and,

WHEREAS The Chignik Lagoon Village Council recognizes the National Research Councils recommendations concerning processor allocations contained in the 1999 report to congress entitled " *Sharing The Fish: Toward a National Policy On IFQs* " p 205 *Recommendation: ...* " Nor did the committee find a compelling reason to establish a separate, complementary processor quota system (the "two-pie" system)" and,

WHEREAS; The Chignik Lagoon Village Council believes that the allocation of Alaska fishery resources should include eligibility for coastal communities, independent fisherman, hired skippers, operators, and crewmembers that live adjacent to the resource and,

WHEREAS The Chignik Lagoon Village Council believes that strong conservation goals with measurable reductions in by-catch and fisheries waste be integral part of any rationalization program and,

WHEREAS The Chignik Lagoon Village Council supports the inclusion of a independent review process of new rationalization program's and a viable mechanism to adjust the system if the intent and or goals of a implemented program are not being achieved and,

WHEREAS The Chignik Lagoon Village Council believes that all Alaska coastal communities have the right to participate in the public process concerning all Alaska fishery resources issues,

NOW THEREFORE BE IT RESOLVED THAT The Chignik Lagoon Village Council strongly urges the North Pacific Fishery Management Council, State of Alaska and the United States Congress to support the conservation principles contained within this resolution and support local independent fishing family's, and coastal communities by opposing the allocation of Alaska fishery resources to processors "the two pie system" or any other fishery resources allocation program that creates a closed class of processor

Certification

It is hereby certified that on the 25 day of Jan 2002, a quorum of the Chignik Lagoon Village Council was formed, did pass and adopt the preceding resolution by 6 affirmative and 0 negative votes.

ATTESTED BY:

Laurie J. Sparrow 1-25-02
Chairman Date

Therese Gregoire 1-25-02
Council Secretary date



Office of the Mayor and Council

710 Mill Bay Road, Room 220, Kodiak, Alaska 99615

April 19, 2003

The Honorable Paul Seaton, Chairman
House Special Committee on Fisheries
State of Alaska Legislature
Juneau, Alaska 99811-0001

Via fax to (907) 485-3472, original to be hand-delivered

Dear Representative Seaton:

The City of Kodiak would like to express its strong support for HJR 25, a resolution "Supporting Alaska's independent commercial fishermen and Alaska's fish processing industry and opposing the establishment of processor quota shares."

Recently, the City of Kodiak sent a letter to Governor Murkowski expressing the City's opposition to the ongoing efforts by the North Pacific Fishery Management Council (NPFMC) to create individual processing quota shares (IPQs) as part of a plan to rationalize the Bering Sea and Aleutian Islands crab fisheries. The NPFMC's proposal will allocate specific shares of the crab processing market to individual processors based on their participation in crab processing during specific years when the crab resource was severely depressed. In effect, each processor that meets certain biased criteria will be given a monopoly right to process a guaranteed share of the crab resource. As a result, processing companies who are not granted IPQs are essentially frozen out of the crab processing market in perpetuity – regardless of what price they are willing to pay fishermen or what new crab products they may seek to offer.

This unprecedented proposal to allocate economic markets will affect seafood processing in other species as well. As you are well aware, Alaskan fishing communities are facing a crisis in the salmon fisheries. Several processors have already announced they are either getting out of salmon entirely or will buy less of it. This means that communities will need to attract new seafood companies willing to process salmon, if we are to help maintain our fishing fleets and employment base. Yet, our ability to attract new seafood processors may disappear entirely if IPQs become law. Already, only six companies are allowed to process pollock that is delivered on-shore in the Bering Sea, and under the NPFMC's proposal, five of these six will be granted the lion's share of the crab IPQs. How is any Alaska community going to convince a new seafood processor to open its doors and process salmon when that new processor is not only barred from processing crab or pollock but must potentially compete against companies who each have a guaranteed share of crab and exclusive access to pollock?

The City of Kodiak is concerned about rationalization of the crab fishery. We have attempted to participate in the NPFMC process and make constructive suggestions about how our concerns can be addressed. We have suggested that Kodiak be made an open port under the NPFMC plan, meaning that fishermen could deliver any amount of crab to Kodiak without regard to IPQs that would continue to apply elsewhere. We have suggested that the open port concept be limited to only those vessels actually home ported in Kodiak. In the alternative, we have suggested that fishermen be allowed to bring only their last load home without regard to IPQs. We might even support some limited level of IPQs – perhaps at a level around 30 percent, instead of the proposed 90 percent – being granted as a reward to those processors who did, in fact, process crab during the reduced crab seasons. Unfortunately, none of these options have been discussed by the NPFMC, let alone given serious consideration or analysis. Interestingly, the NPFMC's Advisory Panel recommended that the NPFMC analyze each of these suggestions for further consideration.

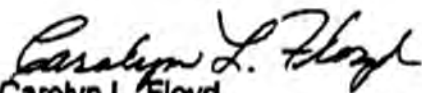
The NPFMC's IPQ proposal has been widely opposed by communities and fishermen throughout the State. Many communities, and in particular Kodiak, could be adversely impacted for years to come if the present proposal is enacted. Normally, we would expect that the State's public resources would be focused on ensuring there is a fair and impartial analysis of all options for rationalizing the crab resource and of the impact of each of those options on communities. Instead, until the introduction of HJR 25, the State's public resources seem to have been focused solely on promoting one particular option, notwithstanding numerous concerns being raised by Alaskans and all independent analysis to the contrary.

We are encouraged by the introduction of HJR 25. Its adoption will provide new guidance for the State, in cooperation with the NPFMC, to ensure that whatever rationalization plan is finally adopted adequately protects all of Alaska's fishing communities and preserves our options to compete in the future for fishermen and fish processing opportunities.

We urge passage of HJR 25 by the Alaska State Legislature.

Respectfully,

CITY OF KODIAK


Carolyn L. Floyd
Mayor

c: Senator Gary Stevens
Representative Dan Ogg
Alan Austerman, Special Assistant to the Governor for Fisheries
Kevin Duffy, Commissioner, Alaska Department of Fish and Game
Gabrielle LeDoux, Mayor, Kodiak Island Borough

CITY OF HOMER
HOMER, ALASKA

Mayor Cushing
Yourkowski
Kranich

RESOLUTION 02-06(S)

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA SUPPORTING LOCAL INDEPENDENT FISHING FAMILIES AND COMMUNITIES BY OPPOSING THE ALLOCATION OF ALASKA FISHERY RESOURCES TO PROCESSORS "THE TWO PIE SYSTEM" OR OTHER FISHERY RESOURCE ALLOCATION PROGRAMS THAT CREATE A CLOSED CLASS OF PROCESSORS.

WHEREAS, Decisions made by State and Federal Elected Officials and Resource Management regarding this issue will have some of the largest effects on this regions' economy for many years to come; and

WHEREAS, Commercial Fishing has been a major basis of the Homer area economy for the last 80 years; and

WHEREAS, This area's commercial fishing economy has survived major setbacks including fish stock changes and the fire loss and closing of the area's major processor, but the area has still managed to be the Nation's highest port in halibut landings, the last three years, as well as a significant port for other species; and

WHEREAS, This vitality is attributed to the resourcefulness and energy of area's independent commercial fisherman and the City of Homer's port structure that enhances these independent commercial fishing entities; and

WHEREAS, Any decisions made in these fisheries resources that allocates to processors is contrary to 80 successful years of an area and would have monumental effects on the area's economy; and

WHEREAS, This area's commercial fishing economy is similar to many other cities and areas of Alaska; and

WHEREAS, It is imperative to make decisions that don't contribute to the current threat of recession; and

WHEREAS, The City of Homer believes that the allocation of fishery resources to processors "the two pie system" will threaten the social and economic balance between independent fishermen and processors; and

WHEREAS, The City of Homer believes that any fishery resources allocation program that requires exemptions to the anti trust laws is bad for independent fishing families, coastal communities, and seafood consumers; and

WHEREAS, The City of Homer recognizes the National Research Council's recommendations concerning processor allocations contained in the 1999 report to congress entitled, "Sharing the Fish: Toward a National Policy On IFQs", p 205 "Recommendation..." Nor did the committee find a compelling reason to establish a separate, complementary processor quote system (the "two-pie" system); and

Page Two

Resolution 02-06(S)

City of Homer

WHEREAS, The City of Homer believes that the allocation of Alaska fishery resources should include eligibility for coastal communities, independent fishermen, hired skippers, operators and crewmembers that live adjacent to the resource; and

WHEREAS, The City of Homer believes that strong conservation goals and measurable reductions in by-catch and fisheries waste be an integral part of any rationalization program; and

WHEREAS, The City of Homer supports the inclusion of an independent review process of new rationalization programs and a viable mechanism to adjust the system if the intent and/or goals of an implementation program are not being achieved; and

WHEREAS, The City of Homer believes that all Alaskan coastal communities have the right to participate in the public process concerning all Alaskan fishery resources issues.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Homer strongly urges the North Pacific Fishery Management Council, State of Alaska and the United States Congress to support the conservation principles contained within this Resolution and support local independent fishing families and coastal communities by opposing the allocation of Alaskan fishery resources to processors "the two-pie system" or any other fishery resources allocation program that creates a closed class of processor.

PASSED AND ADOPTED by the Homer City Council this 28th day of January, 2002.

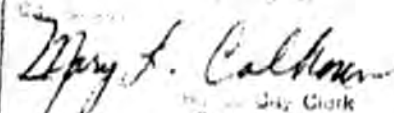
CITY OF HOMER

ATTEST:


JACK CUSHING, MAYOR


MARY L. CALHOUN, CMC, CITY CLERK

Visual Note: NA

Transmitted to:	by:	on:
to:	by:	on:
by:  City Clerk		
29th	January	2002



CITY OF SAINT PAUL

P.O. BOX 901
SAINT PAUL ISLAND, ALASKA
99660-0901
(907) 546-2331
FAX (907) 546-3188

April 18, 2003

Governor Frank Murkowski
P.O. Box 110001
Juneau, AK 99811-0001

Dear Governor Murkowski:

For more than four years, the NPFMC has worked with Alaska's crab-dependent communities, harvesters and processors to develop a Bering Sea Crab rationalization plan which will, for the first time, address the interests of all three sectors. As one of the most crab-dependent communities in the State of Alaska, the City of Saint Paul endorses the NPFMC's recommendations and we ask that you express your support on behalf of all of us to the Congressional delegation in Washington, DC.

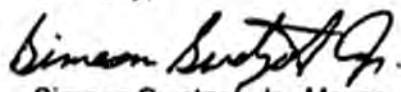
This is very important. The program is now under attack by environmental interests – in particular, the Alaska Marine Conservation Council – as well as a few individuals who hope to delay implementation long enough to position themselves for a financial windfall.

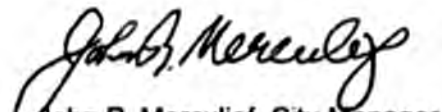
In the meantime, St. Paul Island has seen its economy decline by more than 80% since 1999. The NPFMC has designed a program that protects every crab-dependent community's historic share of landings. These proposals were developed directly by the communities and approved unanimously by representatives from the City of Kodiak, the Kodiak Borough, the Aleutians East Borough, Unalaska/Dutch Harbor, St. George Island and St. Paul Island. Between us we account for nearly 100% of the major Bering Sea crab landings.

It is unfortunate that AMCC – a conservation group that has abandoned conservation issues in this debate – has decided that it is willing to go against all of the major crab communities. We also recognize that a few people are upset over the processor quota issues, but our community is a processing town, not a harvesting town; and St. Paul (and several other communities) are inextricably linked to the Bering Sea crab fisheries based on the survivability of several small to medium sized processors who will not make it without this program.

This cannot be realized without passage of enabling legislation. Therefore, we ask your full support both here in Alaska and in Washington DC.

Cordially,


Simeon Swetozof, Jr., Mayor


John R. Merculief, City Manager

Cc: Senator Ted Stevens
Senator Lisa Murkowski
Congressman Don Young

House Resources Committee
House Special Committee on Fisheries
State Affairs Committee

BROOKS ALASKAN SEAFOOD INC.**38225 Greer Road Homer, Alaska 99603**

Phone 907-235-3937 Fax 907-235-5623 Cell Phone 907-399-1156

E-Mail brooks@alaska.net

House Fisheries Resource Committee

ATTN: Representative Paul Seaton

21-Apr-03

Dear Representative Seaton:

I am writing to you in support of HJR 25 the bill opposing the issuance of processor quota shares for fisheries resources in the state of Alaska.

I have been involved with the Alaskan fishing industry for nearly twenty years in a variety of capacities ranging from crewman to processor to industry consultant. During all those years I and my family have lived in Alaskan coastal communities. We greatly value the quality of lifestyle these communities have given us. I feel this quality of life along with the very existence of many of these communities is currently being threatened by the possibility of Processor Quota Shares being issued during the rationalization of Alaskan fisheries.

A very large portion of the entities that would receive such shares are multi national owned conglomerates with little interest in these communities or their people. As consolidation occurs many of these communities would merely become buying stations. Some would be abandoned, considered expendable in the search for the bottom line of supply side economics in a struggling industry. Individual harvesters would loose the ability to participate in the very free market system that is one of the things that makes this country so strong.

As an Alaskan processor for many years I am the first to admit that there are severe problems within this sector of the industry however there are other ways to address the problems of "stranded capital" and a weak global market. There are better approaches than the wholesale giveaway of billions of dollars worth of public resources to a very few corporate entities. Why not assist the processing sector with subsidization of logistical rates, low interest long term loans to retool and compete in the new global markets, more favorable tariffs to protect the industry from market place attack by foreign interests.

It has recently been stated that the worlds fisheries are in a state of collapse. If this is so then Alaskan fisheries which have been responsibly managed and in some specific cases proven to be sustainable will only appreciate in value. To give this public resource to a small number of corporate interests many of which are foreign owned would be a great tragedy. It would forever alter the qualities of life which we as Alaskans and United States hold most dear. Thank you for your consideration.

Sincerely



Michael G. Brooks

Introduced by:	Moss, Lonk
Date:	05/07/02
Action:	Adopted
Vote:	8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2002-049**

**A RESOLUTION OPPOSING THE ALLOCATION OF FEDERAL MANAGED
ALASKA FISHERY RESOURCES TO EXISTING PROCESSORS**

- WHEREAS,** the North Pacific Fishery Management Council (NPFMC) is considering allocating fishery resources in the federal managed waters of Alaska to existing processors; and
- WHEREAS,** the allocation of fishery resources to select processors could have an adverse effect on local fishermen by excluding processors, markets, and communities; and
- WHEREAS,** the Kenai Peninsula Borough opposes any fishery management system that locks each fisherman with specific processors; and
- WHEREAS,** the Kenai Peninsula Borough supports the Kenai Peninsula residents who have signed the 500 Alaskans open letter to Governor Knowles, the Congressional delegation, and the North Pacific Fishery Management Council opposing the allocation of Alaska Fishery resources to processors; and
- WHEREAS,** the Kenai Peninsula Borough supports the resolutions passed by Kenai Peninsula communities and organizations opposing "the two pie system" or any other fishery resource allocation program that creates a permanently closed class of processors; and
- WHEREAS,** the Kenai Peninsula Borough believes that the social and economic fabric of Kenai Peninsula fishing communities is dependent on a healthy competitive relationship between fisherman and processors; and
- WHEREAS,** the Kenai Peninsula Borough believes fishery management programs must promote healthy community fishing economies and maintain diverse independent fishing fleets; and
- WHEREAS,** the Kenai Peninsula Borough believes fishery management programs must preserve competition among seafood processors by prohibiting processor monopolies; and
- WHEREAS,** the Kenai Peninsula Borough believes fishery management programs must create and maintain opportunities for future generations of independent fishermen and processors; and

WHEREAS, the Kenai Peninsula Borough believes strong conservation goals with measurable reduction in by catch and fishery waste be fundamental criteria in any new rationalization or access limiting fishery management programs, and

WHEREAS, the Kenai Peninsula Borough believes that Congress, the State of Alaska, and fishery managers must ensure that conservation goals are met and that independent fishermen, processors, and coastal communities receive equitable treatment; and

WHEREAS, the Kenai Peninsula Borough believes that all Alaska residents have the right to meaningful participation in the public process concerning Alaska fishery resources;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. Opposes the award of Alaska fishery resources to existing processors because of the controlling and monopolizing effects it would have on markets, fishermen, and communities

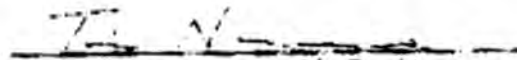
SECTION 2. Supports the conservation and community principles contained in this resolution

SECTION 3. Encourages the NPFMC to explore other ways to promote a positive economic environment for the processor sector of Alaska's seafood industry.

SECTION 4. That copies of this resolution be provided to Governor Knowles, Senator Stevens, Senator Murkowski, Congressman Young and the NPFMC.

SECTION 5. That this resolution takes effect immediately upon its adoption

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF MAY, 2002.


Timothy Navarre, Assembly President

ATTEST


Linda S. Murphy, Borough Clerk



RESOLUTION 02-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA, SUPPORTING LOCAL INDEPENDENT FISHING FAMILIES AND COMMUNITIES BY OPPOSING THE ALLOCATION OF ALASKA FISHERY RESOURCES TO PROCESSORS' "THE TWO PIE SYSTEM" OR OTHER FISHERY RESOURCE ALLOCATION PROGRAMS THAT CREATE A CLOSED CLASS OF PROCESSORS

WHEREAS, the City of Seldovia, hereinafter City, believes that the allocation of fishery resources to processors "the two pie system" will threaten the social and economic balance between independent fishermen and processors; and

WHEREAS, the City believes that any fishery resources allocation program that requires exemptions to the anti-trust laws is bad for independent fishing family's, coastal communities, seafood consumers; and

WHEREAS, the City recognizes the National Research Council's recommendations concerning processor allocations contained in the 1999 report to Congress entitled, "Sharing The Fish: Toward a National Policy On IFQs, 'p 205 Recommendation: ...' Nor did the committee find a compelling reason to establish a separate, complementary processor quota system (the two pie system)"; and

WHEREAS, the City believes that the allocation of Alaska fishery resources should include eligibility for coastal communities, independent fishermen, hired skippers, operators, and crewmembers that live adjacent to the resource; and

WHEREAS, the City believes that strong conservation goals with measurable reductions in by-catch and fisheries waste be an integral part of any rationalization program; and

WHEREAS, the City supports the inclusion of an independent review process of new rationalization program's and a viable mechanism to adjust the system if the intent and/or goals of an implemented program are not being achieved; and

WHEREAS, the City believes that all Alaska coastal communities have the right to participate in the public process concerning all Alaska fishery resources issues;

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Seldovia, strongly urges the North Pacific Fishery Management Council, State of Alaska, and the United States Congress to support the conservation principles contained within this resolution and support local, independent fishing family's, and coastal communities by opposing the allocation of Alaska fishery resources to processors "two pie system" or any other fishery resources allocation program that creates a closed class of processor.

PASSED AND APPROVED by a duly constituted quorum of the City Council of the City of Seldovia, Alaska, on this 23 day of January, 2002.

APPROVED: Susan H. Hecks
Susan H. Hecks, Mayor

ATTEST:

Sara M. Nichols
Sara M. Nichols, Clerk

A RESOLUTION OF
THE ALASKA LONGLINE FISHERMENS ASSN.
URGING THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL, THE STATE OF
ALASKA AND THE UNITED STATES CONGRESS.

TO REQUIRE STRONG STANDARDS FOR CONSERVATION AND COMMUNITY HEALTH
BEFORE ANY NEW INDIVIDUAL QUOTA PROGRAM OR OTHER LIMITED ACCESS
PROGRAMS ARE ADOPTED FOR OUR FISHERIES RESOURCES IN ALASKA.

WHEREAS; The Alaska Longline Fishermen's Assn. believes that strong conservation goals should be integrated into any new rationalization program and,

WHEREAS; The Alaska Longline Fishermen's Assn. believes that a mechanism must be incorporated so if the conservation goals are not met there is a means to change the program to meet the goals and,

WHEREAS; The Alaska Longline Fishermen's Assn. believes that an independent review process needs to be incorporated into any new rationalization program and,

WHEREAS; The Alaska Longline Fishermen's Assn. believes that any privatization program should include opportunities for fisherman to convert to gear types which have low by-catch rates and minimal impact to the sea floor habitat and;

WHEREAS; The Alaska Longline Fishermen's Assn. believes that any rationalization plan should include measurable reductions in by-catch and fisheries waste and;

WHEREAS; The Alaska Longline Fishermen's Assn. believes that good stewardship of the public's marine resources should be a condition for continuing participation in IFQ's programs or other limiting access programs and,

WHEREAS; The Alaska Longline Fishermen's Assn. believes valid entry level opportunities for future generations of independent fisherman must be included in any rationalization program and,

WHEREAS; The Alaska Longline Fishermen's Assn. believes that the allocation of fishery resources must include independent fisherman such as hired skippers, operators, and crewmembers based on historic participation and,

WHEREAS; The Alaska Longline Fishermen's Assn. believes that any new rationalization program must promote healthy community fishing economics and maintain diverse independent fishing fleets.

WHEREAS; The Alaska Longline Fishermen's Assn. recognizes the National Research Councils recommendations concerning processor allocations contained in the 1999 report to congress entitled "Sharing The Fish: Toward a National Policy On IFQs" p 205 Recommendation: "... Nor did the committee find a compelling reason to establish a separate, complementary processor quota system (the "two pie" system)". and,

WHEREAS; The Alaska Longline Fishermen's Assn. believes that the allocation of fishery resources to processors will threaten the competitive balance between independent fishermen and processors and,

WHEREAS; The Alaska Longline Fishermen's Assn. believes that any privatization programs created should not create an exemption to federal anti-trust laws and,

WHEREAS; The Alaska Longline Fishermen's Assn. believes that any rationalization plan include eligibility for coastal communities and;

WHEREAS; The Alaska Longline Fishermen's Assn. believes any rationalization plan maintain a high level of participation in fisheries by active fisherman and;

WHEREAS; The Alaska Longline Fishermen's Assn. believes that any rationalization plan include mechanisms to promote and maintain a high level of professionalism and,

WHEREAS; The Alaska Longline Fishermen's Assn. supports a funding mechanism to adequately support management and enforcement requirements of these fisheries

NOW THERE FOR BE IT RESOLVED; that the Alaska Longline Fishermen's Assn. strongly urges the North Pacific Fishery Management Council, State of Alaska and the United States Congress to developed the above elements into standards for any rationalization plan, to ensure that conservation and community stability are met when establishing any new individual quota, CO-OP or other limited access programs in our fisheries resources in Alaska.

Signed This Day November 30, 2001

Steve Fish, Board Member



North Pacific Fisheries Association, Inc.

HEADQUARTERS:

BOX 796 • HOMER, ALASKA 99603

A RESOLUTION OF THE NORTH PACIFIC FISHERIES ASSOCIATION (NPFA) OF HOMER, ALASKA, URGING THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL, THE UNITED STATES CONGRESS AND THE STATE OF ALASKA TO REQUIRE STRONG STANDARDS FOR CONSERVATION AND COMMUNITY HEALTH BEFORE ANY NEW INDIVIDUAL QUOTA OR OTHER LIMITED ACCESS PROGRAMS ARE ADOPTED IN OUR FISHERIES RESOURCES IN ALASKA.

1. WHEREAS: The North Pacific Fisheries Assn. believes that strong conservation goals should be integrated into any new rationalization program and,
2. WHEREAS: The North Pacific Fisheries Assn. believes that a mechanism must be incorporated in a rationalization program so if the conservation goals are not met there is a means to change the program to meet the goals and,
3. WHEREAS: The North Pacific Fisheries Assn. believes that an independent review process needs to be incorporated into any new rationalization program and,
4. WHEREAS: The North Pacific Fisheries Assn. believes that any privatization program should include rewards to fisherman who convert to gear types that have low bycatch rates and minimal impact to the sea floor habitat and,
5. WHEREAS: The North Pacific Fisheries Assn. believes that any rationalization plan include measurable reductions in by-catch and fisheries waste and,
6. WHEREAS: The North Pacific Fisheries Assn. believes that good stewardship of the public's marine resources is a condition for continued participation in IFQ programs or other limited access programs and,
7. WHEREAS: The North Pacific Fisheries Assn. believes that any rationalization plan include viable entry-level opportunities to coastal community residents be incorporated and,
8. WHEREAS: The North Pacific Fisheries Assn. believes that the allocation of fishery resources be to independent fisherman, including hired skippers, operators, and crewmembers based on historic participation and,

9. WHEREAS: The North Pacific Fisheries Assn. believes that any new rationalization program should promote healthy community fishing economics and maintain diverse independent fishing fleets and,

10. WHEREAS: The North Pacific Fisheries Assn. recognizes the National Research Councils recommendations concerning processor allocations contained in the 1999 report to Congress entitled "Sharing The Fish: Toward a National Policy on IFO's" p.205

Recommendation: ..."Nor did the committee find a compelling reason to establish a separate, complementary processor quota system (the "two-prc system"), and,

11. WHEREAS: The North Pacific Fisheries Assn. believes that the allocation of fishery resources to processors will threaten the competitive balance between independent fishermen and processors and,

12. WHEREAS: The North Pacific Fisheries Assn. believes that any privatization programs created should not require an exemption to federal anti-trust laws and,

13. WHEREAS: The North Pacific Fisheries Assn. believes that any rationalization plan include eligibility for coastal communities and,

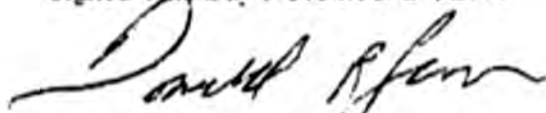
14. WHEREAS: The North Pacific Fisheries Assn. believes any rationalization plan maintain a high level of participation in fisheries by active fisherman and,

15. WHEREAS: The North Pacific Fisheries Assn. believes that any rationalization plan include mechanisms to promote and maintain a high level of professionalism and,

16. WHEREAS: The North Pacific Fisheries Assn. supports a funding mechanism to adequately support management and enforcement requirements of these fisheries.

NOW THEREFORE BE IT RESOLVED: that the North Pacific Fisheries Association of Homer, Alaska strongly urges the North Pacific Fishery Management Council, State of Alaska, and the United States Congress to develop the above elements into standards for any rationalization plan to ensure that conservation and community stability are met when establishing new individual quota or other limited access programs for our fishery resources in Alaska.

Signed This Day November 29, 2001



Donald R. Lane, president
North Pacific Fisheries Assn.
Homer, Alaska

A RESOLUTION OF THE PORT GRAHAM CORPORATION URGING THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL, THE STATE OF ALASKA AND THE UNITED STATES CONGRESS, TO REQUIRE STRONG STANDARDS FOR CONSERVATION AND COMMUNITY HEALTH BEFORE ANY NEW INDIVIDUAL QUOTA PROGRAM OR OTHER LIMITED ACCESS PROGRAMS ARE ADOPTED IN OUR FISHERIES RESOURCES IN ALASKA.

WHEREAS; The Port Graham Corporation believes that strong conservation goals should be integrated into any rationalization program and,

WHEREAS; The Port Graham Corporation believes that a mechanism must be incorporated so if the conservation goals are not met there is a means to change the program to meet the goals and,

WHEREAS; The Port Graham Corporation believes that an independent review process needs to be incorporated into any rationalization program and,

WHEREAS; The Port Graham Corporation believes that any privatization program should include rewards to fisherman who convert to gear types that have low by-catch rates and minimal impact to the sea floor habitat and,

WHEREAS; The Port Graham Corporation believes that any rationalization plan include eligibility for Alaska Coastal communities and,

WHEREAS; The Port Graham Corporation believes that any new rationalization program should promote healthy community fishing economies and maintain diverse independent fishing fleets and,

WHEREAS; The Port Graham Corporation believes any rationalization plan include a provision for future Alaska communities development of processing capabilities in a coastal community and,

WHEREAS; The Port Graham Corporation believes valid entry-level opportunities for future generations on independent fisherman be included in any rationalization program and,

WHEREAS; The Port Graham Corporation believes that the allocation of Alaska fishery resources should include independent fisherman including hired skippers, operators, and crewmembers based on historic participation and,

WHEREAS; The Port Graham Corporation recognizes the National Research Councils recommendations concerning processor allocations contained in the 1999 report to congress entitled "Sharing The Fish: Toward a National Policy On IFQs" p 205

Recommendation: "...Nor did the committee find a compelling reason to establish a separate, complementary processor quota system (the "two-pie system") 793.0122" and,

WHEREAS; The Port Graham Corporation believes that the allocation of fishery resources to processors will threaten the competitive balance between the independent fisherman and processors and,

WHEREAS; The Port Graham Corporation believes that any privatization programs created should not require an exemption to federal anti-trust laws and,

WHEREAS; The Port Graham Corporation supports a funding mechanism to adequately support management and enforcement requirements of these fisheries.

NOW THEREFORE BE IT RESOLVED; that The Port Graham Corporation strongly urges the North Pacific Fishery Management Council, State of Alaska and the United States Congress to develop the above elements into standards for any rationalization plan, to ensure that conservation and community stability are met when establishing any new individual quota or other limited access programs in our fisheries resources in Alaska.

Violet Jaton 3/4/82
Port Graham Corp Vice-Chair

By JAN DANIELSKI
Mirror Writer

Processor quota shares (PQS) of Bering Sea/Aleutian Islands crab are still raising objections from fishermen, coastal communities and some processors.

The North Pacific Fisheries Management Council finished writing the last two amendments to their final alternative for rationalizing the fishery at their meetings in Anchorage last week. One dealt with ways to protect coastal communities dependent on crab, and the other defined a binding arbitration plan to assure a fair, market-based price to fishermen. Both amendments are designed to mitigate problems caused by giving shares of a public resource directly to processors in perpetuity.

"In June, we will look at the total document, and if it is adequate, we will put it out for public review of the environmental impact statement," Council member Stosh Anderson explained. Public testimony is for the EIS only. The final alternative as it pertains to processor shares is finished, Anderson added.

After the EIS review, the rationalization plan goes back to Congress where the mandate for rationalization originally came from.

But before rationalization can become the new tool for managing crab in the Bering Sea and Aleutian Islands, Congress must enact new legislation to make parts of the plan legal.

Congress can either give the Council the authority to act on measures within the plan that are currently illegal, or Congress can pass the entire plan directly into law. Either of these two measures could happen at any time or never, according to Anderson. "No one

can predict what Congress will do.

Although the last two amendments were designed to protect coastal communities and fishermen, they would not have been necessary if the Council hadn't created the problem of PQSs in the first place, according to Earl Comstock, D.C. lobbyist for fishermen's groups and the city of Kodiak.

Processor spokesman John Garner, executive director of the North Pacific Crab Association, said that processors feel their investments in the industry are like the investments of harvesters. Without a designated share, processor investments could be stranded.

"The Council has responded to the fact that both sectors made substantial contributions," Garner said. "They have considered how to balance the benefits."

Although processors with PQSs feel this gives them the balance they need, fishermen, communities and smaller processors disagree.

"Ten to 20 percent of the harvesting rights already belong to processors who own crab vessels," Comstock said. "Why do they need more protection? Why isn't that adequate?"

Additionally, any one processor can own as much as five percent of the total fishing quotas, Anderson confirmed.

Communities that have funded infrastructures to support on-shore processing plants are now beginning to question whether or not their interests are adequately protected.

If processors decide to leave, they take their PQSs with them. The first-right-of-refusal amendment, currently in place after the April Council meeting, stipulates how some communities could buy processing interests historically

based in their towns, but there are loopholes.

"TDX Corp., which has invested \$20 million in infrastructure in the Pribilofs, has just figured out shares there will belong to processors and not to them," said Dave Woodruff, Kodiak city councilman and local processor.

Woodruff has long opposed processor shares and has spoken against the north-south regional division of the processor share delivery area partly because the plan does not include opportunities for Kodiak.

Kodiak was a major port during the big crab years in the 70's and even last year attracted significant product. Now, given the qualifying years, 90 percent of Bering Sea history will go to six or seven big processors based out of Seattle and Japan, Woodruff said.

"The American Fisheries Act got shoved down our throats. Now this. The state is being owned and controlled by Seattle like before statehood. We've come full circle," he said.

Fishermen are also wary that the processor-share components of the plan will curtail their freedom to negotiate fair prices and choose delivery ports.

Jeff Stephan, head of the United Fishermen's Marketing Association, described how one fisherman sees his situation under the current plan: "He fishes opilio on the Pribilof edge, which is midway between St. Paul and Dutch Harbor. His crab are tagged for delivery in St. Paul, so even if every fishing indicator points toward delivering in Dutch, he'd be forced to go north to deliver in St. Paul."

Another local crab fisherman sees processor shares as an impediment to the traditional personal relationship fishermen

and processors work hard to establish to the benefit of both.

But it's basic economic issues that fuel the conflict.

"The whole two-pie system (processor shares and harvester shares) is based on a theory by Prof. Scott C. Matulich from Washington State University," Stephan said.

"The theory has never been debated. There's no study of the foundations or impacts of this system," Stephan said.

Seafood.com News reported on Tuesday that other fishermen's groups, which originally supported PQSs, now fear binding arbitration will not balance the lack of competition inherent in the plan.

Garner, speaking for processors, said his group believes negotiations will still set price. "Binding arbitration is only a last-resort measure," he said.

Council member Anderson has always opposed PQSs but has not been able to sway other Council members.

"When an industry is changing from one form to another, if changes harm one sector or another, the problem must be addressed," Anderson said.

But it could be addressed in other ways — without giving a public resource to the processing sector in perpetuity, Anderson said.



United Fishermen's Marketing Association, Inc.

P.O. Box 1035 Kodiak, Alaska 99615

Telephone 486-3453

Fax: 907-486-8362



Verbal Testimony
(talking points outline; three minutes)

Jeff Stephan
United Fishermen's Marketing Association, Inc. (UFMA)
to the
North Pacific Fishery Management Council
on
Bering Sea/Aleutian Islands Crab Rationalization
Council Meeting; June 5 through 11, 2002; Dutch Harbor, AK

Mr. Chairman, members of the Council

My name is Jeff Stephan,
I represent the United Fishermen's Marketing Association, Inc. (UFMA)

UFMA has encouraged and supported rationalization of the Bering Sea/Aleutian Islands (BSAI) crab fishery for several years.

UFMA prefers "Harvester IFQs", or a "One Pie" rationalization regime for the BSAI crab fishery.

We do not support "Processor Shares", "Two Pie", or "IPQs".

We prefer the "Status Quo" over "Processor Shares", "Two Pie" or "IPQs".

That is, our members have stated that

- they would rather leave things as they are,
 - than subject the industry to a rationalization regime
 - that includes Processor Shares.

There is no rationale that justifies an allocation of the rights to the BSAI crab resource to the processing sector.

IPQs are not rationalization

IPQs are economic protectionism

IPQs

- allocate market share
- provide protection from competition

UFMA Testimony; Jeff Stephan
BSAI Crab Rationalization
NPFMC Meeting; June, 2002
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- encourage and provide incentives for vertical integration
- and portend significant negative effects on prices, competition, innovation, markets, and consumers.

IPQs will result in putting the Alaskan fishing industry and Alaskan Coastal Communities back to pre-statehood social, economic and political conditions.

IPQs actually encourage, accelerate and provide incentives

- for consolidation, and
- for an occurrence and rate of consolidation
 - that is significantly greater
 - than if the BSAI crab fishery remained at the status quo,
 - or were otherwise rationalized using only Harvester IFQs.

The rapid and accelerated consolidation that will occur as a result of IPQs

- Will be much more onerous to the BSAI crab industry
 - than that consolidation that may otherwise occur under IFQs, or under the status quo.

The consolidation that will result from IPQs

- will effect the entire Alaskan fishing industry
- It will be the kind of consolidation
 - that will be much more difficult, if not impossible, from which to recover.
 - And it will be much different
 - than that consolidation that may otherwise occur as a result of open access, Harvester IFQs, or status quo.

IPQs force

- anti-competitive behavior, and
- anti-competitive concentrations, combinations, consolidations, mergers and acquisitions.

IPQs portend

- Anti-competitive concentrations
- that create and further strengthen existing dominant positions, and
- have onerous effects on the formation of fair prices, and
 - on the exercise of competitive and open markets.

We have very little, if any, confidence in "Binding Arbitration"
Binding Arbitration provides

UFMA Testimony; Jeff Stephan
BSAI Crab Rationalization
NPFMC Meeting; June, 2002
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- misplaced comfort
 - from the artificially transformed market mechanisms
 - that will result from IPQs, and
 - from the obvious effects that IPQs will have
 - on price formation, and
 - on competitive and open markets.

If the Council truly wishes to mitigate

- the obvious and expected negative impacts of Processor Shares
 - on fair prices, and
 - on competitive and open markets
 - in a more realistic and meaningful way
 - than the artificial and fictitious fix of "Binding Arbitration"

We submit that you could take no other better action

- that would more positively provide
 - a genuine competitive climate
 - for fair and competitive price formation, and
 - honest markets
- than to allow BSAI crab harvesters to freely deliver their legally owned crab
 - to the port of Kodiak,
 - without restriction,
- and to freely allow all Kodiak processors to purchase crab from the BSAI crab fleet
 - without restriction

That is, let Kodiak compete.

UFMA does not support " Regionalization".

UFMA members do not want to be,

- nor should any harvester be,
 - forced to deliver their legally owned BSAI crab catch
 - to any specific port.

Regionalization presents many significant issues with respect to

- vessel and human safety
- restraint of trade
- restraint of commerce, and
- market freedom for harvesters

UFMA Testimony; Jeff Stephan
BSAI Crab Rationalization
NPFMC Meeting, June, 2002
Page 4/5

Regionalization is

- an artificial and unjustifiable restraint on, and
- a contravention of
 - the benefits of BSAI Crab Rationalization

Kodiak will be significantly disadvantaged by IPOs.

7 of the top 12 employers in Kodiak are seafood processing plants.

The "Analysis" does not illustrate

- which Kodiak processors will ultimately be deemed as an "eligible processor", or
- how much IPQ will be received by "eligible" Kodiak processors

However,

- it is certain that
 - only a few Kodiak processors will be eligible to receive IPQs, and
 - these Kodiak processors will receive only a very insignificant amount of IPQs

Moreover,

- it is very likely that
 - any Kodiak processor who may receive IPQs
 - will choose to lease or sell those IPQs to Bering Sea-based processing entities.

Processor Shares, Two Pie, IPQs. And Regionalization for BSAI Crab Rationalization

- extinguish those social and economic benefits for Kodiak
 - and other Alaskan coastal communities
 - that are customarily contemplated and promoted as the rationale for, and benefits of, rationalizing a fishery.

If you proceed with some form of limitation in the BSAI crab processing sector,

UFMA recommends

- that you do no more than
 - establish a "Closed Class" of eligible processors, and
 - for which "Closed Class"
 - you allocate no more than 40% of the BSAI crab Total Allowable Catch (TAC), and
 - you stipulate a four-to seven year "Mandatory Phase Out"

Additionally,

UFMA proposes that the Council

- establish an "Open City" classification for Kodiak
 - and that such "Open City" classification must provide

UFMA Testimony; Jeff Stephan
BSAI Crab Rationalization
NPFMC Meeting; June, 2002
Page 5/5

- that any BSAI crab vessel is free to deliver their legally owned BSAI crab catch to any Kodiak processor, and that
- any restrictions of "IPQs", "Regionalization", "Closed Class", ELEGIBLE PROCESSOR", etc. that you may otherwise adopt as part of BSAI Crab Rationalization
- should not apply to, or otherwise restrict
 - the "Open City" classification for Kodiak, or
 - the ability of BSAI crab harvesters to exercise their market freedom
 - to freely deliver their legally owned BSAI crab to any Kodiak processing entity.

Thank you

OPINION

13/02 ADN COMPASS: Points of view from the community

Processor quota shares pose threat

by BOB STORRS

A month hasn't even passed since Alaska's flags flew at half-staff for the death of Eldor Lee; as I sit through the meetings of the North Pacific Fishery Management Council, I am sadly reminded of his absence.

As a pioneer Petersburg fisherman and delegate to our state's constitutional convention, it was Eldor who led the fight against the intrigues of the Outside salmon processors and the fish traps that came to symbolize the corporate power over Alaska's coastal communities.

In those days the processors would dictate to local fishermen when they would be able to sell their catch and for what price. Consequently, the companies had a social and economic chokehold on Alaska's coastal towns.

It was Eldor and other visionary old-timers like him who released the grip of the companies on the resource, and liberated fishermen and their communities from what had been a sharecropper relationship with buyers.

Now, 43 years later, a similar story is replaying with Alaska's valuable crab and groundfish resources. The State of Alaska, Congress and the NPFMC are debating whether or not to grant control of crab and groundfish markets to processors.

Today's reasoning is that the fisheries are overcapitalized. There are too many boats and too much technology chasing too few fish. Conservation and safety are jeopardized by the race for fish. In order to remedy those problems, fishery managers are preparing to limit access to the fisheries by allocating quota to individual fishermen. There are dangers with such



We should ask a fundamental question: Why should we give permanent control of a publicly owned American resource to a handful of largely foreign-owned companies?

scenarios, and tremendous care should be taken to make sure that quotas don't become consolidated into fewer and fewer hands — and to see that conservation improvements really do take place.

Alaskans have been down this road with halibut and sablefish IFQs and know just how things can go awry. In such cases the devil is in more than just the details.

The most troubling part of the current debate is the possibility that processing companies may be awarded quotas to process the fish. The government would mandate to whom we would be allowed to sell our fish. There are reasons we don't do this with other natural resources or with commerce in general. It gives individual corporations market control and stifles innovation by preventing people with new ideas from entering the business.

Any sort of quota share for processors will profoundly and permanently alter our communities. Beyond economics, mandating what companies we will do business with will change the social and political fabric of our coastal towns forever.

Given that, we should ask a fundamental question: Why should we give permanent control of a publicly owned American resource to a handful of largely foreign-owned companies?

They say they need this gift, and they

won't allow other rationalization plans to proceed without it. How great is their need? What are their justifications for seeking cartel status? These are questions that cannot be answered without a full opening of their books, from Seattle to Tokyo. They refuse to do that; the information is "proprietary" — well, the resource is proprietary. It is owned by the American people.

It is ironic that any American fisherman who even applies for a loan must bare his or her soul — and books (including IRS returns) for years past, while these companies refuse to thoroughly account to the public. That is unacceptable.

Good stewardship of these resources starts on deck, not on the processing line or in a Tokyo office.

Many of us believe that fishermen, communities and the public can rationalize the fisheries without blindly turning over the resource to a few transnational companies. We should remember what those pioneers did for us in Constitution Hall in Fairbanks years ago, and not allow our current policy-makers to take a great step backward toward the colonialism of territorial days.

Bob Storrs is a commercial fisherman and vice president of the Unalaska Native Fishermen's Association.

Quota for Processors? No Way

And don't count Dutch Harbor among supporters.

It was interesting and gratifying to read the recent dialogue in *Pacific Fishing* between Gordon Blue and the double team of John Iani and Lance Farr regarding the "two-pie" system of quota shares for processing companies. Hopefully, future discussions will take place in such open forums—preferably resolved under the aegis of the North Pacific Fishery Management Council (NPFMC) and not behind closed doors in Washington, D.C.

"As some of us in Unalaska have pointed out before, no matter how these folks try to sugarcoat this lemon, the two-pie system is a gifting of exclusive processing rights to a handful of companies."

As some of us in Unalaska have pointed out before, no matter how these folks try to sugarcoat this lemon, the two-pie system is a gifting of exclusive processing rights to a handful of companies. Anyone who believes that meaningful price negotiations for our catch will be possible when you are required to deliver 80% or 90% of the product exclusively to a privileged few is ignoring some basic economic realities.

The assertion has been made that because the "open" 10% could be processed by anyone, somehow a free market situation is maintained. That is not true; it is true only for that particular 10% of the quota. It has no bearing whatsoever on the remaining 90% controlled by what would be, in effect, a cartel. Fishermen would only be allowed to deliver to those select few as per those companies' traditional percentages of the harvest. With no chance for competition from independent buyers, there would be no chance to negotiate a price. Period. Either accept their price or starve.

Folks who doubt the immense power of these companies or their willingness to use it against fishing families need only look at the Area M salmon strike. Talk to the people from Sand Point who dared question the power of the big guys and draw some lessons from that reality.

That brings us to the next of several

great unknowns: how much of the harvesting quota would the companies already control through direct or indirect ownership of catcher vessels? We don't know; they won't divulge that information or other facts pertinent to this discussion.

Any fishermen seeking to get a state or federal loan must completely bare their souls and their finances for the last three years, yet these large, often foreign-owned companies seek to avoid

that requirement in their attempt to gain control over a resource that has thus far been owned by the American public. That is too much of a double standard for many of us fishermen to accept. Any meaningful discussion of this issue needs the benefit of open books. Who owns what? Where are the supposed losses, and where—between Seattle and Tokyo—are the profits truly being realized? How much of the corporate claims are truly based on an overwhelming need as opposed to a desire to achieve total vertical integration?

Many of us in Unalaska have a hard time equating the distress of our crab fishermen with the discomfort of Nippon Suisan, which just spent \$175 million to purchase Gorton's. The march toward vertical integration goes on: It's in the corporate DNA.

Mr. Iani referred to a "vocal minority" involved in this discussion. In addition to the members of CRAB, there are the thousands of fishermen of diverse fisheries who will have to deal with the burgeoning power of these large companies. There are, as well, the public owners of the resource—most particularly our Alaskan elders, who repeatedly remind us of the economic colonization of territorial days. Perhaps the true vocal minority consists of the handful of companies that stand to make millions

at the stroke of a pen.

Contrary to what some folks would have us believe, there are other rationalization ideas out there that would protect coastal communities and allow a buyback to diminish the fleet. Unfortunately, the large outfits don't want these options considered and have threatened to use their huge political clout back in D.C. to derail the whole process unless they get their way. The testimony of the Alaska Longline Fishermen's Association put it very succinctly: "It is unconscionable to hold our communities hostage in order to impose some other form of rationalization."

Whatever happens, the harvesting sector should work hard toward a plan—with a basis in conservation—to save the fishery. Any subsequent discussion to provide relief to corporations should be considered separately. That sort of national policy discussion will require that the processors, from Seattle to Tokyo, open their books to public scrutiny. There can be no other way. In the meantime, let the fishermen and the communities rationalize or not as they see fit through the open process of the NPFMC.

A last note: contrary to Mr. Iani's assertion, the city of Unalaska has not endorsed the two-pie system. A city employee mistakenly assumed that our city council would support it, and prematurely sent a letter to that effect to the NPFMC. When local fishermen and property owners found that their fish and property taxes were being used on behalf of the shore plants, a reaction ensued and the city pulled a support resolution off of its meeting agenda.

While business is now properly conducted back home, it is unfortunate that the folks in D.C., who will inevitably be involved in an end run around the NPFMC, are probably still under the impression that the country's major fishing port favors processor quota share. That is not the case. M

Bob Storrs, a 30-year career fisherman, has fished out of Unalaska/Dutch Harbor for 23 years. He is vice president of Unalaska Native Fishermen's Association.



Alaska State Legislature

Please enter into the record my testimony to the

HFSH

committee name

Committee on

HJR 25

bill # / subject

, dated

4-23-03

Please vote yes on HSR 25. The allocation of quota shares for the crab fisheries to processors is a trust for local communities in Alaska. Both in itself and the precedence it sets.

Signed:

Vern Culp (Vern Culp.)

Testifier

Citizen

Representing (Optional)

239 Lincoln

SITKA AK.

Address

907-747-6080

Phone Number

ask@att.net

email address



**LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE INFORMATION OFFICE**
210 LAKE STREET, SITKA, AK 99835
Phone: 747-6276 Fax: 747-5807
Email: sitka_lio@legis.state.ak.us

DATE: April 23, 2003

TO: House Special Committee on Fisheries

FAX: 465-3472

4 pages, including cover sheet

FROM: Sitka LIO

MESSAGE: Written testimony to be added to members folders for HJR 25.

C.R.A.B. GROUP

Crab Rationalization and Buyback Group

(907) 747-7967 • P.O. Box 1064 • Sitka, Alaska • 99835 • •••• Juneau, Alaska • •••• P.O. Box 2687 • Kodiak, Alaska • 99615 • (907) 486-9872

April 22, 2003

SUPPORT FOR HJR 25

Rep. Paul Seaton
Alaska Legislature
Juneau, Alaska

April 21, 2003

Dear Rep. Seaton:

WE SUPPORT House Joint Resolution 25, "A Resolution supporting Alaska's independent commercial fishermen and Alaska's fish processing industry and opposing the establishment of processor quota shares."

The C.R.A.B. Group represents 104 independent vessels which are licensed to harvest crab in the Bering Sea and Aleutian Islands. Many of our members are Alaska residents. *All* of our members land our harvest and conduct our businesses in Alaskan ports, and contribute revenues to the general fund.

We have participated at each stage of the development of the NPFMC crab rationalization plan. There are many provisions which have been made, in the development of the plan, which would protect harvesters and processors and communities. These include elements which prohibit fishermen from accumulating too much quota, and which require catch to be landed in the regions in which landing history was accumulated.

We are concerned that the provision for Processor Quota Shares [PQS] which this plan contains will destroy independent fishermen, undermine the economic life of Alaskan communities and create additional burdens on the State treasury. This provision was imposed on the plan by crab processors, who are protected by elements of the American Fisheries Act. These processors were able to manipulate the NPFMC in part, due to the extreme duress of fishermen brought about by the collapse of the crab fisheries.

The North Pacific Fishery Management Council [NPFMC] chose to go ahead with development of the program in June 2002. They then recognized that PQS could potentially create an imbalance of power in the bargaining relations that had existed between fishermen and processors, and between processors and the communities in which they are located. To this end, the NPFMC 'guaranteed' that 'trailing amendments' would develop protections to assure fair treatment of fishermen and communities.

One of the difficulties which C.R.A.B Group has faced in describing the negative impacts of this program, is that it is tremendously complex, and it attempts something never before attempted in this country: the set-aside of market forces and the control of a seafood market by regulation. Proponents of the plan have promised that it would usher in a new era of safety and profitability for an industry which has fallen on hard times, and that the towns which depend upon this industry will gain new life, as a result. Until recently, it was difficult to penetrate through all of the layers of promotion and complexity, and to arrive at

the truth of these competing claims.

Now, the NPFMC 'trailing amendments' are complete, and the entire plan is visible. At its meeting in Anchorage, on April 5, 2003, the NPFMC passed motions which would 'finalize' the 'trailing amendments.' The NPFMC Chairman said "We have adopted a whole sweep of community protection measures and measures to insure that the relationship between processors and harvesters lead to fair negotiations for price." We refute this claim. The NPFMC opted consistently for the best interests of processors, and against the best interests of fishermen, and communities, and the State of Alaska. The program would award a very few processing companies with a permanent lock on the benefits of all future crab fisheries. It is patently unfair to both fishermen and communities. This plan has been well described by Clem Tillion: *"It's not quite slavery but it's the next best thing!"*

Under the NPFMC 'trailing amendments' communities are made hostage to the processors, who may take the processing quota privileges, and leave town. No new processor would be allowed in, to fill the void. Provisions for 'Right of First Refusal' for a few communities to buy PQS, are so full of holes, the NPFMC staff economist had to apologize. "In all fairness," he told the NPFMC, "the committee did the best that they could." The 'community protections' really only serve to encourage the communities to bid up the price of PQS, before processors sell it elsewhere.

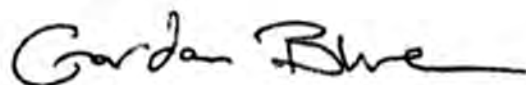
Fishermen would be forced to deliver to whichever processor offered processing quota for processing. They would be forced to sign a delivery contract with a processor, before they were allowed to enter arbitration. Arbitration would allow each processor to set its 'own' price, for its 'own' fishermen. The more inventive a processor was at devising 'costs' the less it would have to pay 'its' fishermen. Fishermen would be bound to deliver their catch, once the price was arbitrated, even if they were losing money to do so. If they failed to make deliveries, the processors could sue them, for lost income. If a processor could make more money by leasing PQS to a low-paying 'competitor' than processing itself, fishermen could do nothing about it - they would be compelled to sell, when and where required, to the 'holder' of the PQs, at that processors' price.

This exerts a consistently downward pressure on ex-vessel price. One result would be lower landing tax revenues to the general fund. Another result is that new federal regulations would allow processors to dictate which communities, entirely within the State of Alaska, would be allowed to have the economic activity resulting from seafood landings.

There is not the slightest justification for these abominations, other than that processors want them. This plan is so bad, it gives processors a bad name. It is so bad, it makes the NPFMC look corrupt. It is so bad that groups representing all the affected fishermen, immediately went into opposition to the plan, following the NPFMC action.

Processor Quota is bad public policy. Please support HJR 25. It is good public policy, and protects Alaska's commercial fishermen, processors and communities.

Sincerely,



Gordon Blue, President, C.R.A.B.

ALEUTIANS EAST BOROUGH

SERVING THE COMMUNITIES OF

■ KING COVE ■ SAND POINT ■ AKUTAN ■ COLD BAY ■ FALSE PASS ■ NELSON LAGOON

Resolution 03-06 Opposing Crab Rationalization

A RESOLUTION OF THE ALEUTIANS EAST BOROUGH OPPOSING THE CRAB RATIONALIZATION PLAN APPROVED BY THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL AND FORWARDED TO CONGRESS.

WHEREAS, the resident fishermen of the Aleutians East Borough are primarily small boat fishermen of Aleut descent; and,

WHEREAS, the small boat fishermen must retain the ability to catch several different species of fish in order to maintain a livelihood and their communities; and,

WHEREAS, seasons for crab in the Bering Sea have changed over the years to effectively remove the small boat fishermen from the Bering Sea; and,

WHEREAS, the markets available to the small boat fishermen are severely limited to a few processing companies within the boundaries of the Aleutians East Borough; and,

WHEREAS, programs that vest the ownership of the commonly owned fishery resources in the hands of a few fishermen reduces the ability of small boat fishermen to diversify into other fisheries; and,

WHEREAS, programs that vest ownership of the commonly owned fishery resources in the hands of a few companies reduces competition among buyers of fish; and,

WHEREAS, the North Pacific Fisheries Management Council had no legal authority to institute a crab rationalization program based upon individual fishing quotas and processor quota shares; and,

WHEREAS, the implementation of the crab rationalization plan will produce consequence that threaten the social and economic viability of its communities that are already impacted by federal fishery and environmental policies.

NOW THEREFORE BE IT RESOLVED BY THE ALEUTIANS EAST BOROUGH that the crab rationalization plan approved by the North Pacific Fisheries Management Council and forwarded to Congress for legal action should be rejected.

□ CLERK/PLANNER
P.O. BOX 249
SAND POINT, AK 99581
(907) 283-2899
(907) 383-3806 FAX
e-mail: ALEUCLERK@aol.com

□ BOROUGH ADMINISTRATOR
1600 'A' STREET, SUITE 103
ANCHORAGE, AK 99501-5146
(907) 274-7555
(907) 276-7588 FAX
e-mail: soboro@aol.net

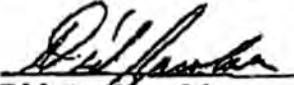
□ FINANCE DIRECTOR
P.O. BOX 49
KING COVE, AK 99612
(907) 497-2588
(907) 497-2388 FAX
e-mail: sabfinance@aol.com

□ RESOURCE DEPARTMENT
211 4TH STREET, SUITE 214
JUNEAU, AK 99801
(907) 588-8866
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e-mail: both@prattak.net

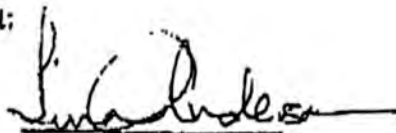
Resolution 03-06

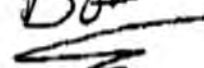
BE IT FURTHER RESOLVED that until such time that the North Pacific Fisheries Management Council develops a plan that is legal and does not vest ownership of the publicly owned resource in the hands of individuals and corporations, the Bering Sea crab fishery should remain an open access fishery.

Adopted by the Aleutians East Borough Assembly this 21st day of August, 2002.


Dick Jacobsen, Mayor

Attest:


Tina Anderson, Clerk

To
Bob




United Southeast Alaska Gillnetters

P.O. Box 23378, Ketchikan, AK 99901 (907) 247-2471 Fax (907) 225-0241 Email: usag@gci.net

March 22, 2003

House Special Committee on Fisheries
c/o Representative Paul Seaton, Chair
State Capitol, Room 428
Juneau, AK 99801

Send Via Fax To: 907-465-3472

Dear Members;

The United Southeast Alaska Gillnetters Association (USAG) represents about 150 fishermen who make their living primarily by drift gillnetting for salmon in Southeast Alaska. Many of our members participate in numerous other fisheries such as crab, shrimp, longline, dive fisheries etc.

USAG strongly supports HJR 25. We believe that individual fishermen must have the flexibility to develop their own markets for their production and not be required to sell to a processor unless it fits their business plan. The requirement to sell a portion of a fisherman's production to a processor regardless of price or market conditions is completely unacceptable. It is understood that the current proposal only effects the Bering Sea and Aleutian Islands crab fishery. We are very concerned that the president created by establishing processor shares in that fishery could eventually affect any fishery that is under stress and may be considered for some form of restructuring. Certainly the salmon fishery falls in that category at this time and we do not want the specter of processor shares hanging over our heads as we try to correct the economics of this fishery.

USAG is grateful to Representatives Seaton, Heinze, Crawford and Chenault for sponsoring this resolution and urge the Fisheries Committee to pass it.

Sincerely,

Kenneth Duckett
Executive Director

ALASKA MARINE CONSERVATION COUNCIL

A RESOLUTION URGING CONGRESS, THE STATE OF ALASKA AND FISHERY MANAGERS TO REQUIRE STRONG CRITERIA FOR CONSERVATION AND COMMUNITY STABILITY WITHIN ANY NEW INDIVIDUAL QUOTA OR OTHER LIMITED ACCESS PROGRAM AND OPPOSING THE ALLOCATION OF ALASKA FISHERY RESOURCES TO PROCESSORS BECAUSE OF THE CONTROLLING EFFECTS ON MARKETS, FISHERMEN, COMMUNITIES AND THE PUBLIC PROCESS.

WHEREAS the Alaska Marine Conservation Council believes that Congress, the State of Alaska and fishery managers must ensure that conservation goals are met and that independent fishermen and coastal communities receive equitable treatment and,

WHEREAS the Alaska Marine Conservation Council believes fishery management programs should reward clean fishing practices that result in low bycatch and have minimal adverse impact on ocean habitat and;

WHEREAS the Alaska Marine Conservation Council believes fishery management programs must require good stewardship of the public's marine resources as a condition for continuing participation in limited access fisheries and;

WHEREAS the Alaska Marine Conservation Council believes fishery management programs must create opportunity for future generations of independent fishermen and;

WHEREAS the Alaska Marine Conservation Council believes fishery management programs must promote healthy community fishing economies and maintain diverse independent fishing fleets and;

WHEREAS the Alaska Marine Conservation Council believes fishery management programs must preserve healthy competition among seafood processors and prohibit processor monopolies

WHEREAS; The Alaska Marine Conservation Council believes fishery management programs must prevent excessive consolidation and vertical integration of the seafood industry and;

WHEREAS the Alaska Marine Conservation Council believes fishery management programs should recognize historic regional fishing and processing patterns;

WHEREAS the Alaska Marine Conservation Council strongly opposes the award of processing quota to companies to buy and process Alaska's fishery resources or any other system that limits the number of processors because of the controlling effect on markets, fishermen, communities, and the public process; and

WHEREAS there are other ways to promote a positive economic environment for the processing sector of Alaska's seafood industry,

NOW THERE FOR BE IT RESOLVED that the Alaska Marine Conservation Council strongly urges Congress, the State of Alaska and fishery managers to 1) support the conservation and community principles contained within this resolution, 2) prevent the award of processing quota to companies to buy and process Alaska's fishery resources because of the controlling effects on markets, fishermen, communities and the public process, and 3) explore other ways to promote a positive economic environment for the processing sector of Alaska's seafood industry.

A RESOLUTION OF THE UNALASKA NATIVE FISHERMAN'S ASSN.
URGING THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL, THE STATE OF
ALASKA AND THE UNITED STATES CONGRESS, TO REQUIRE STRONG STANDARDS FOR
CONSERVATION AND COMMUNITY HEALTH BEFORE ANY NEW
INDIVIDUAL QUOTA PROGRAM OR OTHER LIMITED ACCESS PROGRAMS ARE
ADOPTED IN OUR FISHERIES RESOURCES IN ALASKA.

WHEREAS; The Unalaska Native Fisherman's Assn. believes that strong conservation goals should be integrated into any new rationalization program; and

WHEREAS; The Unalaska Native Fisherman's Assn. believes that a mechanism must be incorporated so if the conservation goals are not met there is a means to change the program to meet the goals; and

WHEREAS; The Unalaska Native Fisherman's Assn. believes that an independent review process needs to be incorporated into any new rationalization program; and

WHEREAS; The Unalaska Native Fisherman's Assn. believes that any privatization program should include rewards to fisherman who convert to gear types that have low by-catch rates and minimal impact to the sea floor habitat; and

WHEREAS; The Unalaska Native Fisherman's Assn. believes that any rationalization plan should include measurable reductions in by-catch and fisheries waste; and

WHEREAS; The Unalaska Native Fisherman's Assn. believes that good stewardship of the public's marine resources as a condition for continuing participation in IFQ's programs or other limiting access programs; and

WHEREAS; The Unalaska Native Fisherman's Assn. believes valid entry-level opportunities for future generations of independent fisherman be included in any rationalization program; and

WHEREAS; The Unalaska Native Fisherman's Assn. believes that the allocation of Alaska fishery resources should include independent fisherman including hired skippers, operators, and crewmembers based on historic participation; and

WHEREAS; The Unalaska Native Fisherman's Assn. believes that any new rationalization program should promote healthy community fishing economics and maintain diverse independent fishing fleets; and

WHEREAS; The Unalaska Native Fisherman's Assn. recognizes the National Research Council's recommendations concerning processor allocations contained in the 1999 report to congress entitled "Sharing The Fish: Toward a National Policy On IFQs" p 205 Recommendation: "... Nor did the committee find a compelling reason to establish a separate, complementary processor quota system (the "two-ple" system)"; and

WHEREAS; The Unalaska Native Fisherman's Assn. believes that the allocation of fishery resources to processors will threaten the competitive balance between independent fishermen and processors; and

WHEREAS; The Unalaska Native Fisherman's Assn. believes that any privatization programs created should not require an exemption to federal anti-trust laws and,

WHEREAS; The Unalaska Native Fisherman's Assn. believes that any rationalization plan include eligibility for coastal communities; and

WHEREAS; The Unalaska Native Fisherman's Assn. believes any rationalization plan maintain a high level of participation in fisheries by active fisherman; and

WHEREAS; The Unalaska Native Fisherman's Assn. believes that any rationalization plan include mechanisms to promote and maintain a high level of professionalism; and

WHEREAS; The Unalaska Native Fisherman's Assn. supports a funding mechanism to adequately support management and enforcement requirements of these fisheries.

NOW THERE FOR BE IT RESOLVED, that The Unalaska Native Fisherman's Assn. strongly urges the North Pacific Fishery management Council, State of Alaska and the United States Congress to developed the above elements into standards for any rationalization plan, to ensure that conservation and community stability are met when establishing any new individual quota or other limited access programs in our fisheries resources in Alaska.

PASSED AND ADOPTED by the Unalaska Native Fisherman's Assn. this 27th day of January, 2002

Unalaska Native Fisherman's Assn.


Emil Berikoff, President


Bobby Storrs, Vice President

Subject: News Article Today

Date: Fri, 18 Apr 2003 11:06:16 -0800

From: LINDA KOZAK <kozak@alaska.com>

Alaska Crab Fishermen's Organizations United in Opposing Current Rationalization Plan

SEAFOOD.COM NEWS by Laine Welch April 18, 2003 - The plan to divide Bering Sea crab catches between harvesters and processors has drawn fire from previous supporters. In a just released position paper, the Alaska Crab Coalition said the plan does not do enough to protect fishermen. ACC has long been a supporter of quota shares for crab harvesters, and believed that going along with the controversial processor share component was the only way to achieve rationalization in the Bering Sea fisheries.

The crux is that the crab plan requires that 90 percent of the catch must be sold to a handful of processors. To level the playing field, ACC had proposed an arbitration system that would set a minimum fleet price. But a few weeks ago, the North Pacific Fishery Management Council defeated an amendment offering that protection. That prompted an abrupt about face by the ACC. Director Arni Thomson said the ACC will oppose adoption of the Bering Sea plan 'until and unless the council adopts a system that protects harvesters against market distortions that would otherwise result from processor shares.'

Council chairman Dave Benton still staunchly defends the crab plan by saying it includes measures to allow fair price negotiations.

The Alaska Crab Coalition, the CRAB group, the Alaska Marketing Association, and the United Fishermen's Marketing Association collectively represent all Bering Sea crabbers. Each of the groups supports rationalization, but not the processor share component of the plan.

'We support the processors and understand that they are equal partners in this whole thing, but we want to see a competitive partnership, not dominance and anti-competitive combinations and concentrations that really control the entire industry,' said UFMA director Jeff Stephen.

The CRAB Group's Gordon Blue said, 'The processors' concerns can be addressed through various regionalization measures. The Council should just toss the whole thing out and be done with it.'

The crab plan is awaiting approval by Congress, which must agree to change the nation's antitrust laws to allow processors to have guaranteed quotas of the crab catch. Stephen says even with the opposition by all crabbers and 29 Alaska coastal communities, the plan as written still stands a chance. 'There is no way we can even begin to match the processors in their lobbying efforts and the money they're pouring in. I don't know if we can get the true message across to Congress,' Stephen said.

On a related note, House Fisheries Committee chairman Paul Seaton of Homer on Thursday introduced a resolution in the State House opposing processing quota shares. Senator Ted Stevens' office has also announced that the Senator has requested a hearing on processor shares before the Commerce, Science and Transportation Committee chaired by Sen. John McCain. The hearing is likely to occur in mid-May and include viewpoints from both sides.

Amendment # 1

To: HJR 25

sponsored by Rep. Ogg *Seaton*

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

in the Bering Sea Aleutian Islands crab rationalization plan.

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

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

#2
Page 2, line 7 insert the following Whereas

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

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

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