

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86/2

2881 SRES SJR 5 - SJR 7

2881

## 1        REQUIREMENTS ON THE USE OF BLOCK GRANTS

2        SEC. 6. (a) Block grants provided to a State pursuant to  
3 this Act and any incomes derived from such block grant shall  
4 be used for each of the following Outer Continental Shelf and  
5 coastal development and management activities:

6            (1) living marine resources, including fisheries, re-  
7 search, management, and enhancement;

8            (2) coastal management planning and implementa-  
9 tion, as provided for under the Coastal Zone Manage-  
10 ment Act of 1972 (16 U.S.C. 1451 et seq.);

11           (3) assessment and mitigation of impacts resulting  
12 from Outer Continental Shelf or other energy activi-  
13 ties;

14           (4) long-range coastal and ocean research and  
15 education, and natural resource management; and

16           (5) capital infrastructure necessitated by coastal  
17 energy development activities, as provided for pursuant  
18 to the Coastal Zone Management Act of 1982 (16  
19 U.S.C. 1451 et seq.).

20        (b) No less than 40 per centum of the block grant which  
21 each State receives pursuant to this Act shall be provided by  
22 each such State to its local governments to carry out the  
23 activities provided under subsection (a).

24        (c)(1) The Secretary shall by contract establish a Na-  
25 tional Coastal Resources Research and Development Insti-

1 tute (hereinafter in this section referred to as the "Institute")  
2 to be administered in affiliation with the Oregon Institute of  
3 Marine Science.

4        (2) The Institute shall conduct research, education, and  
5 demonstration projects designed to promote the efficient and  
6 responsible development of ocean and coastal resources, in-  
7 cluding arctic resources, and the economic diversification of  
8 our Nation's coastal areas. Included in such projects are bio-  
9 logical, geological, genetic, and other scientific research ap-  
10 plicable to the purposes of this section.

11        (3) The Secretary shall conduct an ongoing evaluation  
12 of the activities of the Institute to ensure that funds received  
13 by the Institute under this Act are used in a manner consist-  
14 ent with the provisions of this section.

15        (4) The Institute shall report to the Secretary, on its  
16 activities within two years after the date of enactment of this  
17 Act. Such report shall include recommendations as to the  
18 desirability of establishing satellite regional centers on the  
19 Atlantic Coast, Gulf of Mexico, Great Lakes, and Alaska. No  
20 more than one such center shall be established in any region.

21        (5) The Secretary shall, in fiscal year 1984 and each  
22 fiscal year thereafter, make available to the Institute from  
23 the Fund an amount equal to 1.5 per centum of the amounts  
24 deposited in the Fund for that fiscal year. Such funds shall be  
25 disbursed to the Institute by the Secretary of the Treasury:

1 *Provided*, That, upon the addition of any regional center or  
 2 centers, the Secretary shall make available from the Fund an  
 3 amount not to exceed 3.0 per centum. In no case shall the  
 4 Secretary provide greater than 2.5 per centum for the pur-  
 5 poses of this subsection.

6 (6) The Comptroller General of the United States, and  
 7 any of his duly authorized representatives, shall have access  
 8 for the purpose of audit and examination to any books, docu-  
 9 ments, papers, and records of the Institute that are pertinent  
 10 to the funds received under this section.

11 (7) Employees of the Institute shall not, by reason of  
 12 such employment, be considered to be employees of the Fed-  
 13 eral Government for any purpose.

14 ASSESSMENT AND AUDIT

15 SEC. 7. (a) Under regulations promulgated by the Secre-  
 16 tary, any State receiving a block grant for a fiscal year under  
 17 section (5)(a) must submit to the Secretary an assessment of  
 18 the opening and closing balance of the trust fund established  
 19 pursuant to section 5(c), and of the receipt and the expendi-  
 20 ture of funds provided by the block grant and the income  
 21 derived on the Trust Fund for each State fiscal year in which  
 22 the State received a block grant pursuant to this Act within  
 23 one hundred and twenty days following the close of such  
 24 State fiscal year.

1 (b) Each assessment submitted by a State for a fiscal  
 2 year under subsection (a) must contain an audit of all funds  
 3 provided by the block grant received by such State for such  
 4 fiscal year. Any audit contained in an assessment pursuant to  
 5 this subsection shall be conducted by an entity which is inde-  
 6 pendent of any agency or official administering or using  
 7 moneys provided by such block grant and shall be undertaken  
 8 in accordance with generally accepted accounting principles.

9 (c) Not later than ninety days after receiving a State's  
 10 assessment, the Secretary shall make a preliminary evalua-  
 11 tion of each assessment submitted pursuant to this subsec-  
 12 tion. If the Secretary determines in the preliminary evalua-  
 13 tion of a State's assessment that all or any part of the block-  
 14 grant funds have not been used as required by this Act, the  
 15 Secretary shall publish notice in the Federal Register of this  
 16 finding. Not later than sixty days after publication of such  
 17 notice, the State shall be provided an opportunity for a hear-  
 18 ing. Not later than one hundred and fifty days after publica-  
 19 tion of such notice, the Secretary shall make a final determi-  
 20 nation. If the final determination is that all or any part of the  
 21 block-grant funds were not used as required by this Act, the  
 22 Secretary shall provide in writing to the State the reasons for  
 23 the determination and the amount of funds misused. The Sec-  
 24 retary shall withhold from a State's future block grants an

1 amount equal to that determined to have been misused pursu-  
2 ant to this subsection.

3 (d) The determination of the Secretary pursuant to this  
4 section shall be subject to judicial review only by an action  
5 brought by the State or local government, or both, concerned  
6 in the United States district court for the district of that  
7 State.

8 (e) Any amount withheld pursuant to subsection (e),  
9 upon completion of judicial review if applicable and if favora-  
10 ble to such withholding, shall be returned to the Fund by the  
11 Secretary.

12 RULES AND REGULATIONS

13 SEC. 8. The Secretary shall promulgate, pursuant to  
14 section 553 of title 5, United States Code, after notice and  
15 opportunity for participation by relevant Federal agencies,  
16 State agencies, local governments, regional organizations,  
17 port authorities, and other interested parties, both public and  
18 private, such rules and regulations as may be necessary to  
19 carry out the provisions of this Act.

○

STATE OF ALASKA  
Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4700

February 4, 1983

POSITION PAPER

RE: SJR 5

SPONSOR: Senator Ferguson

Program Effect of Bill

Supports the provision of federal pass-through funds derived from Outer Continental Shelf revenues to communities impacted by OCS activities.

Comments

The Department supports this effort to make federal OCS revenues available to local government units that are or will be experiencing impacts as a result of OCS lease sales.

These funds are doubly important with the demise of the Coastal Energy Impact Program.

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SENATE RESOURCES COMMITTEE  
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: SJR 7

BILL NAME: Opposing imposition of halibut moratorium & establishment  
of shares system

SPONSOR(S): Mulcahy

RELATED BILLS PENDING:

DATE INTRODUCED: 1-19-83

HJR 10

REFERRALS: Resources

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR  
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR  
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE  
SUBSTITUTES DRAFTED:

# Alaska State Legislature



BETTYE FAHRENKAMP  
CHAIRMAN  
ROBERT H. ZIEGLER, SR.  
VICE-CHAIRMAN  
DICK ELIASON - PAUL FISCHER  
VIC FISCHER - BOB MULCAHY  
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## Senate

### Committee on Resources

#### Memo

To: Senate Resources Committee Members

From: Resources Committee Staff

Subject: Committee Consideration of SJR 7 and SJR 10, Feb. 11, 1983

The Fisheries Subcommittee of the Committee held hearings on the above resolutions on Thursday, Feb. 10 and moved a subcommittee substitute for each of the resolutions to the full Committee.

Attached are the subcommittee substitutes. We will hope to have final typed versions when the Committee meets to consider the resolutions at 3:00 PM on Friday, the 11th. At this time it is hoped the Committee will take final action on the resolutions. The meeting will be in Beltz Rm.

SJR 7--Relating to the imposition of a halibut moratorium and the establishment of a shares system for halibut in Alaska.

In response to a recommendation by the North Pacific Fishery Management Council that a moratorium and possible share-quota system be imposed on Alaska's halibut fisheries, the resolution calls on the Secretary of Commerce and the NOAA Administrator to seriously consider the views of Alaskans on the NPFMC's recommendations and to disapprove any share-quota system for halibut in Alaska.

SJR 10--Requesting rejection and renegotiation of the proposed US-Canada salmon interception treaty.

Under the terms of a draft treaty between the US and Canada, Alaskan fishermen would be required to substantially reduce overall catches of chinook salmon. The resolution requests the Governor to reject the proposed treaty, requests the Alaska's Senate Delegation to prevent the treaty's ratification and requests the Secretary of State to reopen treaty negotiations.

Offered: 2/14/83  
Referred: Rules

Original sponsor: Mulcahy

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
2 CS FOR SENATE JOINT RESOLUTION NO. 7 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 Relating to the imposition of a halibut  
6 moratorium and the establishment of a  
7 shares system for halibut in Alaska.

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 WHEREAS the North Pacific Fishery Management Council has recommended  
10 imposition of a moratorium on Alaska's halibut fisheries and is considering  
11 recommending the establishment of a share-quota system for the allocation  
12 of the fishery resource; and

13 WHEREAS the proposed moratorium would exclude fishermen who did not  
*added -* 14 participate from 1978 to 1982; and

15 WHEREAS many people in Alaska oppose imposition of a moratorium in any  
*added -* 16 form, while many others in Alaska favor imposition of a moratorium as  
17 proposed or in another form; and

18 WHEREAS a share system could result in the concentration of ownership  
*changed from would -* 19 of the fishery resource in the hands of a few <sup>"wealthy" deleted</sup> fishermen; and

20 WHEREAS a share system could encourage speculation and the making of  
21 exorbitant profits at the expense of Alaska fishermen; and

22 WHEREAS concentration of ownership in and speculation by nonresidents  
23 could result in a loss to Alaska fishing communities and to the state of a  
24 fishery resource valued at \$50,000,000 annually; and

25 WHEREAS a share system could tend to eliminate competition among  
*changed from would -* 26 halibut fishermen; and

27 WHEREAS existing management tools, such as harvest levels, size <sup>"and sex" deleted</sup> /lim-  
28 its, gear restrictions, and area closures, are less drastic alternatives to  
29 a share-quota system and have not been adequately considered by the

1 management council; and

2 WHEREAS numerous Alaska communities, including Akutan, Cordova, Craig,  
3 Kenai, the Kenai Peninsula Borough, King Cove, Kodiak, the Kodiak Island  
4 Borough, Valdez, and Whittier, and organizations, including the Kodiak Area  
5 Native Association, the Kodiak Area Chamber of Commerce, the Alaska Drag-  
6 gers, and the United Fishermen's Marketing Association, have passed resolu-  
7 tions or otherwise expressed views in opposition to the share-quota system;

8 *and/or moratorium" deleted*  
9 *and*

9 WHEREAS the Legislature would oppose the use of state-operated facil-  
10 ities and other forms of cooperation in implementing a share-quota system;

11 BE IT RESOLVED by the Alaska State Legislature that the Secretary of  
12 Commerce and the administrator of the National Oceanic and Atmospheric  
13 Administration are respectfully requested to give serious consideration to  
14 the comments submitted by Alaskans regarding the imposition of a moratorium  
15 on Alaska halibut fisheries; and be it

16 FURTHER RESOLVED that the Secretary of Commerce and the administrator  
17 of the National Oceanic and Atmospheric Administration are respectfully  
18 requested to disapprove any share-quota system for halibut in Alaska that  
19 is recommended by the North Pacific Fishery Management Council.

20 COPIES of this resolution shall be sent to the Honorable Malcolm  
21 Baldrige, Secretary of Commerce; Mr. John V. Byrne, Administrator, Nation-  
22 al Oceanic and Atmospheric Administration; Mr. Clem Tillion, Chairman,  
23 North Pacific Fishery Management Council; and to the Honorable Ted Stevens  
24 and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don  
25 Young, U.S. Representative, members of the Alaska delegation in Congress.

*wording in original bill:*

*"to disapprove the imposition of a moratorium on Alaska halibut fisheries"*

# North Pacific Fishery Management Council

Richard L. Tillion, Chairman  
John M. Johnson, Executive Director

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December 28, 1982

*File* → PUBLIC HEARINGS ON A MORATORIUM ON NEW ENTRIES  
INTO THE ALASKA HALIBUT FISHERY FOR 1983

The North Pacific Fishery Management Council announces a schedule for public hearings on a moratorium on new entries into the halibut fishery off Alaska for 1983. They will be holding hearings in cooperation with the U.S. Secretary of Commerce in Alaska and Seattle in January. Comments are requested only on the moratorium. Limited entry in the halibut fishery and the possible methods by which limited entry might be accomplished will be the subject of extensive Council hearings and discussion beginning in March 1983. The schedule of hearings on the moratorium is as follows:

### On-site Public Hearings

Times published for on-site hearings are Pacific Standard Time. These times may be extended if necessary.

January 7, 1983	Baranof Hotel Juneau, Alaska	1 - 5 p.m.
January 8, 1983	City Council Chambers Petersburg, Alaska	1 - 5 p.m.
January 9, 1983	State Office Building Conference Room 207 Ketchikan, Alaska	3:30 - 7 p.m.
January 17, 1983	Homer, Alaska	(Times and locations to be announced)
January 18, 1983	Kodiak, Alaska	
January 20, 1983	Seattle, Washington	

### Teleconference Hearings

Times published for teleconference hearings are Alaska Standard Time. Times may be extended if necessary. See Attachment 4 for further information.

January 24, 1983	Connecting Seward, Cordova Valdez, Soldotna, Yakutat, and Seattle (Anchorage, moderator only)	8 - 10 a.m.
January 26, 1983	Connecting Sand Point Unalaska, St. Paul, and Seattle (Anchorage, moderator only)	8 - 10 a.m.

Teleconference Hearings, continued

January 28, 1983

Connecting Sitka, Hoonah,  
and Haines (Anchorage,  
moderator only)

8:30 - 10:30 a.m.

The moratorium, expected to be published in the Federal Register as a Notice of Proposed Rulemaking by the U.S. Department of Commerce on approximately January 20, would restrict participation in the halibut fishery off Alaska from May 1, 1983 through December 31, 1985. Only those persons who lawfully harvested and sold halibut from those waters between January 1, 1978 and December 31, 1982 would be allowed to fish during 1983, 1984, and 1985. It would apply to the waters off Alaska in International Pacific Halibut Commission management areas 2C and 3 and south of 56°N latitude in IPHC management area 4. The Northern Pacific Halibut Act of 1982 (Act) requires the Council to provide an opportunity for the coastal villages north of 56°N to develop a halibut fishery over the next three years. Fishermen in that area would not be included in a moratorium.

The Halibut Fishery

Pacific halibut have been managed as an international resource by Canada and the United States through the International Pacific Halibut Commission (IPHC) since 1923. The Commission, with three U.S. and three Canadian members, has a permanent staff of U.S. and Canadian scientists headquartered in Seattle. The Commission conducts research and sets seasons, quotas, fishing methods, and fishing areas, but has no authority to decide who may participate in the fishery; that is left to the member countries. The Northern Pacific Halibut Act of 1982 authorized the North Pacific Fishery Management Council to develop regulations limiting participation in the fishery. Any regulations developed must be approved by the Secretary before they can be implemented.

When the Magnuson Fishery Conservation and Management Act (MFCMA) was passed in 1976, both Canadian and U.S. fishermen fished off Alaska, with Canadian fishermen taking over half the catch. Their fishery off Alaska was phased out, ending in 1980, and they may now fish only off Canada. Canadians may still land their catches in American ports.

The American catch off Alaska has increased from 13 million pounds in 1978 to 22 million pounds in 1982 through the elimination of the Canadians and an increase in the quota set by IPHC. The number of participants during that same period has increased from 2,100 to over 2,800. But while the catch has increased, the seasons have sharply decreased. It took 73 days in 1977 to catch 3.4 million pounds in Southeast Alaska, but only 5-1/2 days to catch the same amount in 1982. In Area 3, the Gulf of Alaska west of Cape Spencer and including the grounds around Kodiak and Cook Inlet, 12.3 million pounds were taken in 47 days in 1977 while 17.6 million pounds were taken in 11-1/2 days in 1982.

The IPHC is concerned with the ever decreasing seasons because it is very difficult to keep catches within quotas with such a rapid increase in fishing effort. They believe that it is poor biological management to take the entire catch from the particular stock component that might be available during a very short season. They would prefer longer seasons which allow the quota to be taken from as many stock components as possible.

Another problem with short seasons is that since the catch arrives at the processor during a very short period of time, most of it is frozen and stored for later distribution. Fresh halibut are available to the consumer for only a short time during the year. The long storage times plus high interest rates increase the processors' costs and prices to the consumer and lower prices to the fishermen.

Short seasons are also dangerous. Fishermen must work "around the clock" in order to catch enough fish to make a living. This can result in more injuries and boat losses as fishermen become physically exhausted. Many will continue to work in weather conditions they wouldn't normally fish.

#### The Moratorium

Recognizing that the rapidly expanding fleet would soon create drastic problems in harvest management and the availability of fresh halibut during the year, the North Pacific Council began studying the problems in the halibut fishery in 1978. In November 1978 they set December 31, 1978 as a cut-off date for eligibility in the eventuality that some form of limited entry was developed in the next two or three years. That date did not hold up for legal reasons, but the Council has since stated on several occasions their intent to establish a cut-off date for accruing rights under any future limited entry system.

In early 1979 the Council appointed a Limited Entry Workgroup composed of halibut fishermen, industry representatives, and agency staff to assess methods of limiting the offshore salmon troll fishery in Southeastern Alaska and to develop possible approaches to limiting effort in the halibut fishery. By June of 1979 some segments of the halibut fleet were urging the Council to develop a limited entry system, and later that year the Council advertised for proposals to study limited entry in the halibut fishery. They also asked that the enabling legislation for the newly renegotiated Pacific Halibut Convention contain authorization for a limited entry system for the halibut fishery. In 1980 the Limited Entry Workgroup again recommended a moratorium on entry into the fishery, but the Council was unable to act until the aforementioned enabling legislation became law, which did not occur until the Northern Pacific Halibut Act was signed by the President on May 17, 1982.

At the IPHC meeting in February 1982 many members of the Fishermen's Conference Board, a group of halibut fishermen from the U.S. and Canada, asked the Council to develop a limited entry system based on the "fishermen's share" system and urged a halt to further entry into the fishery. The Council asked the Department of Commerce to implement a moratorium as quickly as possible, recognizing that it would probably not be possible for the 1982 season, but urging action well in advance of the 1983 fishing season. They believed it would deter people from entering the fishery in hopes of obtaining rights under any limited entry system that might develop and would tend to stabilize effort at the current level. A moratorium will give fishermen, the Council, and the public time to consider management alternatives to stabilize the fishery so participants can expect reasonable returns on their investment and efforts and consumers can buy fresh halibut for more than a few days a year.

Regulations to implement a moratorium were developed by the Council and the National Marine Fisheries Service to be published as a Notice of Proposed Rulemaking in the Federal Register. Those regulations are included in this

package as Attachment 1. There will be a 45-day comment period after they are published. They can then be rewritten and published as a Notice of Final Rulemaking, becoming effective 30 days after that publication. The proposed regulations would permit anyone who has participated in the halibut fishery between January 1, 1978 and December 31, 1982 to continue participating in the fishery in the same manner from May 1, 1983 through 1985. The moratorium would end on December 31, 1985. It could end earlier if supplanted by limited entry.

Theoretically, using the base period 1978 - 1982, a maximum of 6,481 individuals would be qualified to participate in the fishery in 1983. Without a moratorium, of course, there would be no limit to the number of people who could fish in 1983. As currently written the moratorium will not necessarily reduce effort, although it should limit the increase below what it would be if the fishery were to remain open to everyone. One of the chief values of a moratorium, in any case, is to establish a cut-off date beyond which participants cannot accrue credit toward participation in a limited entry system.

Some who support the moratorium would like to see a further restriction on effort beyond limiting the number of people, and have proposed restricting the size of boat that could be used in 1983-85 to the same size used in the 1978-82 period. (See Attachment 2, Comments Requested on the Moratorium, Proposal B.) Others are willing to consider other methods that would limit the increase of effort.

The proposed rulemaking can be greatly modified through the public hearing and comment process. The Council would like to hear comments on all of the proposals listed in Attachment 2 and any others which may occur to you.

#### Limited Entry in the Halibut Fishery

Early in 1982 the North Pacific Fishery Management Council developed a research proposal for a study of limited entry systems for the hook and line halibut fishery off Alaska. They set four primary objectives for a limited entry system:

1. That it distribute the hook and line halibut fishery in time and space to ensure resource conservation;
2. That it provide high quality, fresh and frozen fish to the consumer twelve months of the year;
3. That it encourage development of an economically viable and efficient year-round U.S. hook and line fishery that would make it possible for some fishermen to earn a major share of their income from hook and line halibut fishing and is made up of owner/operator rights holders;
4. That it ensure that no single individual or entity acquires excessive control of the resource and minimize disruption of the present fleet by using past performance to distribute initial rights in the fishery, using the market to transfer fishing rights after initial distribution.

12/28/82

A contract between the Council and Northwest Resources Analysis (Bob Stokes) was signed on June 17, 1982 calling for an analysis of known limited entry systems and their ability to achieve the described objectives. The Council asked for a detailed study of the fishermen's share system. The study emphasizes that system because it was requested in the initial Fishermen's Conference Board request to the Council and because less is known about that system than other limited entry systems. Limitations on individuals or boats have been in existence for some time and their advantages and disadvantages are relatively well known. The share system has not been used for a fishery of any magnitude, although British Columbia intends to implement it for halibut in 1983.

The contractor, Northwest Resources Analysis, has been working closely with an industry steering group, soliciting their advice on the direction his study should take and what options to consider. The steering group consists of representatives of the major fishermen's organizations involved in the halibut fishery as well as representatives from the Council.

More details on that study and its current status are included in Attachment 3, an excerpt from the NPFMC Newsletter of August 1982.

The contractor finished an interim report on program design titled "Halibut Limited Entry Study Program Design" in November 1982. Copies of that study are available at the Council office. We expect the contractor's final report to be available for review at the Council meeting in February or March. When that report has been accepted by the Council it will be available for public distribution. The Council will then decide if they want to go ahead with limited entry and, if so, specify what system or systems they want to send to the public for review and comment. Prior to that decision the contractor will hold informational presentations on his study in Sitka, Seattle, and Kodiak.

If the Council decides to develop a limited entry system, there will be an extended public comment period with hearings in numerous communities in Alaska and in Seattle. Following those hearings the Council will decide what system to develop, complete development of the system, and ask the Department of Commerce through the National Marine Fisheries Service to implement it. It is doubtful that any system could be in place before late 1984.

Billing Code 3510-22

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

December 29, 1982

This Draft supersedes all others in circulation before this date.

[Docket No.            ]

50 CFR Part 301

Pacific Halibut Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA proposes a rule imposing a moratorium on the entry of certain fishermen into the halibut fishery in waters under U.S. jurisdiction in the northern Pacific Ocean (international Pacific Halibut Commission management areas 2C and 3), and that part of the Bering Sea and Aleutians (management area 4) south of 56° N. latitude. The proposed rule would forbid any person to harvest and sell halibut for commercial purposes from those waters from May 1, 1983, through December 31, 1985, who had not lawfully harvested and sold halibut from those waters between January 1, 1978, and December 31, 1982. This action is necessary to prevent a rush of new participants from entering the fishery in hopes of obtaining rights under a limited entry system which is being considered by the North Pacific Fishery Management Council.

DATES: Comments on the proposed rule must be received on or before [insert date 30 days after publication in FEDERAL REGISTER].

ADDRESS: Comments on the proposed rule should be sent to Jim Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510. (Please see request for comments in SUPPLEMENTARY INFORMATION, below). Copies of the initial regulatory flexibility analysis of this action are available at the same address.

FOR FURTHER INFORMATION CONTACT: Jim Branson, 907-274-4563.

SUPPLEMENTARY INFORMATION:

Background

In recent years, the fishery for Pacific halibut (Hippoglossus stenolepis) off the coasts of Alaska and the Pacific Northwest has witnessed a large increase in the number of participating fishermen despite the fact that halibut stocks during this time have been at depressed levels of abundance. This has required that halibut fishing seasons in these areas be restricted to periods of as little as five days per year. The resulting combination of many participants, a depressed resource, and short seasons has had a number of undesirable effects:

(1) The concentration of halibut fishing effort in very short periods of time each year may result in overharvesting of stocks that happen to be on the fishing grounds during those periods, while leaving underutilized other stocks that are on the grounds at other times of the year.

(2) For the great majority of participants, the halibut fishery no longer generates sufficient income to earn a significant part of their livings. (For some participants, this has had the effect of encouraging their diversification into other fisheries.)

(3) Fresh halibut, which is superior to the frozen product, is available to consumers only during the few weeks of commercial halibut seasons.

In order to address these problems, the North Pacific Fishery Management Council (Council) is investigating the establishment of a limited entry system for the northern Pacific halibut fishery. Major goals of this system would be the extension of the halibut fishery over a longer period of the year, and the encouragement of voluntary arrangements among current participants that would enable some of them to earn a major portion of their income from halibut fishing, perhaps through the trading of authorized harvest shares. The establishment of such a system is authorized by § 5(c) of the Northern Pacific Halibut Act of 1982 (the Act), Pub. L. 97-176, 16 U.S.C.773 et seq.

It is feared that the prospect of a limited entry system will cause substantial numbers of people with no previous participation or stake in the fishery to consider entering the fishery for the first time, solely in the hope of gaining a financially valuable right in the fishery under any limited entry system which might be adopted. A sudden influx of new participants during the period prior to implementation of a permanent limited entry system would have several undesirable effects:

(1) It would allow an unlimited increase in pressure on the halibut

resource;

(2) It would allow unlimited reductions in the average harvests of individual participants and hence reductions in per-vessel earnings;

(3) It would increase the number of individuals whose participation in and dependence on the fishery would have to be taken into account in the establishment of a limited entry program, and whose participation in the fishery might have to be terminated;

(4) It would result in additional and excessive investment in vessels and gear, much of which might have to be involuntarily retired in the establishment of an effective limited entry program.

In order to mitigate these undesirable results (particularly the third and fourth), the Council, under the authority of § 5(c) of the Act, has developed a proposed rule which would impose a moratorium on entry into the northern Pacific halibut commercial fishery; it is expected that the effective date of the moratorium will be May 1, 1983 (prior to opening of the 1983 halibut season). Under this moratorium (which applies to fishing in the fishery conservation zone, the U.S. territorial sea and internal waters off the coasts of Alaska), no person could harvest and sell halibut for commercial purposes in International Pacific Halibut Commission (IPHC) management areas 2C and 3, and in that part of IPHC management area 4 south of 56° N. latitude, unless that person had lawfully harvested halibut for commercial purposes from those waters and sold that halibut, reporting the sale in his name as required by State or Federal law, between January 1,

1978, and December 31, 1982. A person would be considered to have harvested halibut lawfully from those waters if that person has served as master or crew aboard a vessel there at a time when that vessel harvested halibut.

If the halibut so harvested was sold, any person considered to have harvested that halibut would be considered to have sold it if the sale of the halibut was reported to the extent required by State and Federal law, and such sale lawfully recorded in the name of that person on the document of sale (State fish ticket or equivalent) required by law. The moratorium would not apply to that portion of area 4 north of 56° N. latitude in order to implement a provision of § 5(c) of the Act authorizing the Council:

to provide for the rural coastal villages of Alaska the opportunity to establish a commercial halibut fishery in areas in the Bering Sea to the north of 56 degrees north latitude during a 3 year development period.

The moratorium would expire at midnight on December 31, 1985. By that time it is expected that the Council will have developed the permanent limited entry system and that system will have been implemented; or that the Council will have determined that a permanent limited entry system should not be developed.

The fact that a person has obtained a State or IPHC license or permit to fish for or to sell halibut would not affect the application of the moratorium to that person. Unless a person met the criteria for participation in the fishery established by the proposed rule, that person would be forbidden to harvest halibut in the area specified and to sell that halibut, even if he had obtained all necessary permits.

It should be noted that the Council has not yet determined whether a limited entry system should ultimately be adopted, or what form any such system

might take. In view of the Council's desire to avoid imposing unnecessary interim constraints on the fishery, the proposed moratorium allows every current participant, whether master, crew member, or owner of vessels or gear, to continue to participate in that current capacity. New masters or crew members may be employed in the fishery, and investment in vessels and gear may continue. However, it should be noted that the rule requires that an individual qualified to harvest and sell halibut for commercial purposes must be aboard each vessel engaged in the commercial harvest of halibut; moreover, the sale of such halibut from such vessel must be reported and recorded in the name of that individual. Furthermore, it is emphasized that any new participation and investment is undertaken at risk, since imposition of a limited entry system is under active consideration.

The prohibition imposed by this rule, then, would be against the harvest of halibut within the area specified and the sale of such halibut, by those who have not harvested halibut within that area and sold such halibut during the qualifying period. Any scheme to evade this rule would fall within the prohibition of the rules.

Request for comments

The Council and Secretary seek public comment on the proposed moratorium. Comments should be submitted to the Council at the address noted above; the Council will transmit copies of all comments received to the Secretary for his consideration in this rulemaking proceeding.

Comments on the following issues would be particularly helpful in assuring that the moratorium meets the requirements of the Act:

- (1) Is the allocation of fishing privileges under the proposed

moratorium fair and equitable to all fishermen? Are any hardships created? If so, what is their nature and extent? What, if any, exceptions to the specified criteria should be made to ameliorate those hardships?

(2) Is reliance upon documents of sale (fish tickets or equivalent documents) as sole indicators of participation in and dependence on the fishery reasonable, fair, and equitable? Does the use of this criterion for participation under the moratorium create any hardships? If so, what other indicators should be examined?

(3) The Council has selected a five-year qualification period, 1978 - through 1982, as indicative of present participation in the fishery. Is this approach reasonable, fair and equitable?

(4) Does the proposed moratorium take account of historical fishing practices in, and the economics of, the fishery? Will it raise any question regarding the capacity of vessels used in the fishery to engage in other fisheries? If so, what is that capacity?

(5) Might the proposed moratorium cause any individual, corporation, or other entity to acquire an excessive share of the halibut fishing privileges?

In developing the proposed moratorium, the Council considered and rejected alternative approaches, including a moratorium on entry by vessels. Comments on such alternatives are welcome, however.

It must be emphasized that the Secretary has not made a final determination that the moratorium as proposed can be approved under the Halibut Act's criteria; comments are being solicited to enable the Secretary to make the necessary determinations. Thus, commenters are urged to make as comprehensive a review of the proposed regulation as possible. Final rules to implement the moratorium will be influenced by comments received on the proposed rule; comments received may lead to adoption of final rules that differ from this proposal or to withdrawal of the rulemaking.

It is expected that the Council and Secretary will hold public hearings on this proposal following publication of the proposed rule in the FEDERAL REGISTER. The time(s), date(s) and place(s) of such hearings will be subsequently announced.

#### Classification

The NOAA Administrator has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291, because it will not result (1) in an annual effect on the economy of \$100 million or more; (2) in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Among alternatives considered, this rule involves the least net cost to society. By discouraging potentially unprofitable investment in and entry into the halibut fishery, and by reducing the number of persons whose participation will have to be considered

in the implementation of any limited entry system, this proposed rule can be expected to yield a net benefit to society.

An initial regulatory flexibility analysis has been prepared on this proposed rule under the Regulatory Flexibility Act, 5 U.S.C. §601 et seq. This document analyzes alternative approaches to the moratorium, including the proposed action, the inclusion under the moratorium of all prior participants and vessel owners, a prohibition against the entry of new vessels into the fishery, and a continuation of the status quo (no moratorium). The analysis presents a range of impacts on individual entities based on various numbers of participants that might be active in the fishery. On the one extreme, if approximately 15 percent of the 3,041 participants who were active in 1981 temporarily withdraw from the fishery for economic considerations and the remaining 2,500 individuals actually fish during the moratorium, average earnings per vessel would be expected to increase by about 21 percent from the average \$6,873 earned in 1981 (assuming static quotas and prices). On the other extreme, if all of the 6,481 "qualified" individuals actively participate in the fishery, average earnings per vessel could decline about 53 percent to just over \$3,000 per vessel. Regardless of how many "qualified" individuals participate, the analysis shows that a substantial risk exists that average vessel performance would be even more severely affected absent some mechanism (the moratorium) to reduce speculative entry into the fishery. The analysis concludes that among the alternatives considered, the proposed rule will have the least economic impact on small entities. Copies of the initial regulatory flexibility analysis may be obtained from the address noted above.

This proposed rule does not contain an information collection requirement or involve any Federal agency in the collection of information for purposes

of the Paperwork Reduction Act of 1980.

An environmental assessment on this proposed rule was filed with the Environmental Protection Agency on \_\_\_\_\_. Based upon this assessment, the Assistant Administrator for Fisheries, NOAA, has determined that this proposed rule does not involve a major Federal action significantly affecting the quality of the human environment and requiring an environmental impact statement under § 102(2)(C) of the National Environmental Policy Act.

The Council has determined that this proposed rule will be carried out in a manner that is consistent to the maximum extent practicable with the Alaska Coastal Management Program, in accordance with § 307 of the Coastal Zone Management Act of 1972 and its implementing regulations.

List of Subjects in 50 CFR Part 301

Fish, Fisheries, Fishing, International organizations.

DATED:

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National Marine Fisheries Service

## PART 301 - PACIFIC HALIBUT FISHERIES

For the reasons set out in the preamble, 50 CFR Part 301 is proposed to be amended as follows:

1. The authority citation for Part 301 is revised to read as follows:

AUTHORITY: TIAS No. 9855; 16 U.S.C. 773-773k.

2. A new §301.15 is added to read as follows:

§ 301.15 Moratorium on entry into the Pacific halibut fishery.

(a) Criteria for participation.

(1) From 12:01 A.M., Alaska Standard Time, on May 1, 1983, until 11:59 P.M., Alaska Standard Time, on December 31, 1985, no person may harvest and sell halibut for commercial purposes from the northern Pacific Ocean or that part of the Bering Sea and Aleutian Islands area south of 56° N. latitude unless that person had lawfully harvested and sold halibut for commercial purposes from those waters and reported such sale to the extent required by law, at any time between January 1, 1978, and December 31, 1982.

(2) An individual qualified to harvest and sell halibut for commercial purposes under paragraph (a)(1) of this section must be on board each vessel engaged in the commercial harvest of halibut in the waters described in paragraph (a)(1) of this section, and the sale of halibut so harvested must be recorded in the name of that individual as required by law.

(3) For purposes of this section--

(A) A person shall be considered to have harvested halibut for

commercial purposes from the waters referred to in paragraph (a)(1) of this section if that person served as master or crew aboard a vessel at a time when that vessel harvested halibut for commercial purposes from those waters; and

(B) Any person who is considered to have harvested halibut under paragraph (a)(3)(A) shall be considered to have sold that halibut for commercial purposes if sale of that halibut was reported to the extent required by law, and such sale was lawfully recorded in the name of that person on the document of sale required by law.

(b) Definitions. The terms used in this section have the following meanings:

(1) Bering Sea and Aleutian Islands area -- means waters under the jurisdiction of the United States within management area 4 (as defined in section 301.1 of this part).

(2) Halibut -- means Hippoglossus stenolepis;

(3) Northern Pacific Ocean -- means waters under the jurisdiction of the United States within management areas 2C, 3A and 3B (as defined in section 301.1 of this part).

(4) Waters under the jurisdiction of the United States -- means the internal waters and territorial sea of the United States and the fishery conservation zone established by the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq.

(c) Relationship to other licenses and permits. The requirements of this section are in addition to all other requirements imposed by law for

participation in the halibut fishery. The issuance to a person of a State or International Pacific Halibut Commission license or permit purporting to authorize fishing for or sale of halibut during the moratorium period shall neither excuse nor constitute evidence of that person's compliance with paragraph (a)(1) of this section.

OPPOSING THE IMPOSITION OF A HALIBUT MORATORIUM AND THE ESTABLISHMENT  
OF A SHARES SYSTEM FOR HALIBUT IN ALASKA.

SJR 7

MULCAHY

The North Pacific Fishery Management Council has recommended imposition of a moratorium on Alaska's halibut fisheries and is considering recommending the establishment of a share-quota system for the allocation of the fishery resource. The moratorium would exclude fishermen who have not participated since 1978.

SJR 7 urges the Secretary of Commerce and the administrator of the National Oceanic and Atmospheric Administration (NOAA) to disapprove the imposition of a moratorium and any share-quota system, and instead consider other management tools (harvest levels, size and sex limits, gear restrictions, area closures).

SJR 1

HALIBUT MORATORIUM TELECONFERENCE  
BELTZ ROOM, 10:00 AM, 1/26/83

Sandpoint, Unalaska, St. Paul, King Cove, Cordova, Seattle, Juneau were tuned in.

Background from Council moratorium issue/limited entry undecided. Study was concentrated on share system because the least was known about it, not because it's been decided it's the best option.

Concerns of testifiers:

- villagers don't have many choices for employment; villages economically dependent on fishery
- some villages in Aleutians, Pribiloffs won't qualify for permits cause halibut fishery is recent development
- not all areas of state should be under same laws cause fishery isn't being impacted the same in all areas.
- if limited entry, children of fishermen relegated to being crew until parents retire, cause can't get own permits.
- Unalaska still developing fishery - small boat harbor put in last year
- want opportunity to fish the local resources
- necessary to limit number of applicants but oppose limiting catch (Cordova)
- out-of-state fishermen don't contribute to our economy
- areas north of 56° would be excluded from moratorium to allow them to gain experience in the halibut fishery. In St. Paul, concerned all other schooners will go there and deplete the stock.
- unfair to limit U.S. fishermen while allowing in foreign fleets ("incidental catch")

1982 statistics (halibut fishery catch)

2,482 Alaska boats caught	13,450,000 lbs.
218 Washington	8,265,000 lbs.
71 other areas	1,500,000 lbs.

("Obviously, Alaska boats smaller.")

In Anchorage, formed Alaska Halibut Fishermen, Inc. Feel haven't had enough time to completely analyze info./comment. Think Commission should have sent moratorium paper to each halibut fisherman in Alaska. Urge extension on moratorium decision.

Kodiak fisherman from Seattle says has been a large increase in halibut fishery in Bering Sea last few years. Crab supply has been depleted by "over-fishing" - concerned same will happen to halibut over time. "Limited entry can secure a stable economic base for your community." Council feels moratorium could conceivably lengthen the halibut season.

For my info.:

Proposed moratorium would be for 3 years. (If hadn't fished between 1978-1982, could<sup>not</sup> fish under moratorium.) Boat size limited to size used then also. Share quota is a form of limited entry. This method would limit your catch based on your previous catch.

NOAA (Dept of Commerce) wants regulation printed in Federal Register in March. Then 45-day comment period. Then becomes law. Cooling off period of 30 days.

*Sandra*

Halibut season begins June

JAN 25 1983

# KODIAK ISLAND BOROUGH

Telephones 486-5736 - 486-5737 — Box 1246

KODIAK, ALASKA 99615

January 21, 1983

Governor Bill Sheffield  
Office of the Governor  
Pouch A  
Juneau, Alaska 99811

Dear Governor Sheffield:

Enclosed is a copy of my testimony before the North Pacific Fisheries Management Council (NPFMC) in Kodiak on January 18, 1983 in opposition to the proposed moratorium for the Alaska halibut fishery. If the Secretary of Commerce and NPFMC should concur and approve the moratorium it will be a new major policy decision adversely affecting the future of all our fisheries. The public testimony of Kodiak fishermen was unanimous in opposition to the moratorium. It is inconceivable to me that the Reagan administration and the State of Alaska could go along with such a program of bureaucratic, economic regulation of our industry.

The Kodiak Island Borough has gone on record against the shares-quota system with the enclosed Resolution No. 82-38-O of March 1982. We will be considering an updated resolution at our February 3, 1983 meeting in opposition to the moratorium.

I feel this upcoming decision concerning the moratorium will be such a major policy decision by your administration that I hope you are able to give personal direction. It's not just a matter of how many halibut fishermen are for or against it, but rather what will be the future of all of Alaska's fisheries.

I appreciate any attention you might give to this matter. This decision will affect the future of all our open access fisheries.

Sincerely,



R. David Herrnsteen  
Mayor  
Kodiak Island Borough

RDH:cmk

Enclosures

cc: Senator Bob Mulcahy, Alaska State Senate  
Representative Fred Zharoff, Alaska House of Representatives  
Senator Jay Kertulla, President of the Senate  
Representative Joe Hayes, Speaker of the House  
Bettye Fahrechamp, Senate Resources Chairman ✓  
Representatives John Rignstad and Richard Shultz,  
Co-chairmen, House Resources  
Don Collinsworth, Acting Commissioner, ADF&G

KODIAK ISLAND BOROUGH  
RESOLUTION NO. 82-38-R

A RESOLUTION OF THE KODIAK ISLAND BOROUGH ASSEMBLY OPPOSING THE  
SHARE-QUOTA SYSTEM OF ALLOCATION OF FISHERIES RESOURCES.

WHEREAS, the North Pacific Fishery Management Council on March 25, 1982 enacted a moratorium on new entrants to the Alaska halibut fishery, and directed that a shares-quota system of allocation of the fishery be prepared for the 1983 season, and

WHEREAS, the United States Senate recently passed SB 2244 giving the Council the necessary authority to enact such a system, and

WHEREAS, the bill is expected to pass the U. S. House of Representatives without any public hearings, and

WHEREAS, the proposed share system will allocate permanent fishing shares consisting of a fixed percentage of the halibut to individual fishermen based on their average harvests of the past three years as a percent of the total harvest, and

WHEREAS, it is intended that these shares may thereafter be bought, sold or leased by the initial shareholders, and that individual shareholders may purchase additional shares from willing sellers up to an aggregate of two percent, or possibly higher, of the total quota per shareholder,

WHEREAS, it appears inevitable that these shares will concentrate to fewer and fewer people, theoretically as few as 50 if two percent is the maximum allowed per person, and

WHEREAS, the annual value of the halibut harvest in Alaska approaches \$500,000,000 to the fishermen, and

WHEREAS, it has been conservatively estimated that the value of halibut shares could be three to five times the value of their annual allowed catch, or about \$250,000,000, creating an undeserved windfall to the initial shareholders, and an even greater burden to future potential shareholders, and

WHEREAS, this halibut share-quota system is being used as a precedent and prototype for other Alaskan fisheries by state and federal fishery managers, and

WHEREAS, under the shares system a fisherman's catch will be dependent solely on the number of shares he owns (his wealth) rather than on his abilities as a fisherman, and

WHEREAS, such a system will concentrate the increasing wealth of our fisheries into fewer and fewer hands, creating great inequities of opportunity in our fishing communities, particularly among the young, and

WHEREAS, the share system greatly hinders fishermen from being able to diversify among various fisheries, thus depriving them of a key element for success, and

WHEREAS, Alaska fishery managers already have an adequate variety of regulatory tools such as harvest levels, sex and size limits, gear restrictions, area closures, et cetera and our fisheries are generally very healthy biologically, and

WHEREAS, the fishing industry is too vital to the people and economy of Kodiak and Alaska to risk all the inherent dangers and inequities of such an irreversible, unnecessary management plan as the shares system, and

WHEREAS, the Kodiak Island Borough considers the rich, abundant fisheries resources in the waters surrounding Kodiak Island and Alaska to be a renewable PUBLIC resource which serves a primary purpose, along with helping feed people around the world, of sustaining the livelihoods and economy of the people and communities of our island and state, and

WHEREAS, the idea of permanently turning over the ownership of our public resource to a few private hands is repugnant to the fishing industry and people of Kodiak.

NOW, THEREFORE, BE IT RESOLVED that the Kodiak Island Borough is opposed to the share-quota system of allocation of any fisheries resources in Alaska, and that this resolution be communicated to the following people:

The President  
Ronald Reagan

The Honorable Jay S. Hammond  
Governor of Alaska

The Honorable Ted Stevens  
United States Senate

The Honorable Frank H. Murkowski  
United States Senate

The Honorable Edward A. Kennedy  
United States Senate

The Honorable Don Young  
The United States House of Representatives

The Honorable John B. Breaux  
The United States House of Representatives

The Honorable Gerry E. Studds  
The United States House of Representatives

NPFMD, Chairman, Clem Tillion

Alaska Legislature

Messrs. H. A. Boucher, Steve Cowper, Tom Fink, Oral E. Freeman, Bruce J. Lemke, Terry Miller, Rick Reakoff, Bill Sheffield, Edward J. Vincent, Brad Bradley, Mike Colletta, Stephen McAlpine Charles H. Parr, Terry Stimson, David A. Rose

All Alaska Cities

PASSED AND APPROVED this 30th day of April, 1982 by  
the Borough Assembly.

KODIAK ISLAND BOROUGH

By R. David Herrnsteen  
Borough Mayor R. David Herrnsteen

ATTEST:

By Shirley Miller, CMC  
Borough Clerk

Aycs 7 Nays 0

TESTIMONY TO THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL  
REGARDING  
A MORATORIUM ON NEW ENTRIES INTO THE ALASKA HALIBUT FISHERY FOR 1983

R. David Herrnsteen  
Mayor  
Kodiak Island Borough

The Kodiak Island Borough encompasses the Kodiak Island group extending from the Barren Islands to the Trinity Islands and has a population of over 12,000 people. In 1981, and certain other previous years, the City of Kodiak ranked as the number one fishing port in the United States as measured by dock side value of fish landed. As our economy is dependent almost solely on fishing, we are concerned that our fish are properly managed biologically in our fisheries. In addition, as there is a natural turnover of participants in any fishery - some people get out - while new people get in. I am concerned that all our local residents have equal opportunity for present and future employment in our fisheries.

The Kodiak Island Borough's largest responsibility is education - the Assembly is responsible for building and funding the schools. We have an extensive program of fisheries education in our schools, including on-the-water experience for our high school students. I am concerned that our young people leaving school have a chance to find their niche in the fisheries, if they so desire. Some students try fishing halibut to help fund their college education - this moratorium would not allow new students to have this opportunity.

The Kodiak Island Borough includes six villages, five of which are second-class cities. Employment opportunities other than fishing are particularly few in the villages. There have recently been federal cutbacks in the various social and jobs programs. These villages have gone on record, through the Kodiak Area Native Association, as being opposed to the halibut moratorium. It's hard to have a resource in your front yard, watch others making good money, and not be able to have a crack at it. That's not fair and equitable.

Having lived in Alaska 22 years, and fished in Kodiak 17 years, I've seen where many times if a person gets quite comfortable financially, and particularly can make it in a short period of time, often they will tend to move Outside to a condo in Hawaii, a house in Seattle, or a farm in Missouri or Vermont (for example). That's their privilege, and I have no gripes if they are able to do it because they are good fishermen and can out-compete the others. But when they are able to do this because the government has restricted competition and allowed only a select few to profit from the increasing wealth of our fisheries, at the expense of employment opportunities of our local people, that's not equitable.

The workings of an economy are often very nebulous, it's hard to exactly describe on paper in dollars and cents, but it is still very real. Kodiak's economy over the past 15 years has been a slow, steady growth. After the king crab boom in the mid 60's, and the simultaneous reconstruction of Kodiak after the tidal wave of 1934 subsided, our economy had a pretty healthy growth. As the fisheries went up and down with the natural fluctuations of the fish stocks and fish prices, many fishermen moved back and forth among

fisheries. Those fishermen who stuck with one fishery benefited from the others having the ability to move out and into a more prosperous fishery.

In the late 60's and early 70's many halibut fishermen, particularly from Seattle, left the depressed halibut fishery and moved into the Alaska crab fishery. When the king crab fishery slumped in the early 70's many crabbers became combination boats and switched to the booming shrimp fishery; as shrimp declined in the late 70's many shrimpers switched to crab. And as salmon seasons have gone up and down over the years, many salmon fishermen switch back and forth among crab, shrimp and halibut to make a living.

Some areas of Alaska don't have as much continental shelf and aren't as blessed with the abundance of fisheries we have here, but we are generally an open town - people come here from Oregon, Washington, Southeast Alaska, Cook Inlet, and Westward Alaska to fish - some only seasonally, some move here. Some come only when they have a poor season at home. Usually we don't enjoy seeing the Outsiders who come and go, but it's been our freedom to move around and diversify that's been the secret of our success.

Certainly this system of mostly free entry has its problems. When you have a slump after a boom, it takes time for boats to move out of a fishery and into something else. And there are times when management of the fishery has to be more sophisticated and cautious. And it means the fisherman has to be cautious as a businessman at times. If he expands too heavily during a boom and isn't prepared for increased competition, or for a slump, he can feel a pinch. Or if he gets too high expectations during the "easy money" that occasionally accompanies a boom, he'll feel a shock when the reality of normal times hits. It's important for a fisherman to remember during a boom, or when he's "on a roll", that his earnings aren't normal or likely to continue that high.

If limited entry had been put on all our fisheries 10 or 12 years ago, I feel it would have been a disaster to the town as a whole - socially and economically. If we had locked everybody into their fisheries back when most crabbers fished just crab, and shrimpers just shrimp, etc. we would now probably have just a group of family dynasties harvesting our fish, and with many of them moving Outside. I think the town would have frozen or shrunk in size. You wouldn't have seen, every year, the new homes and steady expansion. It would have been feast or famine for many fishermen.

The price of halibut climbed from \$.18 in 1967 to as high as \$2 a pound, shrimp went from \$.04 to \$.28, king crab went from \$.10 to \$4.30, tanner crab went from \$.10 to \$1.80. Even though the quotas and harvests have fluctuated greatly, the overall seafood harvest values have climbed to a record \$130 million value to fishermen in 1981 in Kodiak. Instead of new people, new jobs, new blood and enthusiasm, you would have had a static or even declining number of men. It's very possible that the capital costs would be just as high because of write-offs, just fewer people dividing the pie. It's very possible that except within the family, crew jobs would have become salaried under some of the limited entry schemes.

Now I'm not eager to see how many people we can bring to Kodiak or Alaska, but we do need jobs for our young people. Many of our businesses and people's dreams are dependent on some growth. What concerns me most is that we have some fairness and equity in the allocation of the wealth of our fisheries.

Drive through our high school parking lot and see how many brand new 4-wheel drive pickups you see. Last summer was a slow season, so the number may be down a little. Some kids are able to afford them because they might fish with their dad who may be an exceptional fisherman. But if limited entry had been put on all fisheries 12 years ago, many kids would have those trucks solely because their dad happened to have received one of those lucky permits 12 years ago. We would have developed a privileged class, an elitest society that was determined by the roll of the dice - who was fishing when limited entry was imposed. I don't think that's healthy for society, or what Alaska and fishing is all about.

My own personal case is typical. In 1967 they closed the Kodiak salmon season for almost the entire summer, so I spent four months on a halibut schooner. For the next four years I continued to make halibut trips along with fishing on crab, shrimp and salmon boats. Halibut prices were down (as low as \$.17/lb.) and stocks were slumping (we fished 26 days on a highline schooner for 30,000 pounds in 1971 - my crew share was \$90 for the month). I crewed for eight years with many highliners in all four fisheries so that when I got my own boat I could be diversified.

In 1974 my wife and I made the big jump and bought our own 42 foot boat. For two years we fished entirely shrimp, then we branched into crab. In 1978 we sold our first boat and bought a slightly larger boat. When shrimp declined we tendered salmon along with crab fishing. Last year because of the salmon price slump we did not tender, so fished just crab - including dungeness.

Even though I haven't fished shrimp since June of 1978, I am still a shrimp fisherman and dependent on the shrimp resource to make my living. Even though I haven't fished halibut since July 1971 and then only as a crewman, I am still a halibut fisherman, and consider myself dependent on the halibut fishery. I've spent more hours at the roller, gaffed more halibut and baited more hooks than a large number of the fishermen who could qualify to fish under the proposed moratorium the next three years. I have a vessel and a reel that are suited for halibut. All of the skills I've developed as a skipper in finding crab and shrimp and running my business are applicable to finding halibut. The halibut, cod and pollock stocks are in an upward cycle, and are also preying heavily on crab and shrimp stocks. I am dependent upon my ability to move my business along with nature's cycles in order to make a living. The guidelines of the proposed moratorium are arbitrary and capricious. To exclude me because I never fished halibut since January 1, 1978 is not fair and equitable.

The Council needs to look at fisheries as a group and over time, taking into consideration dynamic environmental and market conditions. It is natural and healthy economically that as the halibut stocks and markets started booming in the late 70's, that participation increased. The same boats I crewed on in the early 70's, averaging a crew share of maybe \$1500 for a three week trip, by the late 70's were crewsharing \$1000 a day and better - \$60,000 man-shares in much shorter seasons. Instead of working off-season winter jobs, as many men did in the earlier years, many were able to lay back in the winters. There is nothing wrong with making big money- that's the thrill of fishing - that's the

dream that keeps you going. It's only wrong when you feel you deserve big money all the time, and need to exclude others in order to achieve it.

Obviously the Council's own actions have been a very large impetus in the increased fleet. Ever since 1978, the Council has been setting "cut-off dates for eligibility" for halibut limited entry - setting up work groups, funding studies, etc. All of these actions have helped create the often frantic rush to fish halibut, even if at a loss. If this moratorium should be approved, it will be a major government policy and will create a new rush to participate in all fisheries not under a limited entry system. The State of Alaska's enthusiasm for extending limited entry beyond salmon and herring definitely cooled in the late 70's and many Kodiak fishermen once again started making their decisions on when and what to fish, purely on business and personal reasons. A new government policy like a halibut moratorium would have a very major effect on participation in the other fisheries. It would start another frantic rush, would increase our costs by forcing us to participate unprofitably in certain fisheries so we could qualify for future permits. In addition, it would decrease our individual earnings because of the added participation. All these negative reactions would be very real and are not just imaginary. It would be an extremely unwise action for our industry. You cannot act on the halibut fishery without affecting the rest of the industry. The harvesting sections of our industry are just as interrelated as the fish in the ocean.

It is very likely that if future limited entry would be put to rest and the halibut moratorium be turned down, there would be less participation in the halibut fishery than if the moratorium would be enacted. A three year moratorium would bring people out of the woodwork who had already dropped out of the fishery, just so they could increase their qualifications for future permits, and wisely so. The Council has been saying periodically since 1978 that "next year's" participation won't count. So why should the Council be believed now if the Council should say participation during the next three years won't count. More than twice as many people (6,481 individuals) will be eligible to fish under the proposed moratorium than ever fished in any one year (2,800), and it seems certain that a large number of those who dropped out will re-enter the fishery, largely in the hopes of financial gain from ownership of a future share or permit. In addition, many of those who fished the past year or two, but were not financially successful and were considering quitting, will have a renewed incentive to remain active in the fishery during the moratorium.

A moratorium has such a nice allure to it. You kick out the fewest and postpone the disagreements about the various limited entry systems. However, during the enactment of Alaska's limited entry law (and ever since) government lawyers have told us that a moratorium is the most unconstitutional of all limited entry alternatives because it creates such a closed class without a means of entry. The halibut resource is in the best shape its been in decades and I believe there is no way you can justify "protection of the resource" as reason for a moratorium.

Certainly the moratorium will appeal to the fear all fishermen have of competition. It appeals to the greed in us. For the hobby or vacation halibut fisherman who has regular year-round shore-based jobs its real nice. But watch out - how can they be considered dependent on the fishery. For the successful fisherman who has fished mainly or solely halibut and had a taste of the big season, he thinks he'll be eliminating future competition.





# Alaska State Legislature

## Senate

### Resources Committee

Official Business

Senator Bettye Fahrenkamp  
Chairman

Pouch V  
State Capitol  
Juneau, Alaska 99811

February 11, 1983  
3:05 p.m.

#### Senate Resource Committee Hearing

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#### MEMBERS PRESENT

Senator Ziegler  
Senator Eliason

Senator Paul Fischer  
Senator Vic Fischer  
Senator Kerttula

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SJR 10 -- Requesting rejection and renegotiation of the proposed US-Canada salmon interception treaty. Under the terms of a draft treaty between the US and Canada, Alaskan fishermen would be required to substantially reduce overall catches of chinook salmon. The resolution requests the Governor to reject the proposed treaty, requests the Alaskan Senate delegation to prevent the treaty's ratification and requests the Secretary of State to reopen treaty negotiations.

Senator Eliason moved and asked unanimous consent that Committee Substitute for SJR 10 be moved from committee with individual recommendations. There were no objections.

SJR 7 -- Relating to the imposition of a halibut moratorium and the establishment of a shares system for halibut in Alaska. This resolution was introduced in response to a recommendation by the North Pacific Fishery Management Council that a moratorium and possible share-quota system be imposed on Alaska's halibut fisheries. The resolution calls on the Secretary of Commerce and the NOAA Administrator to seriously consider the views of Alaskans on the NPFMC's recommendations and to disapprove any share-quota system for halibut in Alaska.

7 Senator Eliason moved and asked unanimous consent that Committee Substitute for SJR ~~10~~ be moved from committee with individual recommendations. There were no objections.

Meeting adjourned 3:15 p.m.



Official Business

# Alaska State Legislature

## Senate

RESOURCES SUBCOMMITTEE ON FISHERIES

Pouch V  
State Capitol  
Juneau, Alaska 99811

February 10, 1983

TO: Senator Bettye Fahrenkamp, Chairman  
Senate Resources Committee

FROM: Senate Resources Subcommittee on Fisheries

SUBJ: SJR 7

The subcommittee has taken testimony and recommends replacing SJR 7 with CS SJR 7(Res) and reports CS SJR 7(Res) back to the committee as a whole with the following recommendations.

Members

Recommendation

Senator Mulcahy	<i>Bob Mulcahy</i>	<i>No Pass</i>
Senator Eliason	<i>Don Eliason</i>	<i>Do pass</i>
Senator Gilman	<i>Don Gilman</i>	<i>No Pass</i>

TREATY BETWEEN THE GOVERNMENT OF CANADA  
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
CONCERNING PACIFIC SALMON

(Negotiator's Draft of December 1982)

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TREATY BETWEEN THE GOVERNMENT OF CANADA  
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
CONCERNING PACIFIC SALMON

The Government of the United States of America and the  
Government of Canada,

Considering the interests of both Parties in the  
conservation and rational management of Pacific salmon stocks  
and in the promotion of optimum production of such stocks;

Recognizing that States in whose waters salmon stocks  
originate have the primary interest in and responsibility  
for such stocks;

Recognizing that salmon originating in the waters of  
each Party are intercepted in substantial numbers by the  
nationals and vessels of the other Party, and that the  
management of stocks subject to interception is a matter of  
common concern;

Desiring to cooperate in the management, research and  
enhancement of Pacific salmon stocks;

Have agreed as follows:

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Article I

DEFINITIONS

As used in this Treaty,

1. "enhancement" means man-made improvements to natural habitats or application of artificial fish culture technology that will lead to the increase of salmon stocks;
2. "fishery" means the activity of harvesting or seeking to harvest salmon;
3. "fishery regimes" means the fishing limitations and arrangements adopted by the Parties pursuant to Article IV, paragraph 6;
4. "interception" means the harvesting of salmon originating in the waters of one Party by a fishery of the other Party;
5. "overfishing" means fishing patterns which result in escapements significantly less than those required to produce maximum sustainable yields;

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6. "stocks subject to this Treaty" means Pacific salmon stocks which originate in the waters of one Party and

(a) are subject to interception by the other Party;

(b) affect the management of stocks of the other Party;

or

(c) affect biologically the stocks of the other Party;

and

7. "transboundary river" means a river that rises in Canada and flows to the sea through the United States.

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Article II

COMMISSION AND PANELS

1. The Parties shall establish a Pacific Salmon Commission, hereinafter referred to as "the Commission", to be composed of two national sections, a Canadian Section and a United States Section.
2. The Commission shall have legal personality and shall enjoy in its relations with other organizations and in the territories of the Parties such legal capacity as may be necessary to perform its functions and achieve its ends. The immunities and privileges which the Commission and its officers shall enjoy in the territory of a Party shall be subject to agreement between the Commission and the Party concerned.
3. The Commission shall consist of not more than eight Commissioners, of whom not more than four shall be appointed by each Party. Each Party may also appoint not more than four alternate Commissioners, to serve in the absence of any Commissioner appointed by that Party.

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4. The Commissioners and alternate Commissioners shall hold office at the pleasure of the Party by which they were appointed.
5. At the first meeting of the Commission one section shall select from its members a Commission Chairman, and the other section shall select from its members a Vice-Chairman, each of whom shall hold office for the calendar year in which the Treaty enters into force and for such portion of the subsequent year as the Commission may determine. Thereafter the Chairman and Vice-Chairman shall hold office for a term of twelve months and shall be selected by their respective sections. The section which selects the first Chairman shall be determined by lot and thereafter the offices of Chairman and Vice-Chairman shall alternate between the sections. If either office becomes vacant before the end of a term, the appropriate section shall select a replacement for the remainder of the term.
6. Each section shall have one vote in the Commission. A decision or recommendation of the Commission shall be made only with the approval of both sections.
7. Subject to the approval of the Parties, the Commission shall make such by-laws and procedural rules,

for itself, for the Panels established pursuant to paragraph 18, and for the committees established pursuant to paragraph 17, as may be necessary for the exercise of their functions and the conduct of their meetings.

8. The Commission may make recommendations to or advise the Parties on any matters relating to the Treaty.

9. Unless otherwise agreed by the Parties, the seat of the Commission shall be at New Westminster, British Columbia.

10. The Commission shall hold an annual meeting and may hold other meetings at the request of the Chairman or of either Party. The Chairman shall notify the Commissioners of the time and place of meetings. Meetings may be held at the seat of the Commission or at such other place as may be determined in accordance with the by-laws and procedural rules of the Commission.

11. Each Party shall pay the expenses of its own section.

12. The Commission shall prepare an annual budget of joint expenses and submit it to the Parties for approval.

The Parties shall bear the costs of the budget in equal shares unless otherwise agreed, and shall pay their shares as the by-laws may specify after the budget has been approved by both Parties.

13. The Commission shall authorize the disbursement of funds contributed by the Parties pursuant to paragraph 12, and may enter into contracts and acquire property necessary for the performance of its functions.
14. The Commission shall submit to the Parties an annual report on its activities and an annual financial statement.
15. The Commission shall appoint an Executive Secretary, who, subject to the supervision of the Commission, shall be responsible for the general administration of the Commission.
16. The Commission may engage staff or authorize the Executive Secretary to do so. The Executive Secretary shall have full authority over the staff subject to the direction of the Commission. If the office of the Executive Secretary is vacant, the Commission shall determine who shall exercise that authority.

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17. The Commission shall establish a Committee on Research and Statistics and a Committee on Finance and Administration. The Commission may eliminate or establish committees as appropriate.

18. The Commission shall establish Panels as specified in Annex I. The Commission may recommend to the Parties the elimination or establishment of Panels as appropriate.

19. The Panels shall provide information and make recommendations to the Commission with respect to the functions of the Commission and carry out such other functions as the Treaty may specify or as the Commission may direct.

20. In cases where fisheries intercept stocks for which more than one Panel is responsible, the appropriate Panels shall meet jointly to carry out the functions specified in paragraph 19. If the Panels cannot agree, each may make an independent report to the Commission.

21. Each Panel shall consist of not more than 6 members from each Party. Each Party may designate alternate Panel members to serve in the absence of any Panel member appointed by that Party.

22. Except as otherwise provided in the Treaty, paragraphs

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Article III

PRINCIPLES

1. With respect to stocks subject to this Treaty, each party shall conduct its fisheries and its salmon enhancement programs so as to:
  - (a) prevent overfishing and provide for optimum production; and
  - (b) provide for each Party to receive benefits equivalent to the production of salmon originating in its waters.
2. In fulfilling their obligations pursuant to paragraph 1, the Parties shall cooperate in management, research and enhancement.
3. In fulfilling their obligations pursuant to paragraph 1, the Parties shall take into account:
  - (a) the desirability in most cases of reducing interceptions;

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(b) the desirability in most cases of avoiding undue disruption of existing fisheries; and

(c) annual variations in abundance of the stocks.

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Article IV

CONDUCT OF FISHERIES

In order to facilitate the implementation of Articles III, VI and VII:

1. Each Party shall submit an annual report on its fishing activities in the previous year to the other Party and to the Commission. The Commission shall forward the reports to the appropriate Panels.
2. The Panels shall consider the reports submitted pursuant to paragraph 1 and shall provide their views to the Commission. The Commission shall review the reports of the Panels and shall provide its views to the Parties.
3. Each year the State of origin shall submit preliminary information for the ensuing year to the other Party and to the Commission, including:
  - (a) the estimated size of the run;
  - (b) the interrelationship between stocks;

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(c) the spawning escapement required;

(d) the estimated total allowable catch;

(e) its intentions concerning management of fisheries  
in its own waters; and

(f) its domestic allocation objectives whenever  
appropriate.

The Commission shall forward this information to the appropriate Panels.

4. The Panels shall examine the information submitted pursuant to paragraph 3 and report their views to the Commission with respect to fishery regimes for the following year.
5. The Commission shall review the reports of the Panels and shall recommend fishery regimes to the Parties.
6. On adoption by both Parties, the fishery regimes referred to in paragraph 5 shall be attached to this Treaty as Annex IV.

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7. Each Party shall establish and enforce regulations to implement the fishery regimes adopted by the Parties. Each Party, in a manner to be determined by the Commission, shall notify the Commission and the other Party of these regulations and shall promptly communicate to the Commission and to the other Party any in-season modifications.

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Article V

SALMON ENHANCEMENT PROGRAMS

1. Salmon enhancement programs that may be established by the Parties shall be conducted subject to the provisions of Article III.

2. Each year each Party shall provide to the other Party and to the Commission information pertaining, inter alia, to:

(a) operations of and plans for existing projects;

(b) plans for new projects; and

(c) its views concerning the other Party's salmon enhancement projects.

The Commission shall forward this information to the appropriate Panels.

3. The Panels shall examine the information and report their views to the Commission in light of the obligations set forth in Article III.

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4. The Commission shall review the reports of the Panels and may make recommendations to the Parties.

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Article VI

FRASER RIVER

1. This Article applies to Fraser River sockeye and pink salmon harvested in the area specified in Annex II.
2. Notwithstanding the provisions of Article IV, paragraph 7, on adoption by the Parties of the fishery regime for the stocks covered by this Article, the Fraser River Panel shall propose regulations to the Commission for the harvest of salmon referred to in paragraph 1.
3. The Fraser River Panel shall review with other appropriate Panels the fishery regimes and the information provided pursuant to Article IV, paragraph 3, with respect to salmon other than Fraser River sockeye and pink salmon before proposing regulations pursuant to paragraph 2. The Fraser River Panel and the Commission shall ensure that regulatory proposals and recommendations, to the extent practicable, meet the requirements of the Parties with respect to the management of stocks other than Fraser River sockeye and pink salmon.

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4. In implementing this Article, the Fraser River Panel and the Commission shall take into account and seek consistency with existing aboriginal rights, rights established in existing Indian treaties and domestic allocation objectives.
5. On the basis of the proposals made by the Panel, the Commission shall recommend regulations to the Parties for approval. The Parties shall review the recommendations for, inter alia, consistency with domestic legal obligations. The regulations shall become effective upon approval by the Party in whose waters such regulations are applicable.
6. During the fishing season, the Fraser River Panel may make orders for the adjustment of fishing times and areas stipulated in the annual regulations in response to variations in anticipated conditions. The Parties shall review the orders for consistency with domestic legal obligations. The Parties shall give effect to such orders in accordance with their respective laws and procedures.
7. The Parties shall not regulate their fisheries in areas outside the area specified in Annex II in a manner that would prevent achievement of the objectives of the fishery regime.

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Article VII.

TRANSBOUNDARY RIVERS

1. This Article applies to salmon originating in trans-boundary rivers.
2. Notwithstanding Article IV, paragraph 3(c), whenever salmon originate in the Canadian portion of a trans-boundary river, the appropriate Panel shall provide its views to the Commission on the spawning escapement to be provided for all the salmon stocks of the river if either section of the Panel so requests.
3. On the basis of the views provided by the Panel pursuant to paragraph 2, the Commission shall recommend spawning escapements to the Parties.
4. Whenever salmon originate in the Canadian portions of transboundary rivers, or would originate there as a result of enhancement projects, salmon enhancement projects on the transboundary rivers shall be undertaken co-operatively, provided, however, that either Party, with the consent of the Commission, may separately undertake salmon enhancement projects on the trans-boundary rivers.

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Article VIII

YUKON RIVER

1. Notwithstanding Articles III, paragraph 1(b), and VII, arrangements for consultation, recommendation of escapement targets and approval of enhancement activities on the Yukon River require further development to take into account the unique characteristics of that River.
2. The Parties consider it important to ensure effective conservation of stocks originating in the Yukon River and to explore the development of co-operative research and identification of potential enhancement opportunities.
3. The Parties shall initiate in 1983, and conclude, as soon as possible, negotiations to, inter alia:
  - (a) account for United States harvests of salmon originating in the Canadian section of the River;
  - (b) develop joint management procedures taking into account United States management programs for stocks originating in the United States section of the River;

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(c) consider co-operative research programs, enhancement opportunities, and exchanges of biological data; and

(d) develop an organizational structure to deal with Yukon River issues.

4. Prior to the entry into force of this Treaty, the Parties shall agree upon:

- (a) the range within which the accounting of United States interceptions referred to in paragraph 3(a) shall be established;
- (b) arrangements for exchange of available data on the stocks; and
- (c) proposals for research.

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Article IX

STEELHEAD

In fulfilling their functions, the Panels and Commission shall take into account the conservation of steelhead.

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Article X

RESEARCH

1. The Parties shall conduct research to investigate the migratory and exploitation patterns, the productivity and the status of stocks of common concern and the extent of interceptions.
2. The Commission may make recommendations to the Parties regarding the conduct and coordination of research.
3. Subject to normal requirements, each Party shall allow nationals, equipment and vessels of the other Party conducting research approved by the Commission to have access to its waters for the purpose of carrying out such research.

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Article XI

DOMESTIC ALLOCATION

1. This Treaty shall not be interpreted or applied so as to affect or modify existing aboriginal rights or rights established in existing Indian treaties and other existing federal laws.
  
2. This Article shall not be interpreted or applied so as to affect or modify any rights or obligations of the Parties pursuant to other Articles and Annexes to this Treaty.

Article XII

TECHNICAL DISPUTE SETTLEMENT

1. Either Party may submit to the Chairman of the Commission, for referral to a Technical Dispute Settlement Board, any dispute concerning estimates of the extent of salmon interceptions and data related to questions of overfishing. The Commission may submit other technical matters to the Chairman for referral to a Board. The Board shall be established and shall function in accordance with the provisions of Annex III. The Board shall make findings of fact on the disputes and the other technical matters referred to it.
2. The findings of the Board shall be final and without appeal, except as provided in paragraph 3, and shall be accepted by the Commission as the best scientific information available.
3. Either Party may, by application in writing to the Chairman of the Commission, request reconsideration of a finding of a Board, provided that such request is based on information not previously considered by the Board and not previously known to or reasonably

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discoverable by the Party requesting such reconsideration. The Chairman shall, if possible, refer the request to the Board which made the finding. Otherwise, the Chairman shall refer the request to a new Board constituted in accordance with the provisions of Annex III.

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Article XIII

ANNEXES

1. All references to this Treaty shall be understood to include the Annexes.
2. The Commission, whenever appropriate, shall review the Annexes and may make recommendations to the Parties for their amendment.
3. The Annexes may be amended by the Parties through an Exchange of Notes between the Government of Canada and the President of the United States of America.
4. The Commission shall publish the texts of the Annexes whenever amended.

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Article XIV

IMPLEMENTATION

Each Party shall:

- (a) enact and enforce such legislation as may be necessary to implement this Treaty;
- (b) require reports from its nationals and vessels of catch, effort and related data for all stocks subject to this Treaty and make such data available to the Commission; and
- (c) exchange fisheries statistics and any other relevant information on a current and regular basis in order to facilitate the implementation of this Treaty.

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Article XV

ENTRY INTO FORCE AND TERMINATION  
OF TREATY

1. This Treaty is subject to ratification. It shall enter into force upon the exchange of instruments of ratification at \_\_\_\_\_.
2. At the end of the third year after entry into force and at any time thereafter, either Party may give notice of its intention to terminate this Treaty. The Treaty shall terminate one year after notification.
3. Upon the entry into force of this Treaty, the Convention between Canada and the United States of America for the Protection, Preservation and Extension of the Sockeye Salmon Fishery in the Fraser River System, as amended, signed May 26, 1930, shall be terminated. Following the termination of the Convention, the transfer of responsibilities from the International Pacific Salmon Fisheries Commission to the Commission, the Fraser River Panel and the Government of Canada shall be as agreed by the Parties.

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Annex I

PANELS

The following panels shall be established pursuant to Article II, paragraph 18:

- (a) a Southern Panel for salmon originating in rivers with mouths situate south of Cape Caution, except as specified in sub-paragraph (b);
- (b) a Fraser River Panel for Fraser River sockeye and pink salmon harvested in the area specified in Annex II; and
- (c) a Northern Panel for salmon originating in rivers with mouths situate between Cape Caution and Cape Suckling.

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Annex II

FRASER PANEL AREA

The area comprises the waters described in Article I of the Convention between Canada the the United States of America for the Protection, Preservation and Extension of the Sockeye Salmon Fishery in the Fraser River System, as amended, signed May 26, 1930.

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Annex III

TECHNICAL DISPUTE SETTLEMENT BOARD

1. Each Technical Dispute Settlement Board shall be composed of three members. Within 10 days of receiving a request under Article XII to refer a matter to a Board, the Chairman of the Commission shall notify the Parties. Within 20 days of this notification, each party shall designate one member and the Parties shall jointly designate a third member, who shall be Chairman of the Board.
2. The Board shall determine its rules of procedure, but the Commission or the Parties may specify the date by which the Board shall report its findings. The Board shall provide an opportunity for each Party to present evidence and arguments, both in writing and, if requested by either Party, in oral hearing. The Board shall report its findings to the Commission, along with a statement of its reasons.
3. Decisions of a Board, including procedural rulings and findings of fact, shall be made by majority vote and shall be final and without appeal except as provided in Article XII, paragraph 3.

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4. Remuneration of the members and their expense allowances shall be determined on such basis as the Parties may agree at the time the Board is constituted. The Commission shall provide facilities for the proceedings.

privately to each of the members of the Board at the time of their appointment

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Annex IV

Chapter 1

TRANSBOUNDARY RIVERS

1. Notwithstanding Article III, paragraph 1(b), 37.5 percent of the harvest by the United States of each species of salmon originating in Canadian sections of transboundary rivers, except those with mouths situate in the Bering Sea and Arctic Ocean, shall be deemed to be of United States origin.
  
2. As it is not yet possible to determine with accuracy the extent of exploitation by fisheries of the two Parties and the spawning escapement requirements of salmon bound for Canadian sections of the transboundary rivers in the southeastern Alaska area, the Parties during 1983 shall form a Technical Working Group to:
  - (a) assemble available information on the migratory patterns (including consideration of recent stock separation studies based on examination of scales), extent of exploitation and spawning escapement requirements of the stocks; and
  
  - (b) identify potential increases in stocks that can be achieved through enhancement.

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3: The following arrangements shall apply to the United States and Canadian fisheries which harvest salmon stocks bound for the Stikine River.

(a) Sockeye Salmon

(i) In 1983 the run of sockeye is anticipated to be 70,000 pieces. Given this expected run size, subject to agreed adjustments in the event that analysis of available data (which shall be made available for joint review) indicates that the run size differs significantly from that projected, and based on the data base available to each side:

(A) the United States shall manage its fisheries to allow approximately 55,000 sockeye to reach the Canadian section of the River; and

(B) Canada shall manage its food and commercial fisheries to allow a spawning escapement of approximately 40,000 to 47,000 sockeye.

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(ii) In 1984 the run of sockeye is anticipated to be 40,000 pieces. Given this expected run size, subject to agreed adjustments in the event that analysis of available data (which shall be made available for joint review) indicates that the run size differs significantly from that projected, and based on the data base available to each side:

(A) the United States shall manage its fisheries to allow approximately 33,500 sockeye to reach the Canadian section of the River; and

(B) Canada shall manage its food and commercial fisheries to allow a spawning escapement of approximately 28,000 sockeye.

(iii) In 1983 and 1984, taking into account the low anticipated run sizes and difficulties in achieving precise spawning escapements, the foregoing provisions may result in the Canadian share of the Stikine River sockeye harvest exceeding 35 percent of the Total Allowable Catch. It is the United States view that the allowable catch should be divided between the countries so that the United States would receive 65 percent and Canada 35 percent.

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(b) Coho Salmon

Given the prevailing rates of harvest of Stikine River coho salmon in United States troll fisheries and in net fisheries targetting on other species, it may not be possible in 1983 and 1984 for the United States to provide an upriver escapement sufficient to meet spawning requirements and a Canadian in-river harvest of 35 percent of the total expected catch. It is also expected that the 1983 and 1984 runs will be poor. In light of these circumstances the Parties shall monitor the runs in and on the approaches to the Stikine River throughout the season, with a view to providing Canada with an in-river harvest as close as possible to a 35 percent share of the total catch while, at the same time, meeting spawning requirements.

(c) Other Species

Canadian catches and United States terminal catches of chinook, pink and chum salmon bound for the Canadian section of the River will be taken as an incidental harvest in the directed fishery for sockeye.

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4. (a) In 1983, Canada shall limit its in-river fishery so that catches of sockeye and pink salmon originating in the Taku River do not exceed 3,000 and 5,000 pieces, respectively.

(b) The Parties shall meet during 1983 to re-evaluate the fishery regime for the fisheries on Taku bound salmon for 1984, taking into account the report of the working group described in paragraph 2 of this Chapter. At the same time the Parties will also give consideration to improving procedures for co-operative management of the fisheries on transboundary river stocks in the southeast Alaska area, and to the question of future sharing of allowable harvests, taking into account potential enhancement opportunities.

5. Chinook and early sockeye salmon runs originating in the Alsek River are depressed and require special protection in 1983 and 1984. Fisheries for other species originating in the Alsek River shall be conducted in the same manner as in recent years.

6. Considering that stocks of salmon originating in Canadian sections of the Columbia River form only a

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small proportion of the total populations of Columbia River salmon, the arrangements for consultation and recommendation of escapement targets and approval of enhancement activities set out in Article VII are not appropriate to the Columbia system as a whole. Nevertheless, the Parties consider it important to ensure effective conservation of upriver stocks which extend into Canada and to explore the development of mutually beneficial enhancement activities. Therefore, notwithstanding Article VII, paragraphs 2, 3 and 4, during 1983 the Parties shall consult with a view to developing, for the transboundary sections of the Columbia, more practicable arrangements for consultation and setting escapement targets than those specified in Article VII, paragraphs 2 and 3. Such arrangements should seek to:

- (a) ensure effective conservation of the stocks;
- (b) facilitate future enhancement of the stocks on an agreed basis; and
- (c) avoid interference with United States management programs on the extensive salmon stocks existing in the non-transboundary tributaries and the

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Annex IV

Chapter 2 Northern British Columbia-Southeastern Alaska

Boundary Area

1. Considering that the chum salmon stocks originating in streams in Portland Canal and harvested in the mixed stock and target fisheries in the Dixon Entrance, Portland Inlet and Portland Canal are depressed and require protection:
  - (a) in 1983 and 1984 neither Party shall allow target fisheries on these stocks in Portland Canal unless it is determined that a harvestable surplus exists; and
  - (b) in 1983, assessments shall be made to identify possible measures (including enhancement and regulatory programs) to restore the stocks. On the basis of such assessments, proposals shall be prepared for a long term plan to bring about such restoration.
  
2. (a) With respect to sockeye salmon, the United States shall:
  - (i) limit its purse seine fishery in the Noyes Island area (District 4) in a manner that will result in an annual average harvest of 160,000 sockeye salmon during the period 1983-86; and

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(ii) limit its drift gill net fishery at Tree Point (Districts 1A and 1B) in a manner that will result in an annual average harvest of 130,000 sockeye salmon during the period 1983-86.

(b) These harvest levels shall be reviewed during the negotiation of fishery regimes for 1985 and 1986.

3. Canada shall limit its fisheries for pink salmon in the sub-areas of Areas 3 and 5 that were described in the interim arrangements for 1981 and 1982 and in the area 1 troll fishery in a manner which will result in a total catch in the 1983 and 1984 pink salmon cycles of 2 million fish. Of this total, in 1983, no more than a total 650,000 pink salmon shall be taken, and of that, the area 1 troll fishery shall take no more than 125,000 pink salmon. In 1984, no more than a total 1,350,000 pink salmon shall be taken, and of that, the area 1 troll fishery shall take no more than 275,000 pink salmon. These harvest levels shall be reviewed during the negotiation of fishery regimes for 1985 and 1986.

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4. The Parties shall exchange preliminary management plans for the fisheries described above at the earliest possible date. Such exchange shall include determination of the intended pattern of the Canadian troll fishery in area 1 which will reflect the understanding of the interim arrangement for 1982 pending the development of new regulatory lines in area 1.

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Annex IV

Chapter 3

CONSERVATION MEASURES FOR CHINOOK SALMON

For the past several years, escapements for many naturally spawning chinook salmon stocks originating from the Columbia River northward to southeastern Alaska have declined and are now at levels substantially below production goals. These stocks cannot sustain recent rates of exploitation in the following fisheries: Georgia and Johnstone Straits, central and northern British Columbia, and southeastern Alaska.

The Parties agree to undertake the following actions to stabilize and rebuild depressed stocks of naturally spawning chinook salmon.

1. In 1983, the Parties will jointly develop and initiate a coordinated salmon management program designed to meet the following objectives:

- (a) at least prevent further declines in spawning escapements from recent levels for depressed chinook salmon stocks; and

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(b) restore the production of naturally spawning chinook salmon stocks by achieving escapement goals within a ten year period (approximately 2 cycles, beginning in 1983) which will provide the maximum sustainable harvest.

2. The chinook salmon management program will include at least:

(a) identification of indicator stocks representative of naturally spawning populations of chinook salmon;

(b) procedures to obtain reliable estimates of spawning escapements;

(c) establishment of criteria to evaluate the effectiveness of conservation actions;

(d) exchange of information necessary to analyze the effectiveness of alternative fishery regulatory measures to satisfy conservation objectives;

(e) recommendations for research required to implement this program effectively; and

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