

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6076 HOUSE RESOURCES

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Offshore - Inshore Groundfish Priorities to be Examined:
Council Calls for Industry Solutions

The rapid harvest of pollock in the Gulf of Alaska this year has heightened the controversy over inshore-offshore priorities to the groundfish resource and the Council voted in April to schedule a discussion on this issue at its June meeting.

The Council is soliciting proposals from industry on resolving the problem of mobile harvesting and processing operations competing on the more limited fish grounds available to stationary inshore operations. Proposals are due at the Council office by June 9.

At its June 20-23 meeting the Council will give direction for further development of the proposals received.

Directed Fishing/Bycatch Definition Adopted for Groundfish Species

In January the Council requested NOAA Fisheries to develop a draft regulatory amendment to replace an emergency rule that is in effect from March 28 to June 26, 1989. The emergency rule bases enforcement of bycatch limitations on retention and prescribes the following limits on the percentage that a bycatch-designated species can contribute to the overall catch on board the vessel:

- (a) 20% for all groundfish except sablefish in the Gulf of Alaska and Bering Sea/Aleutians.
- (b) 4% for long line sablefish in the Gulf of Alaska.
- (c) 20% for trawl caught sablefish in Gulf of Alaska.
- (d) 1% of groundfish/10% of Greenland turbot and Pacific ocean perch for sablefish in the Bering Sea and Aleutians.

The draft regulatory amendment presented by NOAA at the Council's April meeting based the enforcement of bycatch on retention from each haul and from the vessel's total catch. The draft regulatory amendment also prescribed new bycatch limits as a percentage of the catch. These were derived by NOAA based on past performance of the individual groundfish fisheries.

Based on suggestions from the Advisory Panel, the Council requested the Regional Director to refine the draft regulatory amendment such that it provides for enforcement based on sorted, retained catch on a tow basis and the amount of fish or fish products onboard. Retention would be defined as fish that has been sorted, is in any stage of processing, or has been preserved. To prevent "topping off" the Council recommended that enforcement of bycatch percentages be based on fish taken and retained within a trip or following any offloading. The Council's intent is to have bycatch rates sufficiently low to prevent "topping off" and yet not so low that true bycatch needs to be discarded and thus wasted. The Council intends that the regulatory amendment be drafted in such a manner as to stop a vessel from accumulating catch from one area and using it in another to calculate the retainable amount of bycatch.

The current emergency rule will remain in effect until supplanted by the regulatory amendment. The Council approved extending the existing emergency rule for another 90 days through late September to accommodate the time needed to implement the regulatory amendment. When the regulatory amendment finally takes effect, "bycatch only" species will be retainable only in amounts equal to or less than the percentages of other species on board as shown in the accompanying tables. For example, if sablefish is designated bycatch in the trawl fisheries in the Gulf of Alaska, it can be retained up to an amount that is 5% of the pollock, Pacific cod, or flounder target fisheries or up to 15% of the rockfish fishery. In the Bering Sea and Aleutians trawl bycatches of sablefish are allowed up to 1% of the flatfish, Pacific cod, yellowfin sole, and pollock fisheries, and up to 10% for Greenland turbot and rockfish. The Council intends that the Regional Director be provided the leeway to adjust percentages within the range of 1% to 5% for sablefish taken while trawling for Gulf pollock.



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Fleet dumps thousands of tons of fish

Pollock stripped of roe, then tossed; huge catch prompts closure of Gulf of Alaska fishery

By **HAL BERTON**
Daily News reporter

A factory trawler fleet massed off Kodiak this month scooped up more than 37,000 metric tons of pollock, but some of the ships kept only the valuable roe and dumped overboard thousands of tons of edible flesh.

The fishing frenzy of the 17-boat, Seattle-dominated fleet helped trigger Thurs-

day's unexpected shutdown of the major Gulf of Alaska pollock harvest and raise new questions about the ethics of deep-sea fishing.

"When the world is starving, the factory trawlers have decided to discard protein," said John Sevler, superintendent of the Alaska Pacific Seafoods, a Kodiak shore processor that uses the

meaty flesh to manufacture surimi. "It's a wanton waste."

The closure order was issued by the National Marine Fisheries Service after determining that the entire year's Gulf harvest quota for pollock had been taken. The order is an economic blow to Kodiak, whose fishermen say their pollock season normally lasts through December and employs hundreds of people to harvest and pro-

cess the fish.

"This is the Seattle-ization of our fisheries," said Dave Harville, an island fisherman who serves shore-based plants with three boats. "They took our fish and shut down their competition. Now, they're going to go on out to the Bering Sea and fish the rest of the year. But we can't move our island."

This year was the first time the U.S. factory fleet, which both catches and processes fish, has showed up off Kodiak. They were lured to the Gulf by the pollock roe, which fetches a high price from Japanese consumers. And in about a month's time, the fleet caught and processed about 60 percent of an annual harvest quota that last year went entirely

to shore-based plants.

The roe-stripping tactics of the factory fleet helped speed up the processing, according to Tyson Vogeler, a Kodiak-based North Pacific Fishery Management Council official attempting to monitor the harvest. Many ships reported spectacular catches of 500 to 900 metric

Please see Back Page, FISHERY

STUDENTS TAKE THEIR EXAMS UNDER THE GUN



Poaching probe riles villagers

Angry crowd confronts officer; evidence in case disappears

By **CRAIG MEDRED**
Daily News reporter

An Alaska Fish and Wildlife Protection

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THE BACK PAGE

FISHERY: Fleet dumps thousands of tons of pollock after taking roe

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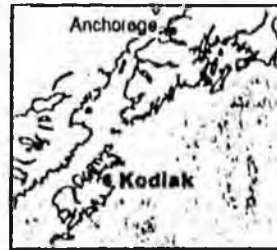
tons per day, according to Vogeler.

The only way to handle such daily volumes of fish is to speed up the processing by cutting out the high-value roe, and jettisoning — rather than salvaging — the relatively low-value flesh.

Vogeler said precise data on roe-stripping was impossible to get because the U.S. factory ships — unlike foreign factory ships that used to dominate the fishery — don't have to carry federal observers.

Ted Evans, executive director of the Seattle-based Alaska Factory Trawlers Association, confirmed that at least some of the ships were roe-stripping. He said he didn't know how many.

Evans said he didn't like the waste but pointed out that federal regulations allow the practice. Foreign factory ships that used to fish off Kodiak also jettisoned pollock flesh, he said. And this year, at least one shore-based processor also



was wasting pollock meat, he said.

"What degree of waste is acceptable," Evans said. "There are all kinds of philosophical viewpoints on that and we are certainly willing to participate in that debate."

Kodiak industry officials acknowledge that some fish were stripped in town and the carcasses hauled out to sea for dumping. But they say much more fish was wasted on the high seas, and such waste adds insult to the economic injury of the closure.

"There's a gigantic rape of the resource, that's what going on," said Reed Was-

They took our fish and shut down their competition. Now, they're going to go on out to the Bering Sea and fish the rest of the year. But we can't move our island.

— fisherman Dave Harville

son, president of Kodiak-based Eagle Fisheries.

John Peterson, the chairman of the North Pacific Fishery Management Council, the group that helps regulate the harvest, also questions roe stripping.

"It's just not right in my opinion to waste the fish that way," Peterson said. He would welcome proposals to end the practice, he said.

In the most efficient of factory and shore-based plants, almost all of the fish can be utilized. Flesh is processed into fillets, surimi or other products. And guts, heads, skin, bones and tail are made into fish meal or fertilizer.

Jeff Stephan, manager of the Kodiak-based Alaska Fishermen's Marketing Association, said his group introduced a proposal to force processors to use more of the fish, but the council has not yet seriously considered it.

The arrival of the Seattle factory fleet off Kodiak reflects the final phase of Americanization that has allowed U.S. fishermen, with first claim to the resource, to push almost all foreign ships out of the Alaska bottom fishery.

The fishery is conducted according to federal regulations that offer U.S. shore-based processors no preference over U.S. factory ships.

All must fight for a share of a pre-set annual quota.

Up until this year, U.S. factory ships chose to stay out of the Gulf of Alaska to concentrate on much larger Bering Sea fisheries, where pollock also have been stripped of roe. That allowed shore-based processors in Kodiak to prosper by contracting with small catcher boats to bring the fish onshore for processing.

This year's quota would have been enough to keep the Kodiak plants operating through December, if they processed at the same rate as last year, according to National Marine Fisheries Service statistics.

Instead, unless the council decides to reopen the fishery, they will process a more limited harvest of cod, flat fish, halibut and other species.

To prevent a repeat of 1989, Kodiak fishermen will ask the council to form a special fishing zone in the Gulf, according to Harville. The plan would require boats that choose to fish the

Gulf to remain there the entire year.

"If you want to fish in the Gulf, fine, but you can't then turn around and head for the Bering Sea," Harville said.

Meanwhile, Kodiak fishermen, as well as others in the industry, are pressing for new federal or industry funding to finance a greatly expanded observer program.

Peter Craig, a Kodiak-based state fishery official, said the observer program would help document waste that ranges beyond pollock.

Rock sole, another marketable fish, frequently is stripped of roe and the flesh wasted, Craig said. And many fish are tossed overboard by both factory trawlers and smaller catcher boats because they are too small to fit the processing machinery. The undersized fish are supposed to be reported as part of the catch, but some boats routinely flaunt the law, he said.

"Everybody... has a waste problem," Craig said.

FISCHER: State gets repayment check

Continued from Page A-1

the Daily News in a story earlier this month outlining Fischer's practice of spending state money in ways that benefitted him personally and politically. The story reported that Fischer had requested and cashed the check and that an aide, who owned the car, was not paid. Fischer said then he could not remember details of the transaction and in the past two weeks his story has changed several times.

While aides are not eligible for moving expenses, Fischer said March 6 that he had written a check to his aide. He could not produce a canceled check.

On March 13, he said he

cashied the check or what happened to the money. "It should never have happened," he said.

Fischer wouldn't say anything more about the money.

He reimbursed the state after a telephone conversation last Friday with Warren Endicott, executive director of legislative affairs, according to a memorandum Fischer submitted with his check.

"It was his offer. I didn't call him and ask for the money," Endicott said. "He could not properly account for the money and he had decided he better pay us back, which I think obviously was the correct thing to do."

he did on state trips, some of which took him to Minnesota and Ohio, where he visited a daughter, and to Anchorage, where he attended oil company fund-raisers.

But he said he would keep the records confidential until investigations into his spending habits have been completed.

The legislative ethics committee has received a complaint against Fischer and is likely to launch an investigation soon, according to committee chairman Pat Pourchot. And Wednesday the Alaska State Troopers began a preliminary criminal investigation of Fischer.

Fischer told reporters Thursday that the troopers

POACHING CASE: Villagers angered

Continued from Page A-1

the village in the Yukon Delta National Wildlife Refuge.

Refuge manager Ron Perry said it has been impossible to tell exactly how many caribou were killed there because poachers hide the carcasses.

"They drag them down, and they bury them (in the snow)," he said.

The caribou were part of a small herd the refuge had been trying to protect. Villagers in the area had agreed to leave the animals alone so that the herd might grow and help repopulate the entire Kuskokwim River delta, Perry said.

"It was for the good of all the people," he said, "so we can have some sort of (hunting) season here in the future."

Hunting has been prohibited in the Kilbuck Mountains for the past three or four years to protect the caribou. Perry said

Game biologists hostage in the community hall for most of a day in 1987. The biologists were later released unharmed.

Soll said Gibbens wanted to avoid a similar problem, but didn't want to leave villagers with the impression they could intimidate a law enforcement officer. Soll praised the officer's handling of the incident.

Gibbens locked his evidence in a warehouse and the Quinhagak police station while waiting for the back-up troopers. But the evidence disappeared while Gibbens and the other officers were meeting with villagers at the town hall, according to Farber.

Snowmachines, sleds and caribou meat were taken from the locked warehouse, and firearms believed to have been used in the killing of the caribou were taken from the evidence locker at the Quinhagak Police Department, Farber said.

RECEIVED MAY 01 1989

CITY OF KODIAK
RESOLUTION NUMBER 09-89

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK SUPPORTING FULL UTILIZATION OF POLLOCK AND A SHOREBASED PREFERENCE IN THE DOMESTIC ALLOCATION OF ALL FISHERIES

WHEREAS, the Americanization of the 200-mile Economic Zone has been accomplished faster than anyone thought was possible; and

WHEREAS, competition for fish among American fishermen has become very intense; and

WHEREAS, the development of floating processors that can move all over the Pacific Ocean has far exceeded all expectations; and

WHEREAS, the floating processors have an unfair advantage over shorebased processors due to their ability to move from area to area; and

WHEREAS, the shorebased processors are the economic lifeblood of coastal communities throughout Alaska and other states; and

WHEREAS, it is the legislative intent of the Magnuson Act to provide and protect the economic viability of coastal communities; and

WHEREAS, the floating processors have demonstrated they can easily shut down an entire region for most of a year; and

WHEREAS, the entire Gulf of Alaska's 1989 pollock allocation of 60,000 metric tons has been reached in three months; and

WHEREAS, the shorebased processors fully utilized 23,000 metric tones of pollock in three months of operation; and

WHEREAS, eight factory/trawlers consumed 37,000 metric tons in eleven days utilizing the roe only and discarding the carcasses; and

WHEREAS, this constitutes criminal wanton waste of a valuable Alaskan protein resource in light of today's world food shortage; and

WHEREAS, 1,500 Kodiak residents, indeed the entire Kodiak economy depends upon the Fall pollock harvest for their September through December livelihood; and

WHEREAS, this problem will become more prevalent in other areas as resources shrink and/or processing capabilities continue to increase; and

WHEREAS, a Kodiak community meeting of processors, fishermen, businessmen, workers, and local government unanimously agreed that the following request for action be conveyed to the North Pacific Fishery Management Council; and

WHEREAS, a meeting of the Alaska Municipal League Board of Directors agreed the following request for action be conveyed to the North Pacific Fishery Management Council,

NOW, THEREFORE, BE IT RESOLVED the Council of the City of Kodiak, Alaska, urges the North Pacific Fishery Management Council recommend the following policies to the Secretary of Commerce:

1. If the National Marine Fisheries Service and other data support it, recommend at least a 40,000 metric ton allocation of pollock;
2. For 1990, recommend a prohibition of roe stripping in the pollock fisheries;
3. For 1990, recommend a mandatory observer program adequate to provide accurate scientific data; and
5. For 1990, recommend a shorebased processor preference.

PASSED AND APPROVED this 25TH day of APRIL, 1989.

CITY OF KODIAK


MAYOR

ATTEST:


CITY CLERK

KODIAK, ALASKA
March 23, 1989

: BY FAX: 271-2817

North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, Alaska 99510

Attn: Mr. Clarence Pautzke, Executive Director

Re: Future of Groundfish

Gentlemen:

The closure of the pollock fishery in the Central Gulf today has brought into very sharp focus the impact of the growing factory trawler fleet on the bottomfish resource and the Alaskan fishing communities. As you know, during the past few years the fishing fleet and processing plants in Kodiak, Dutch Harbor and other Alaskan ports have made major investments in the Alaskan bottomfish resource. Eagle Fisheries and its fishing fleet, comprised mainly of trawlers long associated with the Kodiak & Western Trawler Group, have dedicated their operations to developing this resource as a long-term shore-based industry. From all indications, the town of Kodiak and other coastal communities in Alaska have benefitted greatly from bottomfish revenues, and a new level of year-round seafood processing employment has been achieved.

This recently born bottomfish industry is now reaching a crucial watershed which threatens its continued existence. The National Marine Fisheries Service has now closed the Central/Western Gulf to pollock fishing for the remainder of 1989 -- the entire 60,000 MT quota has been taken, harvested in substantial part by at least 10 factory trawlers in this area. Reportedly, most of these factory trawlers have been stripping the roe and discarding the rest of the fish: a clear cut case of wanton waste.

In one giant step, Alaskan Gulf pollock has moved from a year-round fishery supporting numerous Kodiak plants, to a three-month fishery dominated by a roe-stripping factory trawler fleet. The handwriting is on the wall: without a drastic change in the way our fishery is regulated, the rest of the Alaskan bottomfish will soon go the same route.

In our opinion, the key issue for consideration regarding the future of groundfish is not limited entry, but limiting the destructive potential of the factory trawler fleet before both the bottomfish resource and the Alaskan shore fleets and plants have been eliminated.

Recently we have both talked to fishing skippers who have been working, or have close friends working, on the floating processors now operating in the Gulf of Alaska. They were appalled at the extent of waste which routinely takes place on these processors, and estimated that for every pound of fish processed, two or three pounds are thrown away. One particularly egregious example cited was a 50,000 lb. tow of

mixed flatfish of marketable species and sizes, where all but 4,000 lb. of roe-in rock sole were ground and discarded.

Reportedly, several skippers and mates who came to Alaska from New England have quit in disgust over this mode of operation. It seems that some New England fishermen, having suffered through years of a declining fishery, are more aware of the vulnerability of any fishery to wasteful highgrading. Will it be necessary to allow decimation of the Alaskan resource before imposing meaningful conservation regulation?

Part of the problem seems to be that many of the smaller floating processors lack the space, equipment and manpower to process anywhere near their catching capacity, or to undertake anything as time consuming as filleting fish. Apparently, the typical solution to this mismatch of fishing and processing capacity is not to fish less, but to throw out all but those species which are most valuable and can be frozen in a form requiring minimal handling. Stripping out pollock roe and discarding the pollock, or keeping roe-in rock sole and throwing away the other sole, are both symptoms of the same disease. Unfortunately, the tremendous fishing capacity of the factory trawler fleet makes this disease a potentially deadly one. With this kind of shortsighted fishing, a resource with decades of potential could last only a few years.

Another part of the problem lies in the mobility of the factory trawlers: they can decimate the fish schools in any given area with no immediate impact upon themselves; they can simply move on to another area and repeat the process. The shore plants and shorebased fleet in Alaska cannot move this way, and have a much stronger incentive to conserve the local fish stocks to allow continued operations here.

Indeed, the mobility of the factory trawlers allows them to operate in a predatory manner to shut down an entire town or area of shore-based competition, and then move on to other areas, leaving behind a decimated shorebased harvesting and processing economy. In the present situation they appear to have succeeded in closing down the two major surimi plants in Kodiak for the rest of 1989, as well as a number of pollock filleting operations. It appears necessary to impose some form of area restrictions to create an incentive for the factory trawlers to fish more responsibly, and to prevent them from intentionally destroying the shore plants and communities.

Eagle and its fleet have invested much time, money and energy learning to harvest and process Alaskan Gulf flatfish for the U.S. market, developing a new use for this previously underutilized resource. With its flatfish filleting program, Eagle Fisheries can buy and process all commercial Alaskan Gulf flatfish species and thus minimize waste of the resource, and we are very concerned about the information now becoming known about wanton waste of flatfish by the factory trawlers. Fish which could be utilized by Eagle and other Kodiak plants to build a long-term industry is being wasted in huge quantities.

Unless a comprehensive observer program and appropriate fishing restrictions are imposed upon the factory trawlers in the near future, the long-term viability of the Alaskan Gulf bottomfishery, including flatfish, appears to be in serious jeopardy. Eagle and its fleet have

agreed to fund an observer program administered by the Alaska Department of Fish & Game, and there is no reason that the factory trawlers should be exempt from observers and conservation rules.

In our view, a bottomfish conservation program ought to include the following elements:

(1) Full-time observer coverage aboard every floating processor, administered by a governmental agency and paid for by the processor.

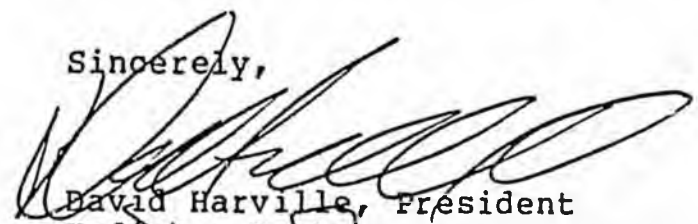
(2) Limitations on the percentage of fish discarded. If the percentage limits are exceeded, operations must shut down for a specified period.

(3) Daily catch limits not to exceed a specified percentage of the floater's actual daily processing capacity, to prevent built-in waste of fish that cannot be processed.

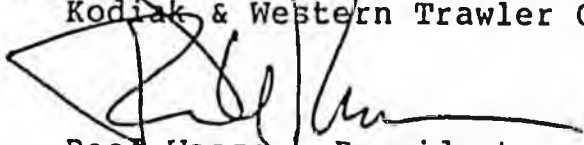
(4) Establish exclusive registration zones and require each floating processor to register for one zone and fish exclusively within that zone, in order to create an incentive to fish with more regard for long-term preservation of the resource.

If the factory trawlers are not willing to operate with these safeguards, then they should be excluded from the Gulf of Alaska entirely before their massive depredations destroy any remaining bottomfish potential for Kodiak and other Alaskan coastal fishing communities.

Sincerely,



David Harville, President
Kodiak & Western Trawler Group



Reed Wasson, President
Eagle Fisheries L.P.

CENTRAL/WESTERN GULF POLLOCK MANAGEMENT

POSITION PAPER

KODIAK FISHERIES COALITION

(A coalition of Kodiak processors and fishermen's associations)

BACKGROUND

What Happened

In December 1988 it was anticipated that the 1989 Central/Western Gulf of Alaska pollock quota, set conservatively at 60,000 MT, would meet the year's production requirements of the Kodiak shorebased processors.

On March 23, 1989, pollock fishing in the Central/Western Gulf of Alaska closed because the entire 60,000 MT quota had been harvested.

Why It Happened

1. At-sea Processing Effort Greater than Anticipated

An estimated 38% or 23,000 MT of the Central/Western Gulf of Alaska pollock quota was taken by shorebased processors. An estimated 62% or 37,000 MT was taken by at-sea processors.

In past years no more than two at-sea processors targeted the Central/Western Gulf of Alaska pollock stocks during any one month.

2. Roe Stripping Increased Rate of Harvest

Some of these vessels "roe-stripped" -- removed the pollock roe from the females and threw both the female carcasses and the male fish overboard.

Roe stripping allows a processor to run through 2.5 to 3 times more fish in a given time than if the processor were fully utilizing the fish for fillets, surimi or meal.

An at-sea processor is also able to run through more fish before offloading by keeping only the roe onboard than if he had to allocate space and processing time for fillets, surimi or meal.

3. Data on the Gulf of Alaska Pollock Biomasses Is Inadequate

The last bottom trawl survey on Gulf of Alaska pollock was made in 1987. It indicated declines in the stocks in the Western Gulf and increases in the biomass in the Kodiak area.

Subsequent analysis of 1987 and 1988 ADF&G data indicated continued increases in the Kodiak area pollock biomass.

The Shelikof Strait hydroacoustic data indicated a dramatic decline in the spawning aggregations during the sampling period. However, there are indications that the hydroacoustic survey did not sample during the peak of the spawn.

When the pollock fishery was a joint venture fishery conducted only in Shelikof Strait during the spawning period, the hydroacoustic survey was considered adequate.

Now that the bulk of the fishery has shifted to the East side of Kodiak Island and the Trinity Island area, the hydroacoustic survey no longer represents the stocks being harvested. Nor did the 1988 hydroacoustic survey represent the findings of the 1987 bottom trawl survey.

We note the following in the December 4-8 Draft Minutes from the North Pacific Fishery Management Council's Scientific and Statistical Committee (SSC):

- A. "Because the available indicators of stock strength are inconsistent, the team was unable to determine an ABC for the Gulf of Alaska pollock.
- B. "The data are insufficient to allow this action" (setting the ABC based on the 1987 bottom trawl survey).

The SSC did not set an ABC, but did recommend a Central/Western Gulf of Alaska quota of 10% of the 1987 bottom trawl survey -- 80,000 MT. The SSC also noted that new information would be available in June from the port sampling, observer and hydroacoustic programs conducted out of Kodiak February - March.

4. No Regulatory Relief Was in Place

The potential for at-sea processors to adversely impact coastal communities has been recognized by all elements in the fishing community. While several efforts were made to mitigate the potential through regulatory action, none of the proposed actions were in place for the start of the 1989 season.

- A. Single Species Rule for Gulf of Alaska: This would allow NMFS to close any directed fishery before the TAC is reached to allow enough of the species for retainable bycatch in other fisheries.

The Single Species rule is designed to prevent waste.

NMFS is in the process of implementing the Single Species Rule for the Gulf of Alaska by regulatory amendment, but that amendment is still in process.

- B. Requiring full utilization of pollock: This proposal would have prohibited roe stripping and slowed down the rate at which pollock were harvested in the Central/Western Gulf of Alaska.

The Full Utilization proposal requires a plan amendment. It was given a low priority by the North Pacific Fishery Management Council and therefore was not in the system and could not be put in place by emergency regulation for the 1989 season.

Efforts are now in progress to assure that this regulation is in place for the 1990 season.

- C. Quarterly allocations: This was also proposed this year, but was given a low priority. Considering the rate at which the Central/Western Gulf of Alaska pollock were harvested in 1989 this probably would not have mitigated the current situation.
- D. Non-Specific Reserve: NMFS has recommended in the past that a portion of the total Gulf of Alaska TACs be put into a non-specific reserve to allow NMFS flexibility to meet situations such as the current closure of the pollock fishery.

Were there a non-specific reserve, pollock could have been immediately released for retainable bycatch in the other groundfish fisheries, eliminating the waste of throwing dead pollock overboard while targeting on Pacific cod.

IMPLICATIONS

1. Employment

The March 23 closure of the Central/Western Gulf of Alaska pollock fishery has eliminated work for at least 1,000 plant employees in Kodiak and up to 40 vessels, their crews and families.

Though the Kodiak processors will soon have herring to process, by fall 1989, if there are not additional releases of pollock, there will be no work at all for the processing plants. This affects the entire Kodiak community. Not only will the retail and service segments share in the financial downturn, families facing little or no income will bear and suffer both the economic and the concomitant social costs.

2. Investment

The Kodiak fishing industry is accustomed to fluctuations in stock abundances. However, the shorebased industry has historically expected that it reasonably could depend on harvesting the stocks within reach of the shorebased plants.

Therefore, if the biological data indicates a stock is in good shape and has good recruitment, a processor or vessel owner historically could reasonably plan on working on that stock for several years into the future.

However, when at-sea processing has the potential, as proven in the 1989 Gulf pollock fishery, to substantially reduce the fish available for the shorebased operations, investment decisions become impossible to make in any rational manner.

For example, the Kodiak processors are in the process of planning for substantial investment to upgrade the jointly owned meal plant. Without some assurance that their operations will be able to take the local pollock quota, it becomes impossible to determine if there will be any return on the investment.

The net result is to hinder or actually stop investment to upgrade shorebased operations and increase the return on fish processed onshore.

The same lack of security also has implications for investments to upgrade at-sea operations.

Further, within coastal communities whose economies are dependent on their shorebased processing industry, all other segments such as retail stores, service industries and local governments are adversely effected by uncertain and insecure investment climates.

3. Economics

The result of unmoderated competition between at-sea processors and shorebased processors for the same resource in an area is to shift any economic benefit from an entire coastal community to the at-sea processor and disperse any economic benefits among many areas, none of which are dependent on that economic benefit.

Where economic resources are lacking to provide employment and the tax base for essential services the need for social services escalates rapidly.

This is why the Magnuson Fisheries and Conservation Act includes under "Purposes" that regulations under the Act must "take into account the social and economic needs of the States" and under "Policy" directs that management under the Act "is responsive to the needs of interested and affected States."

Elsewhere in the MFCMA there is language directing management to include socio-economic considerations.

4. Statewide

The situation created in the 1989 Central/Western Gulf of Alaska pollock fishery has dire implications for every Alaskan community.

The sequence of events dramatically demonstrated:

1. A coastal community can lose its economic base to at-sea processing.
2. There is no regulatory relief or help possible under the current regulations.
3. The situation can occur more quickly than anyone anticipated and more quickly than any agency can act.

KODIAK COALITION PROGRAM

To address the current loss of the Central/Western Gulf pollock fishery, the long range health of not only the pollock stocks, but all marine resources, and the economic health of coastal communities, the Kodiak Coalition makes the following recommendations:

1. There must be a shorebased preference policy in place as soon as possible to offer some degree of security to coastal communities.

The policy should recognize that

- A. a large percentage of Alaska's fisheries lay in waters accessible only to at-sea processors;
- B. coastal communities in the State of Alaska are dependent on the resources of the waters of the continental shelf as defined by the Magnuson Act;
- C. substantial investment in fish harvesting and processing exists in coastal communities;
- D. the MFCMA intends that the socio-economic impacts of management decisions on States and segments of the industry be considered in management decisions;
- E. shorebased processing effort is constrained by availability of land in most coastal communities as well as availability of resource within a defined area;
- F. at-sea processing effort has no such constraints;
- G. all other nations have felt it in their national interests to protect the welfare of their coastal communities and onshore processing facilities.

2. Require full utilization of all fish harvested

At present the roe pollock stocks are the only stocks which appear to be stripped for roe and discarded.

A regulation requiring full utilization should be in place before the 1990 roe season.

3. The Council should move swiftly to assure data collection using the best scientific methods, including observer coverage, from all segments of the industry, even if industry must bear the cost of the data collection.

A proposal along these lines is already before the council and the Kodiak Coalition urges its rapid implementation.

The Coalition also urges Congress and NMFS to provide funding for an observer program.

4. Allow for retention of pollock in the Pacific cod fishery

Because Pacific cod feed on pollock there will be during the next few months a pollock bycatch in the Pacific cod fishery.

Because pollock have a lower exvessel value than Pacific cod there is no incentive to target pollock.

The pollock are dead when they are brought onboard, so there is no value to discarding the pollock.

Discarding pollock at-sea deprives managers of information on the amount of pollock taken.

An emergency regulation or inseason adjustment should be made as rapidly as possible to allow the retention of pollock taken as bycatch.

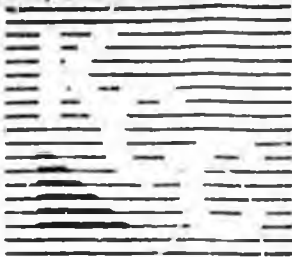
5. NMFS should analyze the recent observer and survey information as rapidly as possible so that an analysis of the status of stocks is available at the June Council meeting for a determination of whether the pollock TAC should be raised.

If the data indicates that additional pollock may safely be released, the release should be made in time for the fall fishery -- approximately September 1.

The undersigned are in accord with the above statements and program of action and urge the State of Alaska, Congress, National Marine Fisheries Service and the North Pacific Fishery Management Council to assist in implementing all five action programs with minimal delay.

Signatures supporting the Kodiak Coalition Position Paper:

Signature	Name (Printed)	Affiliation
Neil Shuckrow	NEIL SHUCKEROW	INTERNATIONAL SEAFOOD OF ALASKA, INC.
Dan James	Dan James	Kodiak Coalition, IIC
Bob Putz-Enraver	BOB PUTZ-ENRAVER	COOK INLET PROCESSOR
Craige Priebe	CRAIG PRIEBE	EAGLE FISHERY
John Sevier	JOHN SEVIER	ALASKA PACIFIC SEAFOODS
Kenneth M. Allread	KENNETH M. ALLREAD	WESTERN ALASKA FISHERY
Dave Woodkroff	DAVE WOODKROFF	ALASKA FRESH SEAFOODS
James Maton	JAMES MATON	EAST POINT SEAFOOD
Jeffrey R. Stephan	JEFFREY R. STEPHAN	UNITED FISHERMEN'S MARKETING ASSOCIATION, INC.
Timothy J. Bol	Timothy J. Bol	All Alaskan Seafoods Inc.
Stuart Lutton	Stuart Lutton	King Crab Inc



KODIAK
CHAMBER
OF COMMERCE

FILE COPY

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P.O. Box 1486, Kodiak, Alaska 99615 (907) 486-5557

April 6, 1989

John Peterson, Chairman
NORTH PACIFIC MANAGEMENT COUNCIL
P.O. Box 103136
Anchorage, Ak 99510

Dear Mr. Peterson,

The Board of Directors of the Kodiak Chamber of Commerce wish to go on record as supporting the position paper of the Kodiak fisheries coalition, on the Central/Western Gulf pollock management.

The Kodiak fisheries coalition is a group of Kodiak Processors, fishermen's associations and business people united to present the Kodiak Island communities position on the closing of the pollock fishery in the Gulf of Alaska.

The Kodiak Chamber of Commerce is a non-profit membership organization of business and professional men and women working together to promote the civil, commercial, and industrial progress of Kodiak. To that end, the Chamber has fully supported the Americanization of the 200 mile economic zone created by the Fishery Conservation Management Act.

As part of the support of the Americanization of the fishery the Chamber has consistently stated that the processing of the bottom fish resource must come on shore.

Until the events of late March, the shore based processing capacity was developing as scheduled.

The following statement from the coalitions position paper succinctly sums up the implications to the Kodiak Island Community. "The March 23 closure of the Central/Western Gulf of Alaska pollock fishery has eliminated work for at least 1,000 plant employees in Kodiak and up to 40 vessels, their crews and families.

Though the Kodiak processors will soon have herring to process, by fall 1989, if there are not additional releases of pollock, there will be no work at all for the processing plants. This effects the entire Kodiak community. Not only will the retail and service segments share in the financial downturn, families facing little or no income will bear and suffer both the economic and the concomitant social costs.

Dedicated to Kodiak's Future

KODIAK CHAMBER OF COMMERRCE
April 6, 1989

The fishing industry is accustomed to fluctuations in stock abundances. However, the shorebased industry has historically expected that it reasonably could depend on harvesting the stocks within reach of the shorebased plants."

The report goes on to state that "When at-sea processing has the potential, as proven in the 1989 Gulf pollock fishery, to substantially reduce the fish available for the shorebased operations, investment decisions become impossible to make in any rational manner.

For example, the Kodiak processors are in the process of planning for substantial investment to upgrade the jointly owned meal plant. Without some assurance that their operations will be able to take the local pollock quota, it becomes impossible to determine if there will be any return on the investment.

The net result is to hinder or actually stop investment to upgrade shorebased operations and increase the return on fish processed onshore.

Further, within coastal communities whose economies are dependent on their shorebased processing industry, all other segments such as retail stores, service industries and local governments are adversely effected by uncertain and insecure investment climates."

The result of unmoderated competition between at-sea processors and shorebased processors for the same resource in an area is to shift any economic benefit from an entire coastal community to the at-sea processor and disperse any economic benefits among many areas, none of which are dependent on that economic benefit.

Where economic resources are lacking to provide employment and the tax base for essential services the need for social services escalates rapidly.

This is why the Magnuson Fisheries and Conservation Act includes under "Purposes" that regulations under the Act must "take into account the social and economic needs of the States" and under "Policy" directs that management under the Act "is responsive to the needs of interested and affected States."

Elsewhere in the MFMA there is language directing management to include socio-economic considerations."

As such, the Board of Directors of the Kodiak Chamber of Commerce have voted to support the Kodiak fisheries coalition's recommendations as follows:

KODIAK CHAMBER OF COMMERRCE
April 6, 1989

1. There must be a shorebased preference policy in place as soon as possible to offer some degree of security to coastal communities.
2. Require full utilization of all fish harvested.
3. The N.P.F.M.C. should move swiftly to assure data collection using the best scientific methods, including observed coverage, from all segments of the industry, even if the industry must bear the cost of data collection.
4. Allow for retention of pollock in the pacific cod fishery.
5. N.M.F.S. should analyses the recent observer and survey information as rapidly as possible so that an analysis of the status of stocks is available at the June N.P.F.M.C. meeting in June, for a determination of whether the pollock total allowable catch should be raised.

Your attention to this issue is extremely important to the economic vitality of the Kodiak community, and as such we eagerly await your response to these requests.

Yours in economic prosperity,


EDWARD F RANDOLPH
President

cc: Honorable Governor Cowper
Denby Lloyd, Special Staff Assistant
Senator Fred Zharoff
Representative Cliff Davidson
Senator Ted Stevens
Senator Frank Murkowski
Congressman Don Young
Mayor Jerome Selby, Kodiak Island Borough

KODIAK CHAMBER OF COMMERCE
04-01-89

A RESOLUTION OF THE KODIAK CHAMBER OF COMMERCE BOARD OF DIRECTORS SUPPORTING FULL UTILIZATION OF POLLOCK AND A SHOREBASED PREFERENCE IN THE DOMESTIC ALLOCATION OF ALL FISHERIES.

WHEREAS, the Americanization of the 200 mile Economic Zone has been accomplished faster than anyone thought was possible; and

WHEREAS, competition for fish among American fishermen has become very intense; and

WHEREAS, the development of floating processors which can move all over the Pacific Ocean has far exceeded all expectations; and

WHEREAS, the floating processors have an unfair advantage over shorebased processors due to the ability to move from area to area; and

WHEREAS, the shorebased processors are the economic lifeblood of coastal communities throughout Alaska and other states; and

WHEREAS, it is the legislative intent of the Magnuson Act to provide and protect the economic viability of coastal communities; and

WHEREAS, the floating processors have demonstrated they can easily shut down an entire region for most of a year; and

WHEREAS, the entire Gulf of Alaska 1989 pollock allocation of 60,000 MT has been reached in 3 months; and

WHEREAS, the shorebased processors fully utilized 23,000 MT of pollock in three months of operation; and

WHEREAS, eight factory/trawlers consumed 37,000 MT in 11 days utilizing the roe only and discarding the carcasses; and

WHEREAS, 1500 Kodiak residents indeed the entire Kodiak economy depends upon the Fall pollock harvest for their September through December livelihood; and

WHEREAS, this problem will become more prevalent in other areas as resources shrink and/or processing capabilities continues to increase; and

WHEREAS, a Kodiak community meeting of processors, fishermen, businessmen, workers and local government unanimously agreed that the following request for action be conveyed to the North Pacific Fisheries Management Council;

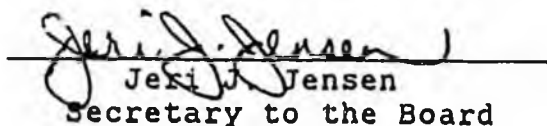
NOW THEREFORE BE IT RESOLVED by the Kodiak Chamber of Commerce Board of Directors that the North Pacific Management Council is urged to adopt the following policies:

- 1) Immediate emergency meeting of the North Pacific Management Council for a 10,000 MT allocation of pollock for bycatch during the cod and flatfish season,
- 2) Request a 35,000 MT allocation of pollock if the National Marine Fisheries Service and other data supports it for the September to December 1989 time period,
- 3) For 1990, adopt a full-utilization requirement for all pollock, prohibiting roe-stripping only,
- 4) For 1990, make the Domestic Observer Program 100% mandatory,
- 5) For 1990, adopt a DAP (Direct Allocation) shorebase processor preference.

Signed this 7th day of April , 1989

KODIAK CHAMBER OF COMMERCE


Edward F Randolph


Jeri Jensen
Secretary to the Board





STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 24, 1989

Dr. William Evans
Undersecretary
National Oceanic and
Atmospheric Administration
Department of Commerce
Room 5128
14th Street and Constitution Avenue, NW
Washington, DC 20230

Dear Bill,

The closure, on March 23, of the Central and Western Gulf of Alaska to retention of walleye pollock for the remainder of 1989 brings into sharp focus a set of issues of grave concern to fishermen and processors of Alaska. Substantial investment has been made in vessels and processing plants to create a stable shoreside bottomfish industry, particularly in Kodiak where the availability of pollock and other groundfish on a year-round basis is of extreme importance to the entire community.

Of the entire 60,000 metric ton harvest limit for Western and Central Gulf pollock a majority was apparently taken by a fleet of only 10 or so factory/tractors; local reports indicate that as much as 40,000 mt may have been simply stripped of its roe and the carcasses discarded in a race-for-fish among factory ships. The immense fishing capacity, high mobility, and ever larger numbers of these vessels pose a threat of biological, economic, and social harm to any long-term bottomfish industry in the state.

Because factory/tractors neither carry observers, nor deliver their product ashore, there is no way to verify the amounts and composition of their target catch, discards, or incidental take of "bycatch" species. Because their product is normally transhipped at sea, little or no income flows to coastal communities. The practice of pollock roe stripping, particularly at the fast pace evident in the Gulf this year, constitutes a dramatic waste of a resource that could otherwise support a vital component of Kodiak's economy.

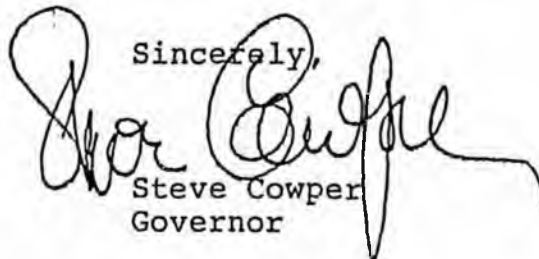
March 24, 1989

Regarding the recent closure, I commend the action of the National Marine Fisheries Service, Alaska Region, to require the off-loading of pollock prior to fishing or processing other species. This should at least help provide assurance that continued pollock fishing does not occur. However, it may be necessary as well to require inspection of at-sea processors by NMFS authorities, either at-sea or onshore, in order to ensure compliance with the prohibition. The Alaska Department of Fish and Game can provide assistance with such inspections if you wish.

For the remainder of this year, I encourage you to conduct whatever surveys may be reasonable to evaluate whether the original harvest limit was indeed appropriate. There appears to be some doubt that surveys of spawning pollock in Shelikof Strait adequately assess the entire Central and Western Gulf pollock population, especially in light of substantial catches of adult pollock off the southeastern shore of Kodiak Island this year. I also encourage you to consider a modest adjustment of the pollock harvest limit to allow retention of pollock taken incidently in other groundfish fisheries in 1989.

Bill, as you know from our previous conversations, the groundfish industry is vitally important to Alaska. The apparent conduct of what is a highly capitalized, mobile fleet of factory ships poses a severe threat to the social and economic stability of Alaska coastal communities. We are as yet unsure whether this practice may effect the resource itself. I hope that we can work together through the Regional Council process to deal more equitably with the conservation and allocation of groundfish resources off Alaska.

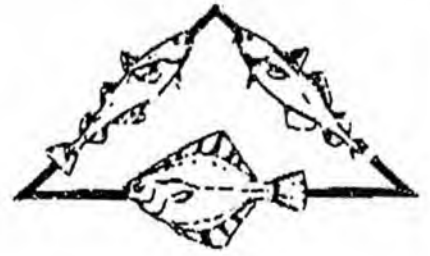
Sincerely,



Steve Cowper
Governor

cc: Jim Brennan, NMFS
Steve Pennoyer, NMFS/AKR
Bill Aron, NWAFC
Clarence Pautzke, NPFMC

Alaska Groundfish Data Bank



ALASKA GROUND FISH DATA BANK
FAX TRANSMISSION
FAX NO: 907-488-3461

TO REP CLIFF DAVIDSON
-465-3200

SUBJECT SHORE BASIN PREFERENCE

NUMBER OF PAGES 9 + COVER

TRANSMISSION DATE 3 MAY 89

COMMENTS PYI

Alaska Groundfish Data Bank

Shorebased Preference - Proposal - page 1

May 2, 1989

SHOREBASED PREFERENCE

A DISCUSSION PAPER

FOR FORMULATION OF A PROPOSAL



The following proposal, justification and discussion is being circulated for your comments, proposed changes, deletions and/or additions. We would appreciate receiving your comments by June 3 so they may be incorporated and a final draft circulated and reviewed before the June 9 deadline for submission of proposals to the North Pacific Fishery Management Council.

Our hope is to create a proposal which can be supported by all coastal communities, their processing plants and fishermen.

Please mail me your comments (P.O. Box 2298, Kodiak 99615), call me (907-486-3033) or fax me (fax 907-486-3461). I will be on vacation May 17 to June 2 and will finish a final draft for circulation as soon as I get back.

DRAFT SHOREBASED PREFERENCE PROPOSAL WORDING

PROPOSAL: Groundfish quotas in the Bering Sea and Gulf of Alaska shall be allocated between shorebased operations and factory-trawler operations.

When requests for allocation exceed the TAC, preference will be given to the shorebased allocation. Floating processors operating less than three miles from shore will be considered shorebased operations. Those operating outside three miles will be considered factory trawl processing operations.

When factory-trawl and shorebased operations are allocated fish in the same management area, the Regional Director, on advice from the North Pacific Fishery Management Council may designate certain time and/or area closures for factory-trawl operations to assure distribution of catch over the entire stock and reduce gear conflicts.

Reapportionments of TACs between onshore and factory-trawl operations will be done in the same manner that reapportionments are now done between DAP and JV operations.

JUSTIFICATION:

Factory-trawl operations have grown to the point that they threaten to seriously impact the economic bases of shorebased communities in Alaska.

Shorebased Preference - Proposal - page 2

Since these communities' economies are largely, and in some cases, solely dependent on the fisheries resources in adjacent waters, their very existence and the welfare of all their residents is jeopardized.

It is now possible for factory-trawl operations to move into an area on which shorebased communities depend, take the quotas in a very short time and then move on. The shorebased communities affected are left with a seriously diminished economic base.

Secondly, there is no restraint on the growth of factory-trawler effort, though shorebased capacity faces natural restraints such as space and infrastructure limitations which restrict expansion, availability of employees and resource limitations because shorebased production is dependent upon the resources within a limited radius of the community.

Thirdly, the U.S. catcher-boat fleet, many of whom were displaced from joint ventures, now are dependent on the survival of shorebased operations.

Without this proposal the potential still exists for factory-trawler effort to reach the point at which quotas are inadequate for that segment to maintain profitability -- in the process shorebased communities would be destroyed. With this proposal shorebased communities will be given some protection.

From a national standpoint this proposal represents a policy call. Failure to adopt this regulation sets a policy of abandoning coastal communities and turning Alaska's groundfish fisheries over to the factory-trawler fleet. Adoption of this proposal assures continued economic survival of coastal communities within the limits of the health of the resource.

Lastly, without a policy that offers some assurances to coastal communities any potential investment is adversely affected, not only for the processing operations, but for all businesses and individuals within the community as it is obvious that the economic future of coastal communities is dubious.

WHO WILL BENEFIT?

Shorebased communities, their residents and businesses and infrastructure will be the principal beneficiaries of this proposal.

Shorebased Preference - Proposal - page 3

Also benefiting will be the following:

1. Catcher-boats dependent on the groundfish fisheries.
2. The longline and pot fleets would be impacted if the catcher-boat fleet now engaged in groundfish was unable to continue fishing groundfish and attempted to survive by moving into the pot and longline fisheries.
3. Financial institutions who have financed the businesses in coastal communities.

WHO WILL BUFFER?

Factory-trawlers will face additional restraints on their operations, particularly if the factory-trawler fleet continues its unrestrained expansion.

With or without this regulation the factory-trawler segment could still expand to the point that the quotas are inadequate for profitable operations and the impact would be the same whether this proposal passed or not.

However, this proposal would give coastal communities some protection and, incidentally, any factory-trawler could be beached or turned into a floating processor and receive the same protection.

ARE THERE OTHER WAYS TO SOLVE THE PROBLEM?

There are two other options:

1. Draw circles around coastal communities and exclude factory trawlers inside those circles.
2. Confine factory-trawl operations to specific areas in the Bering Sea.

However, we feel these two options lack the flexibility of the shorebased preference proposal as neither would allow factory trawlers to move into a shorebased area when the shorebased communities couldn't fully utilize the groundfish quotas.

It should be emphasized that the intent of this proposal is to offer protection and stability (within the limits of the health of the resource) to shorebased communities.

Shorebased Preference - Discussion - page 1

DISCUSSION

In formulating this first stab at a shorebased preference there were three problems which had to be resolved.

1. Floating processors: They do offer markets for catcher-boats and when working inshore must abide by the same regulations as shorebased processors. In some communities they offer the only competitive market for product and actually enhance the local economy.

Since the intent of this proposal is not to guarantee product to any specific processing plant or reduce within the shorebased environment any competition, but to protect shorebased communities, I used the above wording which treats floating processors within the three miles of shore as onshore processors.

2. Factory longliners: This is a very sticky problem. The factory longliners don't, at this point, appear to threaten coastal communities -- at least from my vantage here in Kodiak.

If other communities have a different perspective I suggest an option which addresses factory longliners be drawn up and submitted separately to be considered by the council.

Traditionally a council proposal contains several options.

3. Competition on the grounds when factory-trawl and onshore operations are working in the same management area: In the Kodiak area, so far, the factory-trawler fleet has attempted to work pollock grounds away from the grounds being worked by the onshore operations.

This voluntary agreement seems to have worked so far and the language in the proposal allows the regional director on the advice of the council to put this type of voluntary arrangement into regulatory language.

Doing this avoids complications like splitting the Central/Western Gulf pollock quota into a central and a western gulf quota -- an act which would be biologically indefensible.

Shorebased Preference - Conservation - page 1

CONSERVATION

There are underlying conservation issues involved in restricting the competition between onshore and factory-trawl operations.

1. The amount of factory-trawl effort on the grounds allows for an unmanageable amount of effort on one small segment of a stock. The result will be over harvests as occurred most recently on the Central/Western Gulf pollock.

This proposal allows for a broader distribution of effort than is currently possible.

We note that the same effort concentrations occur in the halibut fishery and management has resorted to set openings spaced over time. This is economically possible in a high priced species, but is not feasible with low priced species.

2. Currently high grading and discards are major conservation issues as well as accurate accounting of catches.

It is economically possible (which is not the same as saying it is being done) for a factory trawler to fish areas with a lower percentage of retainable catch than a catcher boat which must make a delivery within a few days of bringing the first fish onboard -- and whose skipper might have a crew rebellion if they feel they have to do excessive sorting on deck.

Theoretically the factory-trawler is in a better position to high grade or retain only selected fish than a catcher boat delivering to an onshore processor.

3. Management, enforcement and observer time are more efficiently and economically effected in a shorebased operation than a factory-trawl operation.

Shorebased Preference - Precedents - page 1

PRECEDENTS

There are several precedents for reducing competition in the interest of the overall welfare of the citizens of the nation.

1. Elimination of longline pot vessels from the black cod fishery. In this case a few large pot vessels showed that there was a potential for the black cod pot fishery to displace the longline fishery and the council phased the longline pot vessel out of the Gulf of Alaska.

In this case the cleanest, most efficient gear was eliminated in the interest of maintaining traditional operations.

2. Allocation of black cod between trawlers and longliners. Here the council chose to make a direct allocation between the two competing gear types in the interest of maintaining the traditional gear -- even though the trawl interests pointed out that they required the black cod to subsidize the development of the other groundfish fisheries.
3. Internationally the near shore operations are traditionally protected from having to compete with the large offshore operations.
4. The DAP preference amendment in the MFCMA which favored U.S. vessels delivering to American processors over U.S. vessels delivering to foreign processors. The issue here was the inability of the U.S. processor to compete against foreign processed product. I believe the words "level playing field" were frequently used during discussions of this issue.
5. The legislation prohibiting reflagging. Here again Congress gave preference to U.S. investors using U.S. shipyards over U.S. investors who wished to use foreign hulls. Here again terms like "level playing field" were frequently heard.

Shorebased Preference - Issues - page 1

ISSUES

At the June council meeting several issues were raised which I address below in a Question and Answer format:

QUESTION 1: Isn't this just another form of limited entry?

ANSWER: No. This proposal does not offer any property rights to any individual, corporate or real. It does offer protection to the coastal communities, but vessels and onshore processors must still compete among themselves for product. New entrants are possible and old time operations can still go bankrupt and leave.

QUESTION 2: Isn't the main basis for this proposal economic?

ANSWER: The main basis for the proposal is both social and economic. It also has conservation bases. Therefore it does not appear to violate National Standard 5.

QUESTION 3: Is this proposal discriminatory among residents of different states?

ANSWER: No. Most onshore processors are headquartered outside Alaska. Onshore plants employ residents of many different states. The vessels delivering to onshore plants are crewed and owned by residents of many states.

It would not surprise us to find that the majority of the investment, ownership and employment involved in onshore operations accrues to non-Alaskans.

QUESTION 4: Isn't this simply replacing U.S. owned at-sea processing capacity with foreign owned onshore processing capacity?

ANSWER: No. All the catcher vessels delivering onshore are U.S. owned. Onshore plants are a mix of foreign and U.S. ownership, just as the investment in at-sea processors, though all American owned, is a mix of U.S. and foreign investment.

Both operations market in the U.S. and export to foreign countries; both employ Americans.

The real question is not processing capacity ownership, but the welfare of the coastal communities and their residents.

Shorebased Preference - Issues - page 2

QUESTION 5: Haven't coastal communities built up around salmon and crab -- the traditional species? Why should they have a preference for groundfish too?

ANSWER: A long time ago coastal communities built up around their salmon fisheries and from there expanded into other fisheries. Concomitantly with the increase in the groundfish resource the shellfish stocks which were a major contributor to coastal communities' economies disappeared.

As far as the economies of the coastal communities are concerned, groundfish has merely replaced the lost crab and shrimp. All coastal communities suffered serious economic depression between the decline of the shellfish resources and the development of onshore groundfish processing.

The question is rather like asking a man whose cow has died why he is drinking water instead of milk.

Shorebased Preference - Documentation Plan - page 1

DOCUMENTATION PLAN

As part of this proposal it is important to document as much as possible the economies of as many coastal communities as possible.

Following is my outline for documenting Kodiak -- similar information may be obtainable in your community. I would suggest you seek the assistance of your local Chamber of Commerce, municipal government and/or ADF&G office and ask them if they could assemble the information for you.

Kodiak Economy - 1976-1989

Note: Not all this information may be available. As much as possible all information is for the years 1976-1989.

- A. Deliveries to onshore processors, floating processors, catcher processors and joint ventures by species group 1976-1989. Calculate percentage distribution among processing modes.
 1. Salmon and herring
 2. Halibut
 3. Crab
 4. Black cod
 5. Pollock, cod and flounder
- B. Value by processing mode and species group as listed above.
- C. Increase/decrease in processing companies onshore.
- D. Employment in processing plants. in total community.
- E. Number of vessels making deliveries in community by species group.
- F. Number of housing units - average price
- G. Sales tax revenues
- H. Electric usage
- I. Water usage

For Kodiak this information should document that groundfish has only replaced crab and shrimp in terms of the town's general employment and revenues.



Alaska State Legislature

Senator Mike Szymanski

While in Session
PO Box V
Juneau, Alaska 99801
(907) 465-4978

Interim
311 C Street, Suite 510
Anchorage, Alaska 99501
(907) 561-7617

or
165 E. Parks Highway
Wasilla, Alaska 99687
(907) 376-6451

March 24, 1990

MEMORANDUM

TO: Representative Cliff Davidson and
Representative Curt Menard, Co-Chairs
House Resources Committee

FROM: Senator Mike Szymanski *Mike*

RE: Request for Hearing

I wish to request that schedule SJR 71, relating to the reauthorization and amendment of the Magnuson Fishery Conservation and Management Act, at the earliest possible date.

Thank you for your consideration.



Alaska State Legislature

Senator Mike Szymanski

SECTIONAL SJR 75

While in Session:
PO Box V
Juneau, Alaska 99811
(907) 465-4978

Interim:
111 C Street, Suite 510
Anchorage, Alaska 99501
(907) 561-7617

or
165 E. Parks Highway
Wasilla, Alaska 99687
(907) 476-6451

Page 1, Lines 9-12

The Magnuson Act, which originally went into effect in 1977, is periodically updated and reauthorized. The present Magnuson Reauthorization Act, HR 2061, has recently passed out of the U.S. House and is now in the Senate Commerce committee pending hearings.

Page 1, Lines 13-15

The "Americanization" of the 200 mile Economic Enterprise Zone (EEZ) saw a rapid increase in the domestic factory trawler fleet. There are approximately 50 factory trawlers now operating in the North Pacific and many more being constructed. According to various estimates, the fleet's processing capacity either exceeds or is close to exceeding the annual groundfish quota for the Gulf of Alaska and the Bering Sea. Since these processing vessels are mobile, they can move to where the resources are and harvest and process the fish without ever touching shore. This, combined with the threat of overfishing, can have devastating effects on communities with fisheries based economies.

It is important that the regional councils be allowed to allocate fisheries resources between off-shore and shore-based processors so that the fisheries dependent coastal communities can sustain their economies.

Page 1, Lines 16-29

Senate Bill 1900 by Senator Stevens includes a section (sec. 316) which addresses the need for assistance to economically disadvantaged communities. The Senate version of the bill would allow the NPFMC "to recommend conservation and management measures, including time and area closures and gear restrictions, to ensure that fishing vessels associated with eligible communities in Alaska are given reasonable access to and opportunity to catch groundfish under the authority of the Council."

The Senate bill also allows the Governor of Alaska to recommend that a community be designated economically disadvantaged if it is;

- 1) located on the coast accessible to fishing boats,
- 2) unlikely to attract and develop economic activity other than commercial fishing,
- 3) has traditionally been a fisheries-based community.
- 4) has not developed the harvesting or processing capabilities necessary to support substantial participation in commercial groundfish fisheries because of lack of funds for investment,
- 5) has developed a fishery development plan approved by the Governor.

Page 2, Lines 1-4:

Section 316 also designates a 5% set-aside from the total allowable catch of groundfish for communities designated as "economically disadvantaged."

Page 2, Lines 5-20:

The domestication of the fisheries within the EEZ has resulted in a rapid growth of the factory trawl industry harvesting groundfish. The growth of the fleet along with the expense of the individual vessels presents a potential for overcapitalization of the groundfishery which in turn places greater harvest pressure on the resource.

Local fisheries councils should have the authority to allocate fisheries resources between shore-based and floating processors to protect the economies of coastal communities relying on fisheries.

Page 2, Lines 21-29 through Page 3, Lines 1-4

HR 2061 was amended in the House Merchant Marine and Fisheries Committee to add two seats to the North Pacific Fisheries Management Council for Oregon and Washington. Close to 100% of the factory trawl fleet resides outside Alaska, primarily in Washington State.

Page 3, Lines 5-16

The Alaska State Legislature opposes the addition of two seats to the NPFMC and supports allowing the regional management councils to make allocations between on-shore and off-shore processors and the provision in Section 316 of S. 1900 to provide assistance to economically disadvantaged coastal communities.

Page 3, Lines 17-26

The Alaska State Legislature supports retaining the present membership of the NPFMC and requests the Alaska Delegation to the Senate to oppose the addition of the two Council seats.

Page 3, Lines 22-25

As a member of the conference committee which will consider the Magnuson reauthorization act, Congressman Don Young is requested to oppose the addition of two seats to the NPFMC.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION	BILL NUMBER SJR 75	SPONSOR Szymanski
SHORT TITLE OF BILL Relating to reauthorization of Magnuson Act			
DEPARTMENT POSITION Support			
PREPARED BY Molly McCammon	DATE 2/27/90	COMMISSIONER'S SIGNATURE <i>Andrew W. Wilby</i>	DATE 2 27 90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL None	CONSTITUENT GROUP(S) AFFECTED BY BILL Commercial fishermen Seafood processors
ORGANIZATIONAL SUPPORT FOR BILL Commercial fishing organizations Coastal communities	ORGANIZATIONAL OPPOSITION TO BILL Factory trawlers

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The United States House of Representatives has passed legislation calling for reauthorization of the Magnuson Fishery Conservation and Management Act. The intent of this resolution is to indicate a legislative position on proposals included in that legislation.

ANALYSIS OF BILL/PROGRAM EFFECTS

This resolution indicates legislative support for the proposal to give authority to fishery management councils to allocate fishery resources between land based and offshore fishing fleets and in doing so, protect the economies of coastal fishing communities. In addition, the resolution calls for strong opposition to the addition of two non-Alaskan members to the North Pacific Fisheries Management Council and directs the Alaska congressional delegation to oppose it also.

AMENDMENTS PROPOSED

See enclosed sheet

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

AMENDMENT TO SJR '75

Proposed by the Department of Fish and Game

line 24 - 27, pg. 2: change to read:

FURTHER RESOLVED that it is the Legislature's highest priority that the ~~current~~ geographic composition of the North Pacific Fisheries Management Council be retained and that Senator Ted Stevens and Senator Frank Murkowski are respectfully requested to oppose the proposal to add new members to the council

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Fish and Game
 Title: Relating to reauthorization
of Magnuson Act BRU: _____
 Sponsor: Senator Szymanski Components: _____
 Requestor: Senator Szymanski

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No FY 90 impact.

Prepared by: Molly McCammon *Molly McCammon* Phone: 465-4100
 Division: Commissioner's Office Date: 2/27/90

Approved by Commissioner: *Warren H. Wiley* Date: 2/27/90
 Agency: _____

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

NEWS RELEASE

STATE OF ALASKA

OFFICE OF THE GOVERNOR
P.O. BOX A
JUNEAU, ALASKA 99811

STEVE COWPER,
GOVERNOR



FOR INFORMATION CONTACT:

DAVID RAMSEUR
PRESS SECRETARY

TERENCE O'MALLEY
DEPUTY PRESS SECRETARY

(907) 465-3500

FOR IMMEDIATE RELEASE

Feb. 6, 1990

No 90-23

COWPER PROTESTS ACTION TO EXPAND NORTH PACIFIC COUNCIL

JUNEAU--Gov. Steve Cowper today expressed strong opposition to the U.S. House of Representatives passing a bill that adds non-Alaskan seats to the North Pacific Fishery Management Council (NPFMC).

"As I've said before, this is nothing more than a blatant attempt by Washington factory trawlers to seize control of the council," Cowper said. "If the factory trawlers can unduly influence the process, we'll see fisheries conservation take a back seat to special economic interests."

At issue is an amendment to the Magnuson Act that would add at least one more voting member from the Pacific Northwest to the NPFMC. The Council is one of eight regional councils around the country that set management measures for fisheries out to 200 miles in the U.S. exclusive economic zone. The NPFMC, with representatives from Alaska, Washington and Oregon, manages waters off Alaska and it is expected that any new seats to the Council would represent the interest of factory trawlers, who have lobbied heavily in favor of the measure.

Gov. Cowper has consistently opposed adding new seats to the council, especially in light of the poor fisheries conservation track record of factory trawlers. Last Spring, factory trawlers stripped the roe out of up to 40,000 metric tons of pollock in the Gulf of Alaska so that the entire quota was used up by March 23, leaving shore plants in Kodiak with no pollock for the rest of the year.

Conservation measures that would correct problems posed by roe-stripping and the bycatch of fish species have been resisted consistently by factory trawlers.

MORE

"This tremendous waste of Alaska's fisheries is an abuse of our natural resources," Cowper said. "We've consistently told Congress that we would rather not see reauthorization of the Magnuson Act than add seats to the Council that will undermine fisheries conservation.

"The Council's got a tough enough job finding the middle ground among everyone who wants to fish off Alaska and they've been doing very well. But if this bill becomes law, we'll have some real problems assuring there are enough fish to go around."

The Cowper Administration will continue to work to defeat this legislation in the Senate where there have already been several hearings on the reauthorization of the Magnuson Act. However, the committee with jurisdiction over the bill has taken no action to amend the Senate version, and no action is expected in the near future.

NEWS RELEASE

STATE OF ALASKA

OFFICE OF THE GOVERNOR
P.O. BOX A
JUNEAU, ALASKA 99811

STEVE COWPER,
GOVERNOR



FOR INFORMATION CONTACT:

DAVID RAMSEUR
PRESS SECRETARY

TERENCE O'MALLEY
DEPUTY PRESS SECRETARY

(907) 465-3500

FOR IMMEDIATE RELEASE

Oct. 5, 1989

No. 89-164

COWPER BLASTS ADDITION OF OUTSIDE SEATS TO FISHERIES COUNCIL

ANCHORAGE--Gov. Steve Cowper issued the following statement in response to today's U.S. House committee vote to add two seats to the North Pacific Fishery Management Council, which manages fishing in the North Pacific.

"Unfortunately, it appears as though the committee got snookered by procedural arguments when the real issue is what's best for the resource," Cowper said. "This is nothing more than a blatant attempt by factory trawlers to overrun the existing process. The worst part is the factory trawlers have a long history of wasting fish, and that abuse comes directly out of the wallets of Alaska fishermen."

"We fought hard against this vote and we're going to fight this all the way to the president. We're not going to let a well-financed special interest roll Alaskans."

The House Merchant Marine and Fisheries Committee, by a voice vote today, approved an additional seat each for Washington and Oregon on the Council, which manages fisheries out to 200 miles in the U.S. exclusive economic zone off Alaska. Cowper had lobbied against the addition of the seats, which was promoted by Washington state members of Congress.

The Governor noted that this spring the Washington- and Oregon-based factory trawlers stripped row out of up to 40,000 metric tons of pollock in the Gulf and tossed the meat overboard. As a result, the entire quota was used up by March 23, leaving shore plants in Kodiak with no pollock for the rest of the year.

The issue next moves to the House floor. The U.S. Senate is considering its own reauthorization of the so-called Magnuson Fishery Conservation and Management Act, which contains the amendments for the additional seats.

NEWS RELEASE

STATE OF ALASKA

OFFICE OF THE GOVERNOR
P.O. BOX A
JUNEAU, ALASKA 99811

STEVE COWPER,
GOVERNOR



FOR INFORMATION CONTACT:

DAVID RAMSEUR
PRESS SECRETARY

TERENCE O'MALLEY
DEPUTY PRESS SECRETARY

(907) 465-3500

FOR IMMEDIATE RELEASE

No. 89-152

Sept. 18, 1989

COWPER BLASTS EFFORT TO EXPAND NORTH PACIFIC COUNCIL

JUNEAU--Gov. Steve Cowper has blasted an effort by factory trawlers to increase their influence on a federal fisheries group that manages fishing in the North Pacific.

In a recent letter to Rep. Gerry Studds, chairman of the U.S. House Merchant Marine and Fisheries Committee's subcommittee on fisheries, wildlife and the environment, Cowper vigorously opposed a move to amend the Magnuson Fishery Conservation and Management Act and add at least one additional non-Alaskan seat to the North Pacific Fishery Management Council.

"This is nothing more than a blatant attempt by the factory trawlers to overrun the existing Council process," Cowper said. "They have objected to recent decisions by the Council to control the bycatch of crab and halibut taken by these bottomfish trawlers and are obviously concerned that the Council may limit their common practice of stripping roe from spawning fish and throwing away the useable meat."

Cowper is especially angry that the factory trawlers stripped the roe out of up to 40,000 metric tons of pollock this spring in the Gulf of Alaska so that the entire quota was used up by March 23, leaving shore plants in Kodiak with no pollock for the rest of the year.

-MORE-

"The tremendous waste of pollock caused by roe-stripping is a travesty not only to local industries, but is a horrible abuse of a valuable resource," he said. "The factory trawlers' past objections to conservation-minded bycatch controls just goes to show their lack of concern for the resource."

The North Pacific Council is one of eight regional councils around the country that set management measures for fisheries out to 200 miles in the U.S. exclusive economic zone. The Council manages waters off Alaska; another council handles waters off Washington, Oregon and California.

Existing membership on the North Pacific Council includes government and private sector representatives from Alaska, Washington and Oregon. The Governor noted that the North Pacific Council is the only one of the eight regional councils that already includes representatives from states not even adjacent to the waters being managed. Some fishermen from the Pacific Northwest, particularly those operating large factory trawlers, are now lobbying Congress for an increase in the voting representation of Washington and perhaps Oregon.

The Governor has applauded conservation actions taken by the Council that address bycatch and roe-stripping and strongly objects to the political end run being promoted by this one group of fishermen.

At issue is a proposed amendment to a U.S. bill which would alter the membership of the Council, along with other changes being proposed during reauthorization of the Magnuson Act. In response to intense lobbying from the factory trawler fleet, the congressional delegations of Washington and Oregon are pressuring the fisheries subcommittee to add at least one more voting member from the Pacific Northwest; it is understood that the appointee to that seat would represent factory trawler interests.

-MORE-

The Magnuson Act, originally passed in 1976, was created to exert U.S. jurisdiction over offshore fisheries out to 200 miles and sets standards for the conservation and management of those fisheries. The primary goal of the North Pacific Fishery Management Council is to assure the appropriate conservation of those resources and to provide equitable allocation of fish to various users. The Council has successfully phased out foreign domination of those fisheries but is now faced with the more difficult issue of making decisions that directly affect U.S. fishermen.

Cowper said the Council has done a tremendous job in maintaining productive stocks of fish and has been forced to make difficult decisions on who gets to take how much of those fish.

"The Council's got a tough job finding the middle ground among everyone who wants to fish off Alaska and they've been doing very well", he said. "But if political pressure by the factory trawlers upsets their balance, then we'll have some real problems even assuring there are enough fish to go around. We can't help it if too many people got greedy and built those big boats, but we can't let them run our fisheries into the ground."

Cowper also has called Chairman Studts and other congressmen to reinforce the importance of the proposed amendment. He emphasized that the Council is performing well and that it is unreasonable for Congress to directly influence regional allocation decisions by amending federal legislation.

October 3, 1988
For Immediate Release

Contact: Chris Blackburn
Alaska Groundfish Data Bank
Kodiak 907-488-3033

Kate Graham
United Fishermen of Alaska
Juneau 907-588-2820

PRESS RELEASE

The major fishing organizations in Alaska support Alaska Representative Don Young in his "no compromises" stand against any changes in the regional composition or number of seats on the North Pacific Fishery Management Council.

"We feel Alaska should stand firm in support of a status quo which has worked in favor of the resource," said Kate Graham, executive director of the United Fishermen of Alaska whose membership includes fishermen from Alaska and Washington.

"Any changes in the number of seats or regional apportionment of seats on the North Pacific Fishery Management Council would threaten a process that is obviously working and has successfully maintained a healthy fisheries off Alaska."

In a letter to Rep. Young, the groups wrote, "The North Pacific Fishery Management Council has a long history of conservative management which has maintained healthy stocks and benefited the industry in the long run."

The only motivation, in the opinion of the signatories to the letter, for changing the regional composition of the Council "is a desire to change the council's historic conservative management policies in favor of policies favoring short term profits to the detriment of the resource."

The group also noted that the North Pacific Fishery Management Council's already inadequate budget for management would be further reduced by \$10,000 per year for each additional council member added.

"We feel the council budget should pay for management of the resource, not additional council members," said Chris Blackburn, director of the Alaska Groundfish Data Bank in Kodiak.

Also supporting Young's "do to the well, no compromise" position were Alaska Druggers Association, Kodiak Longline Vessel Owners Association, Petersburg Vessel Owners Association, Alaska Longline Fishermen's Association, Sitka Fish and Game Advisory Committee, Sitka TrollPAC, Sitka Chamber of Commerce, Northern Southeast Regional Aquaculture Association, Sitka Sound Seafoods, Bering Sea Fishermen's Association and Southwest Alaska Municipal Conference.

October 2, 1989

Hon. Don Young
U.S. House of Representatives
2331 Rayburn Building
Washington, D.C. 20515

Dear Don:

As we discussed in our phone call last week, members of the Alaska fishing industries are adamantly opposed to any change in the number of seats or regional composition of seats on the North Pacific Fishery Management Council. We feel that Alaska should stand firm in support of a status quo which has worked in favor of the resource.

None of us can remember any votes which were made strictly along regional lines. If there is any block voting, it is by gear type. Since no gear type holds a majority vote, votes are ultimately a compromise made in the best interest of the resource and its equitable distribution among users.

Further, the process does not end with the North Pacific Fishery Management Council. The council recommends to the Secretary of Commerce. Any recommendation by the council undergoes extensive review within NMFS, NOAA and the Department of Commerce.

The North Pacific Fishery Management Council has a long history of conservative management which has maintained healthy stocks and benefited the industry in the long run.

Further, it has a long history of having its recommendations stand up under extensive federal review and in the courts on the few occasions a decision has been challenged in the courts.

Since the council has no history of making illegal recommendations, the only motivation, in our opinion, for the current efforts to alter the regional composition of the North Pacific Fishery Management Council is a desire to change the council's historic conservative management policies in favor of policies favoring short term profits to the detriment of the resource.

Increasing the number of seats would also increase the costs of the North Pacific Management Council. The average cost of a council member is \$10,000 per year, including travel, per diem and compensation.

The budget is already so inadequate that industry members of some committees are forced to pay all or portions of their own expenses to participate in committees to which they are assigned.

Stop Seat Change - page 2

Many committee meetings and all Plan Team meetings are held in Seattle, which means Alaskans who attend must spend \$1,000 or more in hotel bills and airfare to fully participate in the process.

To reiterate, any changes in the number of seats or regional apportionment of seats on the North Pacific Fishery Management Council threatens to break a process that is obviously working, that meets federal requirements and has successfully maintained a healthy fisheries resource off Alaska.

Let the position of the Alaskan delegate be steadfast and heated opposition to any changes in the number or regional composition of seats on the North Pacific Fishery Management Council. Any compromise is unacceptable.

Sincerely,

Kate Graham, Executive Director
United Fishermen of Alaska

Linda Kozak, Director
Kodiak Longline Vessel Owners

Joseph K. Donohue, Executive Director
Alaska Longline Fishermens
Association

William Froust
Sitka TrollPAC

Pete Esquiro, Manager
Northern Southeast Regional
Aquaculture Association

Gordon Jensen
Petersburg Vessel Owners Association

John Levy, Executive Director
Southwest Alaska Municipal Conference

(Signature sheets follow)

Chris Blackburn, Director
Alaska Groundfish Data Bank

Alvin Burch, Executive Director
Alaska Draggers Association

Phil Wyman, Chairman
Sitka Fish and Game Advisory
Committee

Denton J. Pearson
Sitka Chamber of Commerce

Harold K. Thompson, President
Sitka Sound Seafoods, Inc.

Henry Mitchell
Bering Sea Fishermen's Association

House OKs bill adding seats to fish council; Alaskans upset

By DAVID WHITNEY
Daily News reporter

WASHINGTON — The House approved legislation Tuesday that would neutralize Alaska's dominance over the federal council that manages commercial fishing in federal waters off the coast of Alaska.

The legislation, approved 395-21, would add seats for Oregon and Washington to the North Pacific Fisheries Management Council. Much to the consternation of Alaska fishermen and Gov. Steve Cowper, the legislation was supported by state's lone congressman, Republican Rep. Don Young.

Young led Republican support for the bill.

"We are real disappointed," said Kate Graham, executive director of United Fishermen of Alaska. "This is totally unacceptable. We are real sorry to see that Rep. Young spoke and voted in favor of this bill."

Cowper issued a statement late Tuesday calling the fight over the council seats "a blatant attempt by Washington factory trawlers

to seize control of the council."

"If the factory trawlers can unduly influence the process, we'll see fisheries conservation take a back seat to special economic interests," the governor said.

The House action would expand the council's membership from 11 to 13. Alaska would continue to have six seats. The two Northwest states would each pick up one seat, giving Washington a total of four and Oregon two.

The tie-breaker seat would be held by the National Marine Fisheries Service.

The House action came on legislation reauthorizing the Fisheries Conservation and Management Act. Another key provision of the bill calls for U.S. negotiations to ban the use of environmentally destructive driftnets by fishing nations.

While Alaska fishermen uniformly support banning driftnet use in international waters, the key issue for them was the expansion on the council seats. The pres-

sure to give Oregon and Washington more say on the council was widely attributed to the Seattle-based factory trawler fleet that is fast expanding its operations in the North Pacific Ocean.

The bill was supported by Washington's congressional delegation, who saw the council's expansion as a fairness issue.

"Industry members based in Washington and Oregon comprise approximately 75 percent of the harvesting and processing capacity in the North Pacific," said Rep. Jolene Unsoeld, D-Wash. "The present composition of the managing council precludes adequate representation on the council for significant segments of the Northwest fishing industry."

United Fishermen of Alaska had urged Young not to allow the bill to leave the House without "registering the serious objections you feel."

Young acknowledged that he had received "correspondence" from Alaska fishermen but said it would be

inappropriate to press for withholding House action because of their concerns.

"I understand the frustrations of United Fishermen of Alaska," Young said. But he said their concerns would

hopefully be worked out when the bill reaches the Senate.

Young's vigorous defense of the bill is in stark contrast to that of Alaska Sen. Ted Stevens, who late last

year threw down his marker by introducing a legislation that not only would ban factory trawlers from the Gulf of Alaska but would create a preference for state shore-side processors.

S J R

50

HOUSE COMMITTEE REPORT

(9)

Date Referred: March 30, 1990

FURTHER REFERRALS:

Date of Committee Action: 5/1/90

The RESOURCES Committee considered:

SJR 50

SENATE JOINT RES. NO. 50

PROPOSED USF&WS MARINE MAMMALS RULE

Relating to the rule proposed by the United States Fish and Wildlife Service relating to marine mammals.

RECOMMENDATIONS:

- be replaced with ACS SJR 50 the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) 3/26/90 ADFG
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Do Not Pass No Rec Amend

[Signature] McENARD
[Signature] DAVIDSON
[Signature] NAVARRE
[Signature] JACKO
[Signature] HUDSON

<u>[Signature]</u> SHARP		<input checked="" type="checkbox"/>	

[Signature]
Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: 5-5-89
Title: SJR 50 - USFWS Marine Mammal Rule
Sponsor: Zharoff
Requestor: Governor

Agency Affected: Fish and Game
BRU: Wildlife Conservation
Components: Wildlife Conservation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No impact on FY90

Prepared by: Bruce Dinneford
Division: Wildlife Conservation

Phone: 907-465-4190
Date: 3-22-90

Approved by Commissioner: [Signature]
Agency: _____

Date: 3/22/90

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Original sponsor(s): SEN. ZHAROFF, Adams, Eliason, Coghill, Winkley,
Szymanski, Kerttula, Duncan, Pearce, Jones, Sturgulewski, Uehling

1 IN THE SENATE

2 HOUSE CS FOR SENATE JOINT RESOLUTION NO. 50 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Relating to the rule adopted by the
6 United States Fish and Wildlife Service
7 relating to sea otters.

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

9 WHEREAS the Native people of the state have been using sea otters for
10 subsistence and handicraft purposes for thousands of years; and

11 WHEREAS the Native people of the state are the original conservation-
12 ists and have historically managed resources in an ecologically sound
13 manner; and

14 WHEREAS the taking and use of marine mammals, including sea otters,
15 for handicrafts is a mainstay of the livelihood and cultural survival of
16 Natives in the state; and

17 WHEREAS the United States Fish and Wildlife Service has adopted a rule
18 that prohibits the taking of sea otters by Natives for use in creating and
19 selling authentic Native handicrafts, including clothing; and

20 WHEREAS the rule will subject Natives in the state who create and sell
21 handicraft items made out of sea otters to penalties of up to a year in
22 prison and fines of up to \$20,000; and

23 WHEREAS the rule violates the intent and express language of the
24 Marine Mammal Protection Act (16 U.S.C. 1361 - 1407), which specifically
25 provides an exemption for Alaskan Aleuts, Eskimos, or Indians who reside on
26 the North Pacific and Arctic Ocean coasts to take marine mammals, including
27 sea otters, for the purpose of creating and selling authentic Native handi-
28 crafts; and

29 WHEREAS the United States Fish and Wildlife Service is following an

1 inaccurate and overly restrictive interpretation of the Marine Mammal
2 Protection Act, and has ignored the actual language of the Act; and

3 WHEREAS the rule is not biologically justified because the sea otter
4 population in the state is healthy and growing; and

5 WHEREAS the rule would allow the unrestricted growth of the sea otter
6 population in the state, which would threaten the food resources that rural
7 persons depend on for subsistence; and

8 WHEREAS the United States Fish and Wildlife Service's justification
9 for the rule does not accurately reflect the historical use by Natives of
10 sea otters in the creation and sale of handicrafts; and

11 WHEREAS the rule does not take into account Native traditional prac-
12 tices and culture, and attempts to extinguish the rights of Natives in the
13 state; and

14 WHEREAS the rule originated with the Division of Law Enforcement in
15 the United States Fish and Wildlife Service, was written with ease of
16 enforcement as its main objective, and reflects an antagonistic, hostile,
17 adversarial, and dictorial attitude toward the Native people of the state;
18 and

19 WHEREAS the rule was developed in the absence of a comprehensive sea
20 otter management plan and without the cooperation of the people who would
21 be affected, "despite their willingness to work with the United States Fish
22 and Wildlife Service; and

23 WHEREAS enforcement regulations that are developed in cooperation with
24 the people who would be affected would have broader support, would reflect
25 a consensus of opinion among the interested parties, and, because of this
26 agreement, would be much easier to enforce; and

27 WHEREAS the original notice for the rule when it was first proposed
28 was inadequate and did not allow enough time to inform the people in the
29 rural parts of the state about its purpose and effect; and

1 WHEREAS, the public comment in the state on the rule from both indi-
2 viduals and organizations was overwhelmingly opposed to the rule, and the
3 opponents included the state Department of Fish and Game, the Alaska
4 Federation of Natives, Inc., Alaska Legal Services Corporation, the Alaska
5 Sea Otter Commission, the Alaska Village Participation Conference, the
6 Aleutian/Pribilof Islands Association, Inc., the City of Cordova, Cook
7 Inlet Tribal Council, Inc., Kawerak, Inc., the City of Kodiak, the North
8 Pacific Rim, the mayor of the North Slope Borough, the Regional Resource
9 Management Commission for the Chugach Region, the Rural Alaska Community
10 Action Program, Inc., the Rural Alaska Resources Association, the Sealaska
11 Corporation, the Seldovia Native Association, Inc., the United States
12 Department of the Interior Indian Arts and Crafts Board, and others; and

13 WHEREAS the adoption of the rule demonstrates a disregard for the
14 views of the persons who will be directly affected by the rule; and

15 WHEREAS the United States Fish and Wildlife Service may replace the
16 rule with a final rule after a management plan for northern sea otters has
17 been completed;

18 BE IT RESOLVED that the Alaska State Legislature condemns in the
19 strongest possible terms the adoption by the United States Fish and Wild-
20 life Service of the rule prohibiting the taking of sea otters by Natives
21 for use in creating and selling Native handicrafts, urges the Service to
22 reconsider its adoption of the rule, and urges the Service to work with the
23 state's Native people, through the Alaska Sea Otter Commission and other
24 appropriate organizations, to develop regulations that meet the concerns of
25 both the Service and the Native people of the state and that comply with
26 the Marine Mammal Protection Act.

27 COPIES of this resolution shall be sent to the Honorable George Bush,
28 President of the United States; the Honorable Manuel Lujan, Jr., Secretary
29 of the U.S. Department of the Interior; the Honorable Becky Norton Dunlap,

1 Assistant Secretary for Fish and Wildlife and Parks of the U.S. Department
2 of the Interior; the Honorable Richard N. Smith, Acting Director of the
3 U.S. Fish and Wildlife Service; the Honorable Walter Stieglitz, Regional
4 Director of the U.S. Fish and Wildlife Service; and to the Honorable Ted
5 Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable
6 Don Young, U.S. Representative, members of the Alaska delegation in Con-
7 gress.

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1 IN THE HOUSE

2 HOUSE CONCURRENT RESOLUTION NO.
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Suspending Uniform Rules 41(b), 24(c),
6 and 35 of the Alaska State Legislature
7 concerning SJR 50.

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

9 That under Rule 54 of the Uniform Rules of the Alaska State Legisla-
10 ture the provisions of Rule 41(b), Rule 24(c), and Rule 35 of the Uniform
11 Rules, regarding changes to the title of a bill, are suspended in consid-
12 eration of Senate Joint Resolution No. 50, relating to the rule proposed by
13 the U.S. Fish and Wildlife Service relating to marine mammals.



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

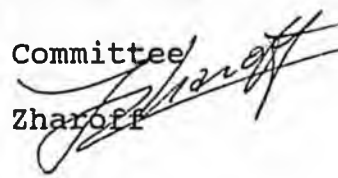
P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Representative Cliff Davidson
Representative Curt Menard
Co-Chairmen
House Resources Committee

FROM: Senator Fred F. Zharoff 

DATE: April 17, 1990

RE: Senate Joint Resolution 50 - "Relating to the rule proposed by the United States Fish and Wildlife Service relating to marine mammals."

I respectfully request that SJR 50 be scheduled for a hearing before the House Resources Committee at the earliest opportunity.

SJR 50 protests a proposed regulation formulated by the U.S. Fish and Wildlife Service that would prohibit the taking of sea otters by Natives for use in creating and selling authentic Native handicrafts, including clothing.

My view -- shared by Alaska's Congressional delegation and many others -- is that this proposed regulation is contrary to the language and intent of the Marine Mammal Protection Act, as passed by Congress in 1972. It also would be extremely detrimental to the culture and traditional practices of Alaska's Native population.

The U.S. Fish and Wildlife Service has been considering this regulation since it was first published in the Federal Register on Nov. 18, 1988. After much public pressure, the service held public hearings on the proposal in Alaska late in 1989. At the hearings, the proposed rule met with extensive public opposition. The service's final decision on the regulation is overdue. SJR 50 may yet help convince the federal agency to abandon the proposed rule.

The following backup information is attached:

1. The original notice of the proposed rule as published in the Federal Register, Nov. 14, 1988.
2. Letter of opposition to the U.S. Fish and Wildlife Service, signed by 18 legislators, dated May 10, 1989.

3. U.S. Fish and Wildlife Service reply to the May 10 letter, dated July 13, 1989.
4. ADF&G bill analysis and fiscal note.
5. Resolutions passed by the Alaska Federation of Natives.
6. Resolution passed by the Village Participation Conference.
7. Letter and resolution from the Citizens' Advisory Commission on Federal Areas.
8. Letter from U.S. Senator Ted Stevens, dated Jan. 17, 1989.
9. Letter from U.S. Senator Frank Murkowski, dated Feb. 17, 1989.
10. Letter from U.S. Senator Frank Murkowski, published in the Tundra Times, Dec. 11, 1989.
11. Tundra Times article, Oct. 16, 1989.
12. Bristol BayTimes article, Oct. 27, 1989.

I also have on file in my office copies of letters and/or resolutions of opposition from the Alaska Department of Fish and Game, the Alaska Federation of Natives, the Alaska Legal Services Corporation, the Alaska Sea Otter Commission, the Aleutian/Pribilof Islands Association, the Cook Inlet Tribal Council, the City of Cordova, the U.S. Department of Interior Indian Arts and Crafts Board, Kawerak Inc., the City of Kodiak, the North Pacific Rim, the Mayor of the North Slope Borough, the Rural Alaska Community Action Program, the Rural Alaska Resources Association, the Sealaska Corporation, the Seldovia Native Association, and Rep. Kay Wallis, in addition to my own letters and testimony to the U.S. Fish and Wildlife Service. I would be pleased to make any of these available to the committee upon request.

If the committee wishes, there are two individuals in the state who have extensive knowledge of the issue and who could testify before the committee through the teleconference system. They are:

Mr. Len Vining, Natural Resource Planner, The North Pacific Rim, 562-4155 (Anchorage).

Mr. Lloyd Lowry, Marine Mammal Coordinator, Division of Wildlife Conservation, Department of Fish and Game, 456-5156 (Fairbanks).

(n) Live crustaceans or viable eggs of mitten crabs, genus *Eriocheir*. Provided, that the Director shall issue permits authorizing the importation, transportation, and possession of such live fish or crustaceans or viable eggs under the terms and conditions set forth in § 10.22.

Dated: October 25, 1988.

Susan Recce,

Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior.

[FR Doc. 88-26182 Filed 11-10-88; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Findings on Petitions to List Populations of the Western Snowy Plover and the California Mountain Lion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of findings on petitions.

SUMMARY: The U.S. Fish and Wildlife Service announces 90-day petition findings for two petitions to amend the Lists of Endangered and Threatened Wildlife and Plants. Substantial information has been presented that a petition to list coastal western snowy plovers may be warranted. Substantial information has not been presented that listing a Santa Monica Mountains population of the California mountain lion may be warranted.

DATES: The findings announced in this notice were made in July 1988. Comments and information may be submitted until further notice.

ADDRESSES: Information, comments, or questions regarding the coastal western snowy plover petition may be submitted to the Supervisor, Fish and Wildlife Enhancement Field Station, 727 N.E. 24th Avenue, Portland, Oregon 97232. Information, comments, or questions regarding the Santa Monica Mountains mountain lion petition may be submitted to the Field Supervisor, Fish and Wildlife Enhancement Field Station, Federal Building, 24000 Avila Road, Laguna Niguel, California 92677. The petitions, findings, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above addresses.

FOR FURTHER INFORMATION CONTACT: Mr. Russell D. Peterson, at the above Portland, Oregon, Field Station address (telephone 503/231-6179 or FTS 429-

0179); Ms. Nancy Kaufman, at the above Laguna Niguel, California, Field Station address (telephone 714/643-4270 or FTS 796-4270).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973 (Act), as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that the U.S. Fish and Wildlife Service (Service) make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the Federal Register. If the finding is positive, the Service is also required to promptly commence a review of the status of the involved species. The Service has received and made 90-day findings on the following petitions.

A petition from Dr. J. P. Myers, Senior Vice President, National Audubon Society, was dated March 11, 1988, and received on March 24, 1988. It requested that a Pacific coast population of the western snowy plover, *Charadrius alexandrinus nivosus*, be added to the list of threatened species. The petitioner submitted information documenting the decline of, current status of, and threats to coastal western snowy plovers. The number of birds nesting in coastal Washington, Oregon, and California, has declined by about 50 percent in the past two decades despite protective efforts by the affected States. Primary factors have been habitat loss and alteration from recreation, coastal developments, and introduction of European beach grass. Nest abandonment and predation have also been significant. Questions pertaining to the significance of interchange between coastal and interior stocks of the subspecies and demarcation of the subspecies itself remain to be answered. Nonetheless, the Service found that the petition presented substantial information indicating that the requested action may be warranted. Formal review of the status of the entire subspecies *Charadrius alexandrinus nivosus* has been in progress since the Service's December 30, 1982 vertebrate notice of review (47 FR 58454).

A petition from Mr. Sean Manion, on behalf of the Topanga-Las Virgenes Resource Conservation District of California, was dated April 12, 1988, and received on April 25, 1988. The petitioner requested that a Santa Monica Mountains population of the

California mountain lion (*Felis concolor californica*) be added to the list of endangered species. After review of the petition and supporting documentation, the Fish and Wildlife Service finds that the petition does not present substantial information that the requested action may be warranted.

The range of the California mountain lion encompasses most of California, southern Oregon, western Nevada, and southern Baja California, Mexico. The lion is distributed throughout the majority of its historic range and the population appears to be stable or increasing. Although the petition presents information suggesting deterioration of the lions' habitat in the Santa Monica mountains, there is insufficient evidence that would support a determination that these animals constitute a completely isolated subpopulation or that the status of the species, as a whole, is declining over all or a significant portion of its range.

Author

This notice was prepared by Ms. Jackie Campbell, U.S. Fish and Wildlife Service, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232 (503/231-6150 or FTS 429-6150).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended: Pub. L. 93-205, 87 Stat. 304; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-825, 100 Stat. 3500 (1986), unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: October 28, 1988.

Susan Recce

Assistant Secretary for Fish and Wildlife and Parks

[FR Doc. 88-26188 Filed 11-10-88; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 18

Marine Mammals; Native Exemptions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (hereafter the Service) proposes to amend the regulations implementing the Marine Mammal Protection Act of 1972 (the Act), 16 U.S.C. 1361-1407; 50

CFR 18. Recent U.S. District Court decisions in Alaska have called for a thorough administrative review of the taking of northern sea otters (*Enhydra lutris lutris*) under the native exemptions section of the regulations (50 CFR 18.23). The Service has conducted a preliminary analysis of all available information, including historical evidence, legislative history, and past policy statements and guidelines relating to the Alaska Native use of the sea otter in handicrafts and clothing. Sea otters apparently were not being taken for such purposes when Congress passed the Act, nor had they been taken legally within living memory by Alaska Natives. The clear intent of Congress in passing the Act was to preserve existing native uses of marine mammals rather than to promote expansion of Alaskan arts and crafts industries or the creation of new industries. Therefore, the Service interprets the Act and its existing regulations to prohibit the taking of sea otters by Alaska Natives for use in creating and selling handicrafts and clothing, and the Service proposes to amend the definition of "authentic native articles of handicrafts and clothing" to clearly state this interpretation. In keeping with the paramount objective of Congress to protect marine mammals, this amendment to the regulations is intended to supersede and inconsistent Service policy guidelines and resolve the existing controversy over the allowable native uses of the sea otter. Alaska Natives would continue to be permitted to take this species for subsistence purposes.

DATE: Comments must be submitted by January 13, 1989.

ADDRESSES: Comments and materials concerning this notice should be sent to the Director, U.S. Fish and Wildlife Service, P.O. Box 28006, Washington, DC 20038-8006. Comments and materials may be delivered to the U.S. Fish and Wildlife Service, Division of Law Enforcement, Room 300, Hamilton Building, 1375 K Street NW., Washington, DC, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Thomas L. Striegler at the above address [(202) 343-9242 or FTS 343-9242].

SUPPLEMENTARY INFORMATION:

Existing Regulations

The Act provides for a moratorium on the taking and importation of marine mammals and marine mammal products, including the northern sea otter (*Enhydra lutris lutris*). However,

Congress created a limited exemption for Alaska Natives. 16 U.S.C. 1371(b) provides, in relevant part:

Except as provided in section 1379 of this title, the provisions of this chapter shall not apply with respect to the taking of any marine mammal by any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking—

- (1) is for subsistence purposes; or
- (2) is done for the purposes of creating and selling authentic native articles of handicrafts and clothing; provided, That only authentic native articles of handicrafts and clothing may be sold in interstate commerce; And provided further, That any edible portion of marine mammals may be sold in native villages and towns in Alaska or for native consumption. For the purposes of this subsection, the term "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to weaving, carving, stitching, sewing, lacing, beading, drawing, and painting; and

(3) In each case, is not accomplished in a wasteful manner.

Pursuant to the authority granted in 16 U.S.C. 1382, the Service promulgated regulations to implement the Act on December 21, 1972 (37 FR 28173) and substantially amended on February 25, 1974 (39 FR 7262). 50 CFR 18.3 provides, in pertinent part that "Authentic native articles of handicrafts and clothing" means items made by an Indian, Aleut, or Eskimo which (a) were commonly produced on or before December 21, 1972, and (b) are composed wholly or in some significant respect of natural materials, and (c) are significantly altered from their natural form and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or similar mass copying devices. Improved methods of production utilizing modern implements such as sewing machines or modern techniques at a tannery registered pursuant to section 18.23(c) may be used so long as no large scale mass production industry results.

The native exemptions section of the regulations (50 CFR 18.23) provides, in relevant part that except as otherwise provided in Part 403 of this Title, any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean may take any marine mammal without a permit, subject to the restrictions contained in this section, if such taking is: (1) For subsistence purposes, or (2) For purposes of creating and selling authentic native articles of handicraft and clothing, and (3) In each case, not accomplished in a wasteful manner.

Historic Uses

Since 1741, the date of the earliest exploitation of sea otter populations for the fur trade, there has been virtually no use of sea otters by Alaska Natives. Native takings were largely precluded, and in fact prohibited by the Russians and later by Alaska statutes during the 18th and 19th century fur trade. There is evidence of certain uses of sea otter pelts and parts in Alaska prior to 1741. However, Alaska Natives have apparently not commonly produced and sold handicrafts or clothing from sea otters within living memory.

Congressional Intent

The paramount objective of Congress in passing the Act was the protection of marine mammals. Congress allowed the taking of marine mammals by Alaska Natives to continue as those practices existed at the time of the passage of the Act, but did not provide for the development of new uses or the expansion of taking by natives. Congress intended to preserve existing native uses of marine mammals, characterized as the maintenance of "cottage industries", rather than to promote economic development or the growth of Alaskan arts and crafts industries. The fact that sea otter handicrafts have not been commonly produced for more than 200 years makes it impossible to consider them a part of the "cottage industry" or status quo Congress was exempting from the provisions of the Act. The native exemptions were passed with the implicit understanding that the patterns of native taking and use of marine mammals would remain as they were in 1972, at the time of passage of the Act. For the sea otter, this would allow essentially no take by Alaska Natives for the commercialization of handicrafts and clothing. In the words of United States District Judge Holland, ruling the *Maria Rena Katelnikoff v. U.S. Department of the Interior, et al.*, A85-336 Civ. (D.C. Alaska; July 21, 1986):

• • • it is entirely conceivable that the regulation at issue could leave Alaska Natives with virtually no uses of sea otters and still be consistent with the congressional intent to preserve traditional lifestyles and handicrafts.

In keeping with the purpose of Congress in passing the Act, the Service believes that exemptions from the moratorium which permit limited taking of marine mammals should be construed narrowly. By amending the marine mammal regulations in 50 CFR 18 to clarify their application to the sea otter, the Service will comply with

congressional intent and supersede any inconsistent policy guidelines and rulings, thereby resolving the existing controversy over the allowable native uses of this species.

Note.—The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this proposed rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Additionally, there are no information collection requirements contained in this document that require Office of Management and Budget clearance under 44 U.S.C. 3501. Since there has been no lawful, commercial use of sea otters by Alaska Natives for more than 200 years, there will be no economic impacts on the public, individual industries, or Federal, state, or local governments. The only effect of this rule will be to eliminate the confusion and controversy which have resulted from the misinterpretation of congressional intent, previous regulatory language, and policy guidelines regarding the allowable native uses of the sea otter.

The Service has determined that an environmental assessment, as defined

under the authority of the National Environmental Policy Act of 1969, need not be prepared for this action. Since the proposed rule reflects the statutory language and intent of Congress in the Act, this document is considered an amendment to an approved action having no potential for causing substantial environmental impact, and thus qualifies as a categorical exclusion from National Environmental Policy Act requirements under 516 DM 6, Appendix 1, Section 1.4(A)(1). The primary author of this document is Special Agent Michael Sutton, Division of Law Enforcement, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Alaska, Imports, Marine mammals, Transportation.

Regulation Promulgation

PART 18—[AMENDED]

For the reasons set forth in the preamble, Part 18, Subchapter B of

Chapter I, Title 50 of the Code of Federal Regulations is proposed to be amended as set forth below:

1. The authority citation for Part 18 continues to read as follows:

Authority: Marine Mammal Protection Act of 1972, as amended (Pub. L. 92-522, 88 Stat. 1027; Pub. L. 97-58, 95 Stat. 979 (10 U.S.C. 1361-1407)).

§ 18.3 [Amended]

2. Section 18.3 is amended by adding the following sentence to the end of the definition of "Authentic native articles of handicrafts and clothing": "Provided that, it has been determined that no items created in whole or in part from sea otter meet paragraph (a) of this definition, and therefore no such items may be sold."

Dated: October 17, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-26085 Filed 11-10-88; 8:45 am]

BILLING CODE 4310-55-M



Official Business

Alaska State Legislature

2

P.O. Box V
State Capitol
Juneau, Alaska 99811

May 10, 1989

Ms. Susan Recce Lanson
Acting Director
United States Fish and Wildlife Service
P.O. Box 28006
Washington, D.C. 20038-8006

Dear Ms. Lanson:

In advance of the U.S. Fish and Wildlife Service's scheduled field hearings in Alaska, we -- the members of the Alaska Legislature who represent rural and coastal areas in Alaska -- wish to offer the following comments on the proposed rule that would prohibit the taking of sea otters by Alaska Natives for use in creating and selling authentic Native articles of handicrafts and clothing.

The Native people of Alaska have used sea otters for subsistence and handicraft purposes for thousands of years. They are the original conservationists and have historically managed resources in an ecologically sound manner. As an example of responsible conservation, the Alaska Sea Otter Commission -- in reaction to the Exxon Valdez oil tanker disaster in Prince William Sound -- requested all sea otter harvesters to stop taking sea otters in the Chugach Region until more information is available about the extent to which the sea otter population has been affected by the oil spill. The Native people have no desire to take sea otters in excess of conservation goals nor to jeopardize their recovery from past population declines. The taking and use of marine mammals, including sea otters, is a mainstay of the livelihoods and cultural survival of the Native people who live in Alaska's coastal communities.

We believe the U.S. Fish and Wildlife Service's proposed rule violates the intent and express language of the Marine Mammal Protection Act, which specifically provides an exemption for Alaskan Aleuts, Eskimos or Indians who reside on the North Pacific and Arctic Ocean coasts to take marine mammals, including sea otters, for the purposes of creating and selling authentic native articles of handicrafts and clothing.

The proposed rule, if adopted, would subject Alaska Natives who create and sell handicraft items made out of sea otter to penalties of up to a year in prison and fines of up to \$20,000.

We feel the U.S. Fish and Wildlife Service has adopted an inaccurate and overly restrictive interpretation of Marine Mammal Protection Act, and has ignored the actual language of the Act.

The proposed rule is not biologically justified because the overall sea otter population in Alaska is healthy and growing. As was pointed out by many

Legislative Committee on Fisheries and Wildlife June 14, 1989 X

individuals and organizations who responded to the first request for public comment, the Service's justification for the proposed rule does not accurately reflect the historical use by Alaska Natives of sea otters and does not take into account Native traditional practices and culture.

We note the proposed rule originated with the Division of Law Enforcement in the U.S. Fish and Wildlife Service, apparently with the main objective of making enforcement easier for the Service. It reflects an antagonistic and needlessly adversarial attitude toward the Native people of Alaska. It was not developed in cooperation with the people who would be affected, despite their willingness to work with the Service.


Our experience with the legislative process leads us to the firm conclusion that the Service's enforcement regulations would have much broader support if they were written in cooperation with the people who would be affected. In addition, they would be much easier to enforce if they reflected a consensus of opinion among the interested parties.

We also note that the original notice of the proposed rule was inadequate and did not allow enough time for informing the people of rural Alaska about its purpose and impact.


The proposed rule is opposed by many individuals and organizations throughout Alaska including, but not limited to, Alaska's delegation in Congress, the Alaska Department of Fish and Game, the Alaska Federation of Natives, Inc., the Alaska Legal Services Corporation, the Alaska Sea Otter Commission, the Alaska Village Participation Conference, the Aleutian/Pribilof Islands Association, Inc., the Association of Village Council Presidents, the City of Cordova, Cook Inlet Tribal Council, Inc., Kawerak, Inc., the North Pacific Rim, the mayor of the North Slope Borough, the Regional Resource Management Commission for the Chugach Region, the Rural Alaska Community Action Program, Inc., the Rural Alaska Resources Association, the Seldovia Native Association, Inc., and the U.S. Department of the Interior Indian Arts and Crafts Board. As elected officials representing the people of Alaska, we wish to add our names to this list.

We respectfully request the U.S. Fish and Wildlife Service to abandon its proposed rule and, in the future, to work with Alaska's Native people -- through the Alaska Sea Otter Commission and other appropriate organizations -- to develop regulations that meet the concerns of both the Service and the Native people, and that comply with the Marine Mammal Protection Act.

Sincerely,



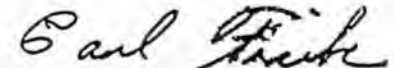
Senator Al Adams
District L



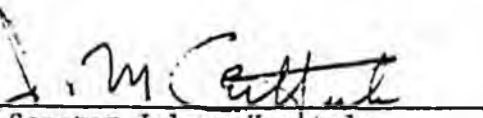
Senator Richard Eliason
District B



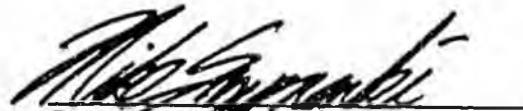
Senator Johnnie Blukley
District M




Senator Paul Fischer
District D



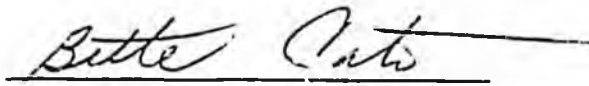
Senator Jalmar Kerttula
District E-A



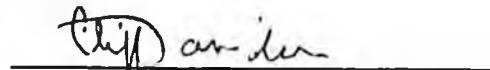
Senator Mike Szymanski
District E-B



Senator Fred F. Zharoff
District N



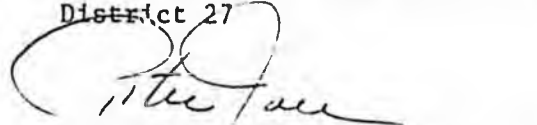
Representative Bette Cazo
District 6



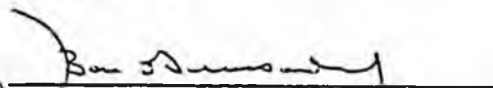
Representative Cliff Davidson
District 27




Representative Richard Foster
District 23



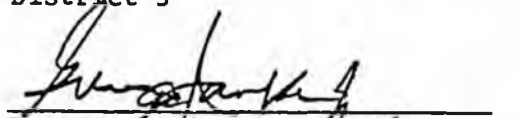
Representative Peter Goll
District 2



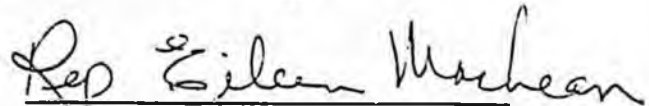
Representative Ben Grussendorf
District 3



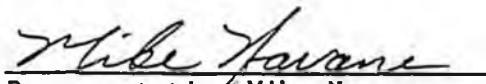
Representative Lyman Hoffman
District 25



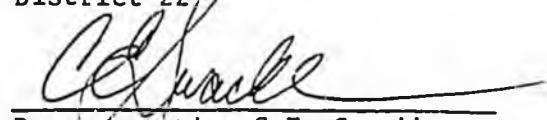
Representative George Sacko, Jr.
District 26



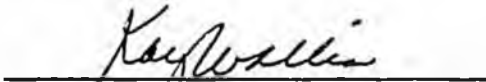
Representative Eileen P. MacLean
District 22



Representative Mike Navarre
District 5-A



Representative C.E. Swackhammer
District 5-B



Representative F. Kay Wallis
District 64

cc: Secretary Manuel Lujan, Jr.
Senator Ted Stevens
Senator Frank Murkowski
Representative Don Young
Governor Steve Cowper
Walter Stieglitz, AK Region, U.S. Fish and Wildlife Service



United States Department of the Interior

FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240

ADDRESS ONLY THE DIRECTOR
FISH AND WILDLIFE SERVICE

RECEIVED JUL 21 1989

In Reply Refer To:
FWS/MA/F9-2919

JUL 13 1989

Honorable Fred F. Zharoff
Alaska Senate
Juneau, Alaska 99811

Dear Mr. Zharoff:

Thank you for your letter dated May 10, 1989, which provided comments on the proposed rule that would prohibit the taking of sea otters by Alaska Natives for use in creating and selling authentic Native articles of handicrafts and clothing.

The Fish and Wildlife Service (Service), in a May 31, 1989, FEDERAL REGISTER Notice (copy enclosed), extended the public comment period for this rulemaking until November 30, 1989, to allow time for public meetings at selected locations within the range of sea otters. In order to accommodate the greatest number of Alaskan Natives who would be affected by the proposed rule, meetings will be held starting in October 1989. This additional extension of the comment period and the plan to conduct public meetings is in response to requests from Native organizations and individuals and conservation organizations.

The proposed rule has generated a great amount of public interest. At the close of the first comment period the Service had received 495 written comments on the proposed rule of which 87 were from individuals and organizations in Alaska. Based on the volume of comments received to date, the extension of the comment period and the schedule of public meetings (soon to be announced in a subsequent FEDERAL REGISTER Notice), the Service feels that it will have ample information to consider in making a decision on the proposed rule.

We agree with you that regulations and policy have much broader support when they are developed in cooperation with the people who would be affected. To that end, we hope that the extended comment period and public meetings will help to promote understanding and a consensus of opinion among all interested parties.

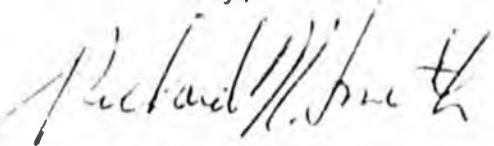
Honorable Fred F. Zharoff

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Thank you for your suggestions and comments. The Service appreciates your participation in the rulemaking process. If I may be of further assistance, please let me know.

Sincerely,

Acting
Deputy



A handwritten signature in cursive script, appearing to read "Richard W. Smith". The signature is written in dark ink and is positioned above the typed name and title.

DIRECTOR

Enclosure



STATE OF ALASKA
OFFICE OF THE GOVERNOR

4

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Wildlife Conservation	BILL NUMBER SJR 50	SPONSOR Zharoff
SHORT TITLE OF BILL USFWS Marine Mammal rule			
DEPARTMENT POSITION Support			
PREPARED BY Bruce Dinneford	DATE 3-22-90	COMMISSIONER'S SIGNATURE <i>Bruce Dinneford</i>	DATE 3 23 90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Public Safety	CONSTITUENT GROUP(S) AFFECTED BY BILL Native hunters and handicraft makers
ORGANIZATIONAL SUPPORT FOR BILL Native organizations	ORGANIZATIONAL OPPOSITION TO BILL USFWS

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

This resolution requests the US Fish and Wildlife Service to abandon its course in disallowing the take of sea otters by natives for creating and selling handicrafts.

ANALYSIS OF BILL/PROGRAM EFFECTS

The resolution has no effect on our management of sea otters, because they are managed by USFWS. Recent surveys of sea otters indicate most populations are stable or increasing throughout their range. Little vacant habitat remains, with most population at or approaching carrying capacity.

AMENDMENTS PROPOSED

None

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

FISCAL NOTE

REQUEST:

Revision Date: 5-5-89
 Title: SJR 50 - USFWS Marine Mammal Rule
 Sponsor: Zharoff
 Requestor: Governor

Agency Affected: Fish and Game
 BRU: Wildlife Conservation
 Components: Wildlife Conservation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No impact on FY90

Prepared by: Bruce Dinneford
 Division: Wildlife Conservation

Phone: 907-465-4190
 Date: 3-22-90

Approved by Commissioner: *William A. Piel*
 Agency: _____

Date: 3/22/90

Distribution (by preparer) :
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

ALASKA FEDERATION OF NATIVES, INC.
1989 ANNUAL CONVENTION

RESOLUTION NO. 39 - 45

TITLE: Sea Otter Management

WHEREAS the Native peoples of Alaska have been using sea otters for subsistence and handicraft purposes since time immemorial; and

WHEREAS the Native peoples of Alaska are the original conservationists and have historically managed resources in an ecologically sound manner; and

WHEREAS the Marine Mammal Protection Act specifically recognizes the Alaska Native peoples' right to harvest sea otters for subsistence and handicraft purposes; and

WHEREAS the U.S. Fish and Wildlife Service may regulate Native take only if the species has been depleted or found to be taken in an unuseful or wasteful manner according to the Marine Mammal Protection Act; and

WHEREAS the U.S. Fish and Wildlife Service has proposed a rule which would prohibit the taking of sea otters by Alaska Native peoples for handicrafts; and

WHEREAS this proposed rule is culturally insensitive, and ecologically unsound, based on shoddy research and a direct violation of the Marine Mammal Protection Act;

NOW THEREFORE BE IT RESOLVED by the delegates to the 1989 Annual Convention of the Alaska Federation of Natives, Inc. urges the U.S. Fish and Wildlife Service to immediately rescind its proposed rule and instead negotiate a memorandum of agreement and a comprehensive sea otter management plan in cooperation with the Alaska Sea Otter Commission.

SUBMITTED BY: Chugach Alaska Corporation and Eyak Corporation

COMMITTEE RECOMMENDATION: Do Pass

CONVENTION ACTION: Passed

ALASKA FEDERATION OF NATIVES, INC.

1989 ANNUAL CONVENTION

RESOLUTION NO. 89- 46

TITLE: A RESOLUTION OPPOSING THE U.S. FISH AND WILDLIFE SERVICES (USFWS) PROPOSED SEA OTTER RULE PROHIBITING ALASKA NATIVES FROM TAKING SEA OTTERS FOR SUBSISTENCE AND HANDICRAFT PURPOSES

WHEREAS the Alaska Native people of Alaska have been using sea otters for subsistence and handicraft purposes since time immemorial; and

WHEREAS the Alaska Native people of Alaska are the original conservationists and have historically managed resources in an ecologically sound manner; and

WHEREAS the U.S. Fish and Wildlife Service has proposed a rule which would prohibit the taking of sea otters by Alaska Native people for handicrafts; and

WHEREAS this proposed rule is not consistent with the Marine Mammal Protection Act (MMPA) which specifically recognizes and guarantees the Alaska Native people's right to harvest sea otters for subsistence and handicraft purposes; and

WHEREAS this proposed rule is based on illogical and convoluted reasoning; and

WHEREAS this proposed rule is culturally insensitive, ecologically unsound, based on shoddy research, and a direct violation of the Marine Mammal Protection Act;

NOW THEREFORE BE IT RESOLVED that the AFN/Rural CAP Subsistence Conference hereby urges the U.S. Fish and Wildlife Service to immediately rescind its proposed rule and start negotiating for a memorandum of agreement (MOA) and a comprehensive sea otter management plan in cooperation with the Alaska Sea Otter Commission rather than pursuing the rule making process.

SUBMITTED BY: AFN/Rural CAP Subsistence Conference

COMMITTEE RECOMMENDATION: Do Pass

CONVENTION ACTION: Passed

VILLAGE PARTICIPATION CONFERENCE RESOLUTION #89-25

ENTITLED: A RESOLUITON REAFFIRMING THE ALASKA NATIVE PEOPLE'S RIGHT TO USE SEA OTTERS FOR SUBSISTENCE AND HANDICRAFT PURPOSES.

WHEREAS, the Native people of Alaska have been using sea otters for subsistence and handicraft purposes for thousands of years; and

WHEREAS, the Native people of Alaska are the original conservationists and have historically managed resources in an ecologically sound manner; and

WHEREAS, the Marine Mammal Protection Act specifically recognizes the Native people's right to harvest sea otters for subsistence and handicraft purposes; and

WHEREAS, the U.S. Fish and Wildlife Service has proposed a rule which would prohibit the taking of sea otters by Native people for handicrafts; and

WHEREAS, this proposed rule is based on illogical and convoluted reasoning; and

WHEREAS, this proposed rule is culturally insensitive, ecologically unsound, based on shoddy research, and a direct violation of the Marine Mammal Protection Act.

Now, therefore, be it

RESOLVED: That the 1989 Village Participation Conference hereby urges the U.S. Fish and Wildlife Service to immediately rescind its proposed rule and to enter into a positive, productive, and cooperative working relationship with the Alaska Sea Otter Commission; and

be it further

RESOLVED: That the U.S. Fish and Wildlife Service should conduct public hearings in coastal villages affected by the proposed rule.

ADOPTED this 24th day of February, 1989 at the Village Participation Conference in Juneau, Alaska.

Chester Ballot, Chairperson
1989 Village Participation Conference



DEC 4 1989

7

Citizens' Advisory Commission on Federal Areas

November 29, 1989

250 Cushman St.
Suite 4H
Fairbanks, Alaska 99701
(907) 456-2012
Fax: 456-2039

Mr. Walter Stieglitz
Regional Director
U.S. Fish and Wildlife Service
1011 East Tudor Road
Anchorage, Alaska 99503

Re: Proposed amendment to 50 CFR Part 18 prohibiting the use of sea otters by Alaska Natives in the creation of handicrafts.

Dear Mr. Stieglitz:

The Citizens' Advisory Commission on Federal Areas has reviewed the U.S. Fish and Wildlife Service's (FWS) proposal to amend the regulations found at 50 CFR Part 18 implementing the Marine Mammal Protection Act of 1972 (MMPA). The proposed regulation prohibits the use of sea otter pelts by Alaska Natives in the creation of handicrafts for sale to non-Natives.

With the enclosed resolution, passed unanimously at the Commission's October 27, 1989 meeting, we wish to express our opposition to the Service's proposal. We offer the following additional comments with the hope that the FWS will acknowledge Alaska Natives' historical use of sea otters statutorily recognized by the Congress in the MMPA. We strongly urge the FWS to adopt a less restrictive, more cooperative approach to conducting its sea otter management responsibilities under the MMPA.

The rationale proffered by the FWS for its prohibition is that its current regulation requires that handicrafts made from marine mammal parts must have been commonly produced by Alaska Natives at the time of enactment of the MMPA in 1972. The proposed regulation which purports to "clarify" its current regulation (and by implication the intent of Congress) argues that a ban on Native sea otter use imposed by the Russian American Co. in 1741 was effectively enforced and continued under the administration of Alaska by the U.S. This unsubstantiated hiatus in traditional use of sea otters therefore disqualifies Alaska Natives from the exemption to the general prohibition on the taking of marine mammals for the creation of handicrafts. The FWS offers no evidence that this is what the Congress intended when it was contemplating passage of the MMPA. Quite the contrary, the MMPA states clearly enough:

"Except as provided in section 1379 of this title, the provisions of this chapter shall not apply with respect to the taking of any marine mammal by any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking-

- 1) is for subsistence purposes; or
- 2) Is done for the purposes of creating and selling authentic native articles of handicrafts and clothing: Provided, That

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only authentic native articles of handicrafts and clothing may be sold in interstate commerce: And provided further, ... For the purposes of this subsection, the term "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices..." [emphasis added]

The MMPA says "any marine mammal", not "any marine mammal except sea otters". We believe the FWS has exceeded the authority granted it by Congress in proposing to ban Native Alaskans' use of sea otters for the creation of handicrafts.

The notice for the proposed regulation purports that the FWS is under court order to "clarify" ambiguities in its regulations. Unfortunately, the only thing that has been clarified by the FWS's proposal is its intent to administratively prohibit a traditional activity recognized by federal statute. While it is true that the court has suggested the need for a "...thorough administrative review..." to ascertain the necessity of special regulation in order to remove ambiguities, the court also expressed its doubt that the FWS "had fully and adequately considered the possibility that bona fide" Native use of sea otter had occurred (Didrickson vs. U.S. Dept. of Interior, et al., A85-336 Civil) prior to the MMPA. If the Service wishes to "clarify" its current regulations, it can do so by developing language which unequivocally affirms the rights granted to Alaska Natives in the MMPA.

Having conducted what the FWS terms in its supplemental information section of the regulation notice (53 FR 45789 Nov. 14, 1988) "a preliminary analysis of all available information, including historical evidence, legislative history, and past policy statements", we must express our own doubts as to whether a "thorough administrative review" has yet occurred. Certainly "all available information, including historical evidence" would demonstrate that traditional use of sea otters by Alaska Natives has occurred since 1741. This has been shown in the testimony given by Alaska Natives at every one of the ten public meetings held in Alaska.

Regrettably, we must note that the Service would not have held these public meetings at all were it not for a storm of protest from the statewide Native community, including many people and organizations living beyond the historical range of the sea otter. This is because many Alaska Natives perceive, quite accurately in our opinion, that if the FWS succeeds in imposing this regulation upon them, the door will be open for further initiatives inspired by animal rights groups that threaten the continuation of Alaska Native culture. Native feelings on this issue are so strong that one hears the term "cultural genocide" quite frequently. We hope that the Service will recognize and be prepared to contend with, if nothing else, the fact that this perception is fraught with serious consequences for many of its resource management programs in Alaska.

In addition to testimony by Alaska Natives, expert scholars knowledgeable about Native culture have testified for the record in court proceedings that

November 29, 1989

page 3

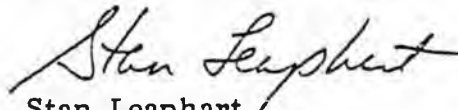
documentation exists for traditional Native use of sea otters (depositions of Dr. William Laughlin, Ph.D. and Dr. Lydia Black, Ph.D. in Katelnikov vs. Dept. of Interior). The FWS has conveniently overlooked this testimony in promulgating its regulation. Inevitably the FWS will encounter this expert testimony again if Alaska Natives are forced to litigate in order to have rights granted them by Congress recognized by the FWS.

Aside from ignoring historical fact, and contriving an inaccurate interpretation of the intent of Congress in its passage of the MMPA, the Service's proposed regulation makes little sense from a resource management perspective. There is no biological justification for prohibiting Alaska Natives use of sea otters for handicrafts. Alaska Department of Fish and Game (ADFG) biologists estimate that the population of sea otters residing in Alaska waters, currently 150,000 or more, is at or has exceeded historical numbers and is growing at about 15%-20% annually. FWS personnel do not dispute these population figures. This population growth, if unchecked, will eventually exceed the carrying capacity of the sea otter's habitat and is already having an impact on shellfish populations in some areas. The population of sea otters can easily sustain the current modest level of harvest by Alaska Natives and even allow for an appropriately managed growth of that harvest. The goal of the MMPA is to maintain healthy marine mammal populations. Failure to allow harvest of sea otters may very well militate against healthy populations by removing an important management tool.

The Alaska Sea Otter Commission (ASOC) has proposed a Memorandum of Agreement between the U.S. Fish and Wildlife Service, the Alaska Department of Fish and Game, and the ASOC. The agreement provides for the cooperative development of a comprehensive sea otter management plan. We believe this approach is more beneficial to the interests of all parties, including the population of sea otters, than the Service's proposed regulation. We encourage the Service to withdraw the proposed regulation and negotiate with the ASOC and the ADFG in a spirit of cooperation.

We hope you will find our comments thought provoking and useful as you endeavor to consider the public's views on this issue. If you have any questions or have a need for clarification of our position, please do not hesitate to contact our office.

Sincerely,



Stan Leaphart
Executive Director

cc:
Governor Cowper
Sen. Stevens
Sen. Murkowski
Rep. Young
Alaska Sea Otter Commission
Alaska Legal Services



*Citizens' Advisory Commission
on Federal Areas*

250 Cushman St.
Suite 4H
Fairbanks, Alaska 99701
(907) 456-2012
Fax: 456-2039

"A RESOLUTION OPPOSING THE U.S. FISH AND WILDLIFE SERVICE'S PROPOSED RULE PROHIBITING ALASKA NATIVES USE OF SEA OTTERS FOR HANDICRAFT PURPOSES."

WHEREAS, the Native people of Alaska have used sea otters for subsistence and handicraft purposes for many years; and

WHEREAS, the Marine Mammal Protection Act of 1972 specifically recognizes the right of Alaska Natives to harvest marine mammals, including the sea otter, for subsistence and for the creation of handicrafts; and

WHEREAS, the U.S. Fish and Wildlife Service has been instructed by a federal court to clarify certain regulations relating to the use of sea otters by Alaska Natives; and

WHEREAS, the U.S. Fish and Wildlife Service has proposed an amendment to its regulations which prohibits the use of sea otters for handicrafts; and


WHEREAS, the proposed regulation is inconsistent with the Marine Mammal Protection Act and exceeds the authority granted by the Congress;

NOW, THEREFORE, BE IT RESOLVED: That the Citizens' Advisory Commission on Federal Areas hereby urges the U.S. Fish and Wildlife Service not to adopt the proposed regulation.

BE IT FURTHER RESOLVED: That the Commission hereby encourages the U.S. Fish and Wildlife Service to agree to develop a comprehensive sea otter management plan in cooperation with the Alaska Sea Otter Commission and the Alaska Department of Fish and Game.

Adopted by the Citizens' Advisory Commission on Federal Areas at Anchorage, Alaska on October 27, 1989.

Lew M. Williams, Jr
Chairman

By: 
Stan Leaphart
Executive Director

JOHN C STENNIS MISSISSIPPI CHAIRMAN

RECEIVED JAN 17 1989

- ROBERT C BYRD WEST VIRGINIA
- WILLIAM PROXMIRE WISCONSIN
- DANIEL K INOUE HAWAII
- ERNEST F HOLLINGS SOUTH CAROLINA
- LAWTON CHILES FLORIDA
- J BENNETT JOHNSTON LOUISIANA
- QUENTIN M BONDICK NORTH DAKOTA
- PATRICK J LEAHY VERMONT
- JIM BASSER TENNESSEE
- DENNIS DECONCINI ARIZONA
- DALE BUMPER OKLAHOMA
- FRANK R LAUTENBERG NEW JERSEY
- TOM HARKINS IOWA
- HARBARA A MELLSER MARYLAND
- HARRY REID NEVADA
- MARE O MATHEID OREGON
- TED STEVENS ALASKA
- LOWELL P WICKER JA CONNECTICUT
- JAMES A MCLURE IDAHO
- JAKE GARN UTAH
- THAD COCHRAN MISSISSIPPI
- ROBERT W RASTEN JR WISCONSIN
- ALFONSE M DAMATO NEW YORK
- WARREN RUDDMAN NEW HAMPSHIRE
- ARLEN SPECTER PENNSYLVANIA
- PETE V DOMENICI NEW MEXICO
- CHARLES E GRASSLEY IOWA
- DOM NICHOLS OKLAHOMA

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510-6025

FRANCIS J SULLIVAN STAFF DIRECTOR
KEITH KENNEDY MINORITY STAFF DIRECTOR

January 17, 1989

The Honorable Fred F. Zharoff
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Fred:

Thanks for writing to express your concern about the proposed rule regarding Alaska Native use of sea otter.


I want you to know that I disagree with the U.S. Fish and Wildlife Service's proposed ruling to eliminate the use of sea otter for the purposes of creating and selling articles of handicrafts and clothing. As such, I plan on submitting my own personal comments about this proposed rule to the USFWS. I will be working directly with the Service when it comes down to the final review here in Washington, D.C. to make sure that the interests of rural and Native Alaskans are protected. I've also written to the USFWS on your behalf and asked that they include your comments in the official record of public comments.

In the meantime, I contacted the USFWS about the possibility of extending the comment period, and am glad to tell you that the comment period was extended 60 days. Final comments are now due March 13, 1989.

Thanks again for writing. I want to stress that I am doing all I can to make sure that Native Alaskans are not deprived of their livelihood and cultural traditions.

With best wishes,

Cordially,


TED STEVENS

FRANK H. MURKOWSKI
ALASKA

COMMITTEES:
VETERANS AFFAIRS (HONORARY MEMBER)
ENERGY AND NATURAL RESOURCES
FOREIGN RELATIONS
INDIAN AFFAIRS
INTELLIGENCE

United States Senate

WASHINGTON, DC 20510
(202) 224-6666

February 17, 1989

9

ANCHORAGE
U.S. FEDERAL BUILDING
701 C STREET, BOX 1, 99513
(907) 271-3736

FAIRBANKS
U.S. FEDERAL BUILDING
101 12TH AVENUE, BOX 1, 99701
(907) 486-0233

JUNEAU
U.S. FEDERAL BUILDING
BOX 1647, 99802
(907) 686-7400

The Honorable Fred F. Zharoff
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

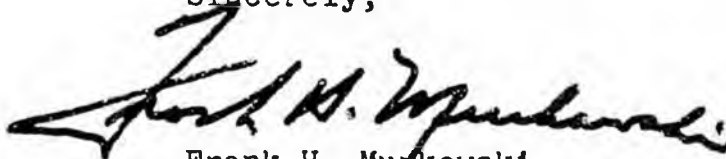
Dear Fred:

Thank you for letting me know how you feel about the proposed Fish and Wildlife Service rulemaking to prevent the taking of sea otters for subsistence and handicrafts under the Native Exemption to the Marine Mammal Protection Act.

After I learned of the Service's proposal, I advised the Director that I felt the comment period should be extended. More recently, to follow up on the issue, I wrote the enclosed letter.

I'm pleased to say that the comment period has now been extended, and that I have been informed by the Department of the Interior that further action will be taken only after the matter has been reviewed by officials of the incoming Bush Administration.

Sincerely,



Frank H. Murkowski
United States Senator

Enclosure

FRANK H. MURKOWSKI
ALASKA

COMMITTEES:
VETERANS AFFAIRS (RANKING MEMBER)
ENERGY AND NATURAL RESOURCES
FOREIGN RELATIONS
INDIAN AFFAIRS
INTELLIGENCE

United States Senate

WASHINGTON, DC 20510
(202) 224-8666

ANCHORAGE
U.S. FEDERAL BUILDING
701 C STREET BOX 1 99513
(907) 271-3738
FAIRBANKS
U.S. FEDERAL BUILDING
101 12TH AVENUE, BOX 7 99701
(907) 468-0233
JUNEAU
U.S. FEDERAL BUILDING
BOX 1647, 99802
(907) 688-7400

February 2, 1989

Frank Dunkle
Director
U.S. Fish and Wildlife Service
Department of the Interior
Washington, D.C. 20240

Dear Frank:

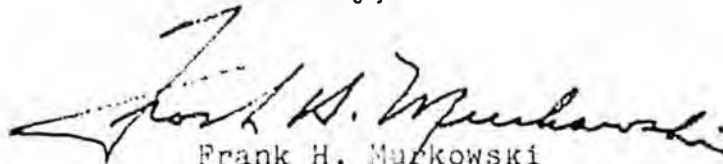
I am writing to advise against proceeding with the Service's proposed regulation on the taking of sea otter under the Alaska Native exemption to the Marine Mammal Protection Act.

I earlier communicated my support for an extension of the comment period on this regulation. Now, however, I want to encourage you to reexamine the agency's approach with great care. I do not believe the Service has adequately demonstrated either the need for or the basis for such a change.

A number of cogent arguments have been advanced to counter the individual points raised by the Service in explaining this rule. Without reiterating those, let me suggest that the Service appears to be on somewhat shaky ground. I urge you to halt all action pending a full review of this matter, with close scrutiny given to the clear meaning of the language adopted by Congress, and to the question of pre-1972 harvesting by Alaska Natives. Furthermore, it is my opinion that the far-reaching implications of the rulemaking demand that such a review include a comprehensive series of public hearings in Alaska's coastal villages, as any less effort on the part of the Service will not adequately address this issue.

I look forward to your prompt consideration of this matter.

Sincerely,



Frank H. Murkowski
United States Senator

Murkowski issues protest

T.T. 12/11/81

To Interior Secretary Manuel Lujan:

A regulation proposed over a year ago by the Fish and Wildlife Service to deny Alaska Natives the right to make and sell craft items from the sea otters has not yet been withdrawn by the service, despite sound and persuasive arguments against its adoption, and it is for that reason that I write to you.

The proposed rule is unwarranted and indefensible, and, accordingly, I urge you to withdraw it.

In my view, the Fish and Wildlife

Service has created an issue where none need exist. Alaska Native use of the sea otter fur in handicrafts, presently allowed by the exemption in the Marine Mammal Protection Act of 1972, is limited. Not only is the sea otter population unthreatened, it is growing.

I would be grateful if you will give this issue your personal attention.

Sincerely yours,
Sen. Frank H. Murkowski
Washington, D.C.

continued on page three

Otter commission calls rule change 'devious'

10/16/99
by Alexandra J. McClunahan
Tundra Times publisher

A proposed U.S. Fish and Wildlife Service rule to restrict the taking of sea otters by Alaska Natives is being strongly opposed by the Alaska Sea Otter Commission.

"This proposed regulation is in direct conflict with a law known as the Marine Mammal Protection Act which guarantees Alaska Natives the right to

Subsistence

—Page Five

sell sea otter handicrafts," according to a commission letter to Alaska Natives.

Commission spokesperson Kimberly Martus called the proposal unfair.

"We think it's devious," she said

of the U.S. Fish and Wildlife Service's action. "They are abusing the rule-making process to actually change a statute that guarantees rights to Native."

Among others opposing the change are the Rural Alaska Community Action Program and the Alaska Federation of Natives.

"In light of the clear intent of Congress to not extinguish traditional uses

of marine mammals by Alaska Natives, we are, quite understandably in our opinion, alarmed that the service, in regard to this proposed ruling, seeks to do just that," Jeanine Kennedy, RurALCAP executive director, said in a letter to the Fish and Wildlife Service.

The rule would prohibit the taking

continued on Page Twenty-Three

Continued from page one

of sea otters by Alaska Natives for use in creating and selling authentic Native articles of handicrafts and clothing under the Native exemption section of the Marine Mammal Protection Act of 1972.

The proposed rule would allow continued Native take of sea otters for subsistence use only, according to the Fish and Wildlife Service.

The marine mammal act provides for a moratorium on the taking and importation of marine mammals and marine mammal products, including the Northern sea otter. However, Congress created a limited exemption for Alaska Natives.

Fish and Wildlife Service officials say they have determined that the intent of Congress in passing the Native exemption was to preserve existing Native uses of marine mammals, rather than to promote expansion of Alaskan arts and crafts industries or the creation of new industries.

The agency claims that sea otters were not being taken for handicraft or clothing uses when Congress passed the act, therefore officials say the act prohibits the taking of sea otters by Alaska Natives for use in creating and selling handicrafts and clothing.

Both AFN and RurALCAP's Kennedy note, however, that Natives have traditionally used sea otters.

"When one considers that the proposed ruling was not based on any biological factors, ignores evidence of traditional use and was authored by the service's Enforcement Division, a clear impression emerges that the service is attempting to unlawfully harass Native artisans," Kennedy said in her letter.

A series of public meetings has been scheduled by the service to take comments on the proposal, and the first was held last month in Atka, followed by meetings earlier this month in Sitka, Klawock and Cordova.

Martus said the Alaska Sea Otter Commission, a subsistence advocacy organization comprised of sea otter harvester/advocates from the Chugach, Cook Inlet, Koniag, Aleutian Islands, Sealaska and Bristol Bay regions, is urging all Alaska Natives to help decide the fate of the regulation.

In addition, she said the organization has called for a mediation meeting with the Fish and Wildlife Service, following this week's two-day subsistence conference.

Martus said the agency has agreed to meet with subsistence advocates Tuesday at 5 p.m. at the Egan Convention Center, the site of the subsistence conference.

She said advocates hope to convince the Fish and Wildlife Service that a series of public meetings is not the best means of dealing with the proposal.

"We believe this is a very superficial way to solve this," she said, noting that most Alaska Natives do not read the *Federal Register*, where the proposed rule was published, and many may not be aware of the hearings.

The Alaska Sea Otter Commission supports negotiations, she said.

She said the commission believes that the rule would actually undermine subsistence rights of all Alaska Natives.

Martus said the commission eventually hopes to develop management plans for sea otters and is in the process of initiating efforts to become a managing partner of the resource.

Other meetings planned by the Fish and Wildlife Service on the proposal include:

Comments and materials concerning the rule may be sent to: Regional Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage 99503.

1011 East Tudor Road, Anchorage.

•Thursday — 7 p.m., Kachemak Bay Campus of the Kenai Peninsula College, 533 E. Pioneer Ave., Homer.

•Oct. 23 — 7 p.m., Fisherman's Hall, Kodiak.

•Oct. 24 — 7 p.m., Senior Citizens Center, Dillingham.

•Oct. 26 — 7 p.m., Seldovia Native Association Office, Seldovia.

•Oct. 30 — 1 p.m., Fort Mason Center, Golden Gate National Recreation Area, Building 201, San Francisco.

The closing of the comment period for the proposed rule is Nov. 30. Comments and materials concerning the rule may be sent to: Regional Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage 99503.



Ilurat —

Recognize any of these folks? If you do, you may be able to help with an historic photo project now underway at Southwest Region Schools. Story page 3.

borough's state-mandated contribution for education to more than \$411,000, an amount Taylor says the borough cannot afford unless residents vote to tax on themselves.

"We don't see that as a possibility," Taylor said. "It's not what the people voted for. If we had had the \$102 million

See LAKE & PEN Page 2

Sea otter rule change denounced

by Fritz Johnson
Staff Writer

A proposed change in rules governing the harvest and use of sea otters by Alaska Natives has met nearly universal opposition from rural residents.

According to U.S. Fish and Wildlife Service officials, testimony in Dillingham Tuesday echoed feelings expressed at previous public hearings in Kodiak, Unalaska, and Southeast Alaska. A resolution approved at last week's Alaska Federation of Natives convention also denounced the Service's proposed clarification of a section of the Marine Mammal Protection Act, which would make it illegal for Native people to sell or trade sea otter hats, parkas or other handcrafted items outside the Native community.

"Why is the (Service) trying to clean

out a Native cupboard that is already nearly bare?" asked Dillingham City Councilman Tom Tilden. "Bartering and commercial use of artifacts, clothing and handicrafts have been a way of life for Alaska Natives for centuries."

Gusty Bartman of Dillingham and John Dyasuk of Togiak both recalled stories from elders who periodically traveled to Cook Inlet from the Kuskokwim region to hunt sea otters.

Tilden also presented written testimony prepared by Bristol Bay Area Health Corporation Director Robert Clark, who denounced what he called an effort to "discriminate against our people's historical ability to adapt, change and become stronger based on our creative abilities to survive."

In a press release issued Oct. 24, Senator

Fred Zharoff (D-Kodiak) called the proposed rule change "a classic example of a government agency using regulations to twist the meaning of a law."

Under provisions of the 1972 Marine Mammal Protection Act, only Alaska Natives are allowed to harvest marine mammals, including sea otters, walrus, sea lions and whales. The law permits the manufacture and sale of clothing and craft items made from marine mammals, but according to federal officials, the law is unclear with regard to sea otters.

The proposed change would make the sale to non-Natives of crafts made from sea otters a federal crime.

The Fish and Wildlife Service "would apparently rather arrest any Native they find who tries to sell an item made out of sea otter and throw them in jail" rather than work with Native Alaskans "to conserve the resource and protect traditional practices," Zharoff said.

According to biologists, Alaska's sea otter population, estimated at between 120,000 and 180,000, is presently healthy and not endangered.

Bill Knauer hearing officer for the Fish and Wildlife Service, said comments in most rural areas were similar to those expressed in Dillingham. "Only in Homer

See SEA OTTERS Page 2

1990 herring forecast:

TOGIAK — Old age is finally catching up with Togiak herring and next year's catch is not expected to be as strong as 1989's.

The Alaska Department of Fish and Game released its forecast for the 1990 herring season this week, predicting a catch of just over nine thousand tons: 6800 tons to be caught by the purse seine fleet, and 2300 for gillnetters.

That compares to catches of 9200 tons for the purse seine fleet and 2800 tons for the gillnetters this during the 1989 herring season.

According to Togiak manager Wes

Bucher, the total biomass of returning herrings is expected to be just over 56,000 tons in 1990. That's considerably less than the 99,000 tons of fish that returned in 1989.

Much of the reason for the decline is the natural mortality of the older age class herring. The eleven- and twelve-year-old herring that comprised 39 percent of the 1989 run will only make up 27 percent of next year's run.

Those two age classes have dominated the Togiak run for several years, and

See TOGIAK Page 3

McElroy joins BayTimes

by Fritz Johnson
BayTimes Editor

DILLINGHAM—David McElroy, former managing editor of Lindauer publications' Bristol Bay News, has joined the staff of the Bristol BayTimes.

His agreement to work for the BayTimes comes less than a week after McElroy resigned from the News, in a way that may be a first in the newspaper business — by pasting more than 1,000 copies of his resignation on the front page of the Oct. 20 edition.

The three-by-five announcement McElroy glued on the cover began by stating that publisher John Lindauer is planning to run for governor of Alaska, and invited the public to

See McELROY Page 4



David McElroy

70/40
Bristol
Bay Times
10/27/89

12

Cont'd. from Page 1

figure when the original feasibility study was done, I doubt the borough would have been formed."

Under terms of the tax appeal process, Taylor has until Dec. 1 to persuade the assessors to reduce the property evaluation to an amount near the original estimate, "or the borough might have to be dissolved."

"That is an option if it turns out the borough is not feasible," she said.

Taylor is questioning the state's full value determination conducted in September, when bad weather prevented a physical survey of the southern portion of the borough. She says too that the state's figures on the value of lodge property in

the Iliamna Lake, Kvichak and Naknek River sections are too high.

Revenues from raw fish taxes are down from original projections because of lower salmon prices and the closure of most of the Chignik district as a result of the Exxon Valdez oil spill.

According to Chris Follis, an assistant state assessor, bad weather in September prevented travel to the Chigniks, Perryville and Ivanof Bay, so the evaluation is "a preliminary figure based on our best estimate."

The \$32 million figure included in the preliminary borough feasibility study was provided by the state.

Sea otters

and Anchorage have we gotten comments in favor of the proposed change."

Additional support is likely, however, at a hearing set for later this month in San Francisco, home of the animal rights' group "Friends of the Sea Otter."

According to Knauer, the clarification was intended to prevent the development of new cottage industries built on the commercial harvest of sea otters, which federal officials say was not a part of Native culture when the marine mammal act was approved by Congress.

Clark and others dispute that view.

The "conclusion that (since) sea otters were not taken by Alaska Natives (for) handicrafts and clothing when the Act was passed, therefore future use should be prohibited forever is not conclusively true," Clark said. At that time "many of our people were not sure that they could harvest sea otters."

Cont'd. from Page 1

"Any article, however true to historic detail or ultra modern, is an authentic Alaska Native-made product," Clark said. "No person or administrative unit short of Congress should restrict this."

"Our people on the whole are very poor, yet we are very dependent on a cash economy," said Clark. "Without many viable alternatives for jobs in our villages, it is natural to make maximum use of our locally available resources."

Mancuso wins

NAKNEK — Roy Lee Mancuso won a three-year term on the Bristol Bay Borough School Board in Tuesday's run-off election.

Mancuso won with 114 votes to Larry Bradley's 84.

Seven questioned votes and an absentee ballot will not affect the outcome of the election.

BOROUGH

- What kind of...
- Can a borough...
- How is a borough...
- How is a borough...
- What kind of...
- Can the state...

For answers and a whole lot more...

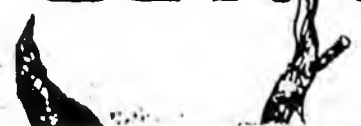
The Borough Prediction

An educational... Nushagak Village Department of Community Meetings are open to all.

Everyone is invited...

HALLOWEEN PARTY OCT. 31

We will be closed starting Nov. 1



S J R

52

HOUSE COMMITTEE REPORT

(9)

Date Referred: March 26, 1990

FURTHER REFERRALS: FINANCE

Date of Committee Action: 4/25/90

The RESOURCES Committee considered:

CSSJR 52 (RESOURCES)

CS SJR NO. 52 (Resources)

GROUND FISH OBSERVER TRAINING PROGRAM

Requesting the National Marine Fisheries Service to approve a groundfish observer training program at the University of Alaska for federal fishery observer programs off Alaska.

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
- [] _____ [] a new title
- [] have attached amendment(s)
- do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____ [] fiscal note(s) _____
- zero fiscal note Com. Fisheries [] zero fiscal note(s) _____
- [] zero with analysis _____ [] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass No Rec Amend

<u>Cliff Davidson</u> DAVIDSON			
<u>Sam Mendenhall</u> MENDENHALL			
<u>Bill Hudson</u> HUDSON			
<u>Bob Sharp</u> SHARP			
<u>Jack</u> JACKO			

Cliff Davidson

Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: NMFS Observer Training

Agency Affected: Fish and Game
BRU: Commercial Fisheries

Sponsor: Sturqulewski
Requestor: Governor

Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No FY 90 impact

Prepared by: Robert C. Clasby
Division: Commercial Fisheries

Phone: 465-4210
Date: 3/19/90

Approved by Commissioner: *Sturqulewski*
Agency: _____

Date: 3/19/90

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)