

S. 39, HEARING ON THE REAUTHORIZATION OF
THE MAGNUSON FISHERY CONSERVATION AND
MANAGEMENT ACT

Y 4. C 73/7: S. HRG. 104-217

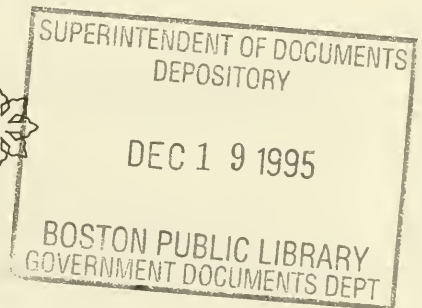
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HEARING
BEFORE THE
SUBCOMMITTEE ON OCEANS AND FISHERIES
OF THE
COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE
ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

March 25, 1995
Anchorage, Alaska

Printed for the use of the Committee on Commerce, Science, and Transportation



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S. 39, HEARING ON THE REAUTHORIZATION OF THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

SATURDAY, MARCH 25, 1995

U.S. SENATE,
SUBCOMMITTEE ON OCEANS AND FISHERIES, COMMITTEE ON
COMMERCE, SCIENCE, AND TRANSPORTATION
Anchorage, Alaska

The subcommittee met, pursuant to notice, at 11 a.m. in rooms 135-137 of the Federal Building, 222 West Seventh Avenue, Anchorage, Alaska 99501. The Honorable Ted Stevens (Chairman of the Subcommittee) presiding.

Staff members assigned to this hearing: Thomas O. Melius, professional staff member, and John Trevor McCabe, professional staff member; and Penelope D. Dalton, minority senior professional staff member, and Lila H. Helms, minority professional staff member.

OPENING STATEMENT OF SENATOR STEVENS

Senator STEVENS. Let me say I am sorry to be late. I have just left the Governor's prayer breakfast, and a very stimulating speaker is still speaking after 55 minutes. And I am sure the Governor is going to be late because he still has to speak yet.

We will proceed with the first panel here, which would be Senator Rick Halford, Gail Phillips and Richard Lauber and Clem Tillion, if that is all right. And when the Governor comes in, we will let him go on next. He cannot possibly be here, I would say, in less than 45 minutes. Seeing how that man still had a good 45 minutes left in there, you know what I mean. He is very good, one of the best speakers I ever heard.

But I do welcome you on behalf of the Subcommittee.

This is the new Subcommittee on Oceans and Fisheries that I represent. We are conducting the fourth of seven hearings that we have planned. We have already been to Maine and Boston and Seattle. After this, I will go to New Orleans, Mississippi and South Carolina. My idea is to try and bring the Magnuson Act reauthorization to fishermen and the fishing communities affected by the Act.

In addition to those here in Anchorage, they are listening in the legislative information offices in Juneau, Sitka, Valdez, Seward, Kodiak, Sand Point and Dillingham.

This process began over 2 years ago. We held hearings in Dillingham, Kodiak, Ketchikan, and Anchorage, Senator Hollings and I did. Late last session following those hearings, Senator Kerry

and I introduced a bill. It was a comprehensive Magnuson Act reauthorization. At the beginning of this Congress, I asked for the creation of the Ocean and Fisheries Subcommittee to help us concentrate on issues such as the Magnuson reauthorization.

In January, Senator Kerry and I introduced, along with Senator Murkowski, S. 39, which is the Sustainable Fisheries Act. It has been referred to our new Subcommittee, and would reauthorize the Magnuson Act through 1999.

We have copies available outside of S. 39 and the statements that I made and that Senator Kerry made when we introduced the bill. On the table also are copies of testimony of witnesses and copies of the newsletter I put together to try to explain some of the Oceans and Fisheries issues we are working on in Washington.

We have 26 witnesses scheduled to testify here today. We hope to have comments from the legislative offices if there is time. We will accommodate people in the audience or in the legislative offices if we can.

Unfortunately, there are other things scheduled today also. We are going to have to break at noon, and then—it might be a little after noon now—reconvene at 1:45. We will be here until 4:45. If we cannot accommodate everybody that wants to testify, I welcome anybody to submit testimony which we will put in the record when it is received.

I do apologize; because of the circumstances in Washington, I am the only member of the Subcommittee here today. We have had other members in some of the other hearings. I have come up for a problem up in Ft. Greeley you may have read about, and I missed a series of votes by coming home. The Senate was in session late yesterday afternoon, and there are no senators here, obviously.

Chairman Pressler of South Dakota, the ranking member of the full committee, sent his assistant, Tom Melius, who is with me. Also, Senator Hollings of South Carolina who came up last year has sent Lila Helms here. They are both observing for them. If they have any questions, I will be pleased to ask them for them. Trevor McCabe, he is home here with me. He is now on the Subcommittee staff for me.

Committee rules allow only 5 minutes per witness. I think that since there are no other members here obviously to ask questions, I want to move that to 7 minutes. We will—we never put the time limit on the Governor, by the way. So he will have the time that he wishes to take. The record will be open for 10 days for any of those who want to submit testimony.

This hearing record will be examined by staff primarily for other senators, and it will be the basis for consideration of many of the issues involved in this bill.

Let me quickly summarize this bill for those who are not familiar with it. It includes the new mandates to reduce bycatch and waste in all fisheries and specific mandates for the North Pacific. It is a national bill, but it does address specific issues for the North Pacific. There are new conflict of interest and recusal requirements for Fishery Management Council members, and guidelines for individual transferable quotas, the ITQs, to help define and insure the fairness of those management tools if they are used. Some outside had joined in the protest against the ITQs, but I look forward to

hearing some of them here. I hope they will testify. I assume they will testify here today.

I continue to believe that the Council process is the best overall way for the Alaskans or all of us to have a say in the management of fisheries off our shores. I do not plan to try to legislatively stop the halibut/sablefish ITQ plan which was approved by the North Pacific Council. As many of you know, the guidelines in S. 39 would apply to that plan, and the North Pacific Council would be required to comply with those guidelines within 3 years under this bill. I know Alaskans are divided on the halibut/sablefish plan and ITQs generally. From the letters and suggestions I have received about S. 39, Alaskans are also divided about the new guidelines and whether they should be applied to this plan.

I welcome your comments here today. And as I said, the representatives of the Chairman and the ranking member of the committee are here to hear those comments. We have some very difficult issues to solve as we try to reauthorize the Magnuson Act. We have to do that in the next 2 to 3 months.

S. 39 includes a new national standard to insure that conservation measures take into account the importance of the harvest to the fishery dependent communities. That is not, as some have suggested, intended to be an authorization for community development quotas. It is meant to provide deference in the Act to all types of communities substantially dependent upon the harvest of the fish resources.

It is a national bill. It was reflected in the hearings in New England that they also believe that fishery dependent communities they have to have some recognition. Fishermen from many regions of the country support that concept. It is not specific and allows for consideration to be made in each situation. For instance, the protection needed for communities in the Gulf of Alaska would be different from those needed in Western Alaska.

Now that the courts have upheld the North Pacific Council's use of CDQs as a management tool, I intend to add specific legislative authority in S. 39 to insure that the program continues under guidelines established by the Congress. The CDQ program is based on language in the Magnuson reauthorization bill S. 1900 that I introduced in 1989. The provision I am talking about will be separate from the fishery dependent community deference already in S. 39.

S. 39 provides increased protection against overfishing and authorizes vessel and permit buy-outs. I have only touched on some of the major provisions, and I have already taken too much time under the circumstances. But I hope you agree that we do need a bill such as this, and that we should send the bill to the President before the end of this summer. I hope to do my best to do just that.

As I said, I think in the absence of the Governor, we ought to proceed. Rick, I see you are here, and we have Gail Phillips and Richard Lauber and Clem Tillion. We will proceed. It is sort of strange to be home and conduct a Subcommittee all alone, but that is one of the privileges of the Chairman, so I think I will use it. OK.

I am supposed to ask the people out there in these offices if you can hear me. Can anyone out there say yes or no?

An Unidentified Speaker: Coming through just fine.

An Unidentified Speaker: A little weak in the back.

An Unidentified Speaker: Yes, in Kodiak.

Senator STEVENS. That is fine. They do not hear me very well in the back of the room, but they can hear me in Kodiak. All right. We will try to do better.

Let me turn first to Gail Phillips as the Speaker of the House.

STATEMENT OF REPRESENTATIVE GAIL PHILLIPS, SPEAKER OF THE HOUSE, ALASKA STATE LEGISLATURE

Ms. PHILLIPS. Thank you, Mr. Chairman, and representatives of the Senate Subcommittee on Oceans and Fisheries. We want to thank you for this opportunity to testify and discuss the most important fisheries law in our country, the Magnuson Fishery Conservation and Management Act. We extend a warm welcome to you, Senator Stevens, and the staff of the Subcommittee. For the record, my name is Gail Phillips, Speaker of the Alaska State House. And with me today is Senator Rick Halford, Senate Majority Leader, who is filling in for Senate President Drue Pearce.

Senator Pearce was planning to participate in this hearing today; however, due to a death in her family, she has been unable to join us.

We have requested this opportunity to testify on behalf of the people of the State of Alaska. And our goal today is to emphasize the importance of reauthorizing this Act and to communicate our broad support in our State for new and few improvements to this Act.

First, we want to thank you for making this opportunity available through a hearing in Alaska. We especially recognize the financial and personal costs associated with holding field hearings. And your agreeing to hold a hearing here is encouraging to us because it is an acknowledgment of the importance of this Act to Alaskans.

Although the Magnuson Act, the North Pacific Fishery Management Council, and the Secretary of Commerce have critics in Alaska, there is strong support for the conservation and management approach taken by the Council in most of Alaska's fisheries. The obvious question, then, is what makes it work in the North Pacific and not in other areas of the country. Some criticism is directed at the Councils because of poor appointments. If a specific Council is not representative of the users within the region or have become unbalanced toward one user group, is the Council to blame, or the Secretary for not assuming his or her responsibilities under the Act by making good appointments? If the fisheries resource under the jurisdiction of a specific Council is continually overfished, do you blame everything on that Council, or do you also point the finger at the Secretary of Commerce? From our perspective, you do both. What is disturbing is the continual tendency to consolidate more and more authority and power in the central government in Washington, D.C., when the performance record of the managing agency has, for all practical purposes, been abysmal. Conceptually we advocate that you should do exactly the opposite.

We agree that Congress should establish clear and definitive national standards for the management of our nation's fisheries. We also believe that the States and the Councils should be given maxi-

mum responsibility and authority to implement the Act as long as they conform to the standards set by Congress. In this respect, we definitely feel that S. 39 is a move in the right direction.

We are sure that some members of the committee have become aware of a situation that occurred within the Gulf of Alaska this year. The Magnuson Act allowed for a vessel to legally harvest scallops in Federal waters outside the 3 mile jurisdiction of the State, despite the fact that the total annual allowable catch for scallops had already been taken. This loophole can be fixed by adopting an amendment to S. 39 which essentially extends the jurisdiction of the States to the EEZ in those situations where a Council fisheries management plan does not exist. This amendment has received considerable support from other parts of the country as well. This proposed amendment to section 306 of the Act is attached to our testimony for your consideration.

The North Pacific Fishery Management Council and the Secretary have openly ventured into the arena of limiting access to some of our northern fisheries. The Department of Commerce has been a strong advocate for the development of individual transferable quotas in most, if not all, of our fisheries. This issue is controversial in Alaska. Most Alaskans can see benefits as well as disadvantages from this type of limited entry system.

Since we now have halibut and sablefish ITQs in place for the North Pacific, it is important to closely evaluate this program before embarking on an expanded effort to other fisheries. The halibut and sablefish ITQ program appears to have come with some conflict and some negative aspects. Early assessments indicate that the consolidation of crews, vessels and ITQs may result in reduced employment for some of our local communities. Younger and potential new entrants into the fisheries who live in our smaller communities may be unable to compete economically for high priced quotas. We feel this well may work to the disadvantage of our citizens and the basic economy of many rural communities at whose doorstep these fisheries take place.

S. 39 attempts to address this problem by directing the Secretary to develop mandatory guidelines for ITQs. These guidelines could include balancing the allocation of fishing privileges with the need to minimize negative social and economic impacts on fishery dependent communities. The guidelines could also establish a mechanism to provide a portion of the annual harvest for entry level fishermen or small vessel owners who do not hold IFQs. As written, S. 39 would require that existing ITQ programs comply with the new provisions within 3 years. We agree with this basic approach, but encourage Congress to consider a more immediate legislative solution for the halibut and sablefish ITQ program.

As this is one of the most critical concerns of many Alaskans, we feel it is important to develop a permanent solution for new entries in these fisheries which is not delayed endlessly in the court system.

We agree that the Councils must have access to all available tools in their efforts to manage the bulk of the nation's fisheries resources. This includes limited access systems. But it is also important to stress that all fisheries may not be best managed under an ITQ program. We support the need to maintain the basic

structure and balance of our fisheries industry, maintain diversity within the fisheries, promote balance between on-shore and off-shore segments of the industry, provide for the conservation of the resource, and meet the economic and social needs of our coastal communities. This can only be done if Congress makes these national priorities through the establishment of clear national standards.

The proposed reauthorization legislation places much needed emphasis on the early identification of overfishing and the need to establish strict guidelines leading to recovery. Frankly, the New England cod fishery and other similarly declining or decimated fisheries in this country are sad commentaries on the conservation ethics of our country. It is obvious that sustainable use was rejected in favor of short-term economic gain. Unfortunately, those suffering today are not the bureaucrats who stood by and documented the decline of the diversified industries that reallocated elsewhere. It is the individuals in the communities of our sister New England States that must now reallocate the limited resources and jobs to cover the victims of this mismanagement. Believe me when I say that we will do everything possible in Alaska to make sure that Alaska does not fall victim to this same political abuse. We will do it.

For this reason, we strongly support the provisions of S. 39.

I would like to close my comments by reemphasizing the importance of the Magnuson Fishery Conservation and Management Act to Alaska and to our nation. I also want to stress the need for this reauthorization process to focus on modifications to the Act which improve the nation's rather dismal record in fisheries management. We hope you will consider strengthening the regional Council system and enhancing State management prerogatives rather than opt for an expanded Federal role.

Thank you again, Senator Stevens, for this opportunity to testify.
 Senator STEVENS. Thank you, Madam Speaker.
 Senator HALFORD.

STATEMENT OF HON. RICK HALFORD, ALASKA STATE SENATOR

Mr. HALFORD. Thank you, Senator. And thank you for being here. I am filling in for Senator Pearce. I will be reading a part of her statement, but I do want to say that I think there is a strong degree of unanimity and support for your efforts in this legislation, both from the House and the Senate, and I think there is a lot of agreement from the Executive Branch as well. But as we look to the improvements in the Act, I think it's important that we capitalize on what we're doing well and look to those areas that need to be fine-tuned. The fisheries economy in Alaska has had considerable—excuse me.

Considerable testimony has been presented to the committee on the value of the fisheries and the various coastal States, including Alaska. In the context of this presentation, it needs to be reiterated here. Alaska's commercial fisheries are our largest private industry employer, providing more than 77,000 seasonal jobs equating to about 33,000 year-round jobs. The ex-vessel value of Alaska's commercial fisheries was approximately a billion and a half in 1994,

and the total investment in our commercial fisheries is about \$4 billion. Alaska's commercial and sport fisheries are at an all time high level in production, and we intend to keep them that way. Commercial harvests of fish from State and Federal waters off Alaska are greater than the rest of the United States. In fact, if Alaska were an independent nation, we would rank fifth or sixth in the world's fish production.

While substantial harvest comes from State waters, the largest quantity comes from Federal waters under the jurisdiction of the North Pacific Fishery Management Council. Many of our coastal communities are almost totally dependent on the commercial fishing industry as the mainstay of their economies. In some communities in Western Alaska, the limited income from commercial fishing is the only hard cash for economies that are essentially subsistence oriented.

Fisheries failures don't just send a ripple through some of our communities; they send a real tidal wave. For this reason, Alaska has placed a high priority on creating diversity within our fisheries, promoting stabilization in fishery cycles, expanding and privatizing selective artificial production, and most importantly, maintaining healthy stocks through stringent conservation measures. We believe our performance in this regard since statehood has been unsurpassed among the 50 States.

It is important to stress that despite Alaska's discovery of oil and the contributions made by fishing and other natural resource based industries, some Alaskans, particularly in rural Alaska, are still struggling to raise their standards of living above the poverty level, and economic infrastructures are practically non-existent. It is easy to understand our concern when resources off our coast are exploited for short-term gain while basic human needs of our communities are not being met. For this reason we place great importance on the conservation, utilization and allocation of fisheries resources governed by the Magnuson Fishery Conservation Management Act.

Alaska has historically experienced boom or bust in our basic economies. Fisheries are no exception. We have witnessed the expansion and over utilization of our salmon fisheries during Federal control with declines to historical lows just prior to statehood in 1959. With statehood, the people in Alaska were handed the remnants of a resource. With the implementation of prudent management practices and significant social sacrifices, we brought back our fisheries to the record levels of today.

That was a difficult job for the people of Alaska and for ourselves as legislators. We learned a lot from the early mistakes of the Federal Government and our sister States. And while we made our own mistakes, they, too, contributed to the development of one of the most sophisticated and successful management programs in the nation.

The program we developed for Alaska is different from that of the Federal Government. In our State, conservation does come first. We establish scientifically based escapement goals and do our utmost to achieve them. The people of Alaska know and accept a conservation first philosophy that requires occasional short-term sacrifices for long-term sustained resource use. We delegate our management agencies through responsibility and authority for re-

source management that is not filtered by political tampering, and we certainly get the interest, but that has maintained itself for years.

Our managers are located in the fishing grounds and are given emergency order authority. We feel the best resource decisions are made on the fishing grounds in the heart of the fishery where the needs of the resource and the people are best evaluated. We have also established one of the most democratic regulatory systems in the nation. And the people that spend weeks and weeks in our boards and Councils would support that.

Our reason for emphasizing the importance of the fishery and the truly outstanding performance of our State management program is to lay the groundwork for a genuine partnership between State and Federal Government. If a State has demonstrated its ability to prove the best management program within the guidelines of national standards, it is only logical that the system should be designed to maximize State involvement. If a regional Council's performance meets or exceeds national standards, then it's only reasonable to try and raise the performance of the other Councils to that standard, not reduce the Councils to the lowest common standard. It does not make sense to give a Federal agency more authority when demonstrated performance is substantially below Congressionally established national standards.

In short, the legislature has found itself picking up the pieces of Federal mismanagement all too often in the past. It takes our time and it takes our limited dollars which are necessary for basic government needs, not fixing economies broken by well-intentioned Federal mismanagement from afar.

No one issue has dominated the debate over the Magnuson Act reauthorization like the concern over bycatch, discards and waste. We would like to stress our appreciation to the Alaska delegation for their attention and commitment to this issue. We also offer our support for your legislation,

Senator Stevens, dealing with this issue which has been incorporated into S. 39. We recognize that the complete elimination of bycatch is, of course, not possible, but it should always be our goal. It seems that there is universal agreement that significant gains can and must be made in this legislation in this area.

Although others will stress a lot of the same points, it is important to put the issue of waste and bycatch in perspective. In 1993, discards in the groundfish fisheries off Alaska totaled over 740 million pounds. In addition, approximately 17 million pounds of halibut mortality, 70,000 pounds of Chinook salmon, and 300,000 pounds other salmon, and 16 and a half million pounds of crab bycatch occurred in the same fishery.

We must not sacrifice long-term benefits and resource health for short term efficiency. Particular emphasis should be placed on providing industry incentives to use fishery methods and gear which minimize bycatch and waste.

Most Alaskans support efforts to strengthen the Council process. This includes limiting the role of the Secretary in modifying Council decisions except in the case of an emergency or the result of inaction on the part of the Council. We advocate a system which clearly dictates the Secretary can accept, reject or partially approve

regulations presented by the Council for adoption. We also support the timeframe improvements and requirements outlined in S. 39 and the requirement that the Secretary respond to plans or amendments in writing and publish written explanations for any differences between proposed and final regulations.

We support efforts to address potential conflict of interest problems on the Councils. Although we maintain that more Secretarial emphasis on the quality of appointments to some Councils would improve performance, there is some legitimate concern about involvement of members in decisions which may or may not directly benefit them. Like the Federal Government and most States, Alaska has addressed its regulatory system and attempted to reduce these types of conflicts. However, we are all trying to find a balance which encourages participation by those who have a working knowledge of what it takes to construct and maintain a viable fishing industry while adhering to the conservation principles necessary to sustain the industry and the public benefits.

S. 39 is, in our opinion, a move in the right direction in this area.

Any recusal process built into the Council system is apt to have some built in biases. It's our recommendation that either Congress establish the guidelines or authorize the Secretary to develop the guidelines with approval of the majority of the Councils. Without this check and balance, the Secretary can manipulate the process in favor of agency objectives.

In closing Senator Pearce's comments, we want to thank you and thank the committee for the opportunity to provide this testimony. We are especially grateful for the committee hearing being conducted this close to the fisheries. I would just like to add for myself, Senator, I appreciate your opening comments with regard to the CDQ program. I think it is working, and I think your proposed amendments as well as what's in the legislation are a positive step to help it work.

Senator STEVENS. Thank you very much, Senator. I appreciate that.

[The prepared statement of State House Speaker Gail Phillips and State Senate President Drue Pearce follows:]

TESTIMONY

ALASKA STATE SENATE PRESIDENT DRUE PEARCE

AND

ALASKA STATE HOUSE SPEAKER GAIL PHILLIPS

BEFORE THE

UNITED STATES SENATE COMMITTEE ON COMMERCE, SCIENCE
AND TRANSPORTATION

SUBCOMMITTEE ON OCEANS AND FISHERIES

REGARDING

S.39 - THE SUSTAINABLE FISHERIES ACT

March 25, 1995

Mr. Chairman and members of the Senate Subcommittee on Oceans and Fisheries, we want to thank you for this opportunity to testify and discuss the most important fisheries law in this country – the Magnuson Fisheries Conservation and Management Act (MFCMA). For the record, our names are Drue Pearce, President of the Alaska State Senate and Gail Phillips, Speaker of the Alaska State House. We have requested this opportunity to testify on behalf of the majorities within the Alaska State Senate and House. Our goal is to emphasize the importance of reauthorizing this Act and to illustrate the broad support for a few improvements.

First, we want to thank you for making this opportunity available through a hearing in our home state. We all recognize the financial and personal costs associated with holding field meetings, but the hearing is encouraging to us in Alaska because it emphasizes and recognizes the importance both Congress and Alaska place on the reauthorization of such an important law.

Alaska's commercial and sport fisheries are at all time high levels of production and we intend to keep them that way. Commercial harvests of fish from state and federal waters off Alaska are greater than the rest of the United States. In fact, if Alaska were an independent nation, we would rank about 5th or 6th in the world for fish production

While a substantial harvest comes from state waters, the largest quantity comes from federal waters under jurisdiction of the North Pacific Fisheries Management Council.

The Magnuson Act has evolved to meet the economic needs of our country along with the conservation needs of our fishery resources. Modifications have also been developed to create the management precision and conservation tools necessary to ensure that our country derives maximum economic and social benefits from these renewable resources. With this process of reauthorization, we are again looking at ways of making the Act more functional and effective. Since the last revision of the MFCMA, new challenges have arisen which require special attention during this reauthorization. Some of these challenges include the problems of waste in the fisheries, economic dependency of coastal communities conflicts of interest within the Councils, criteria for overfishing, mandating recovery and improved partnerships with the states.

The Magnuson Act is responsible for a number of major successes, especially in the resource rich North Pacific. It is here that we witnessed the massive transformation of a foreign bottom fishery to an "Americanized" fishery. It is here that we have witnessed the successful synchronization of national standards and interests with the management expertise and on-the-ground knowledge of the local state agency. As we look for improvements in the Act, let's capitalize on what we are doing well and improve those areas that need to be fine tuned.

During last year's review of the MFCMA by Congress, a number of ill-conceived proposals were presented to completely revamp the structure of the Council process, give more authority to the Secretary and generally modify the process to benefit a few special interests. We are pleased to see that S.39 being considered in the Senate and HR39 being considered in the House of Representatives have not fallen prey to these interests.

We in Alaska are concerned that corrective measures needed for failing fisheries in other parts of the country will result in universal changes in the Council management system. We hope that a critical evaluation will be made of the performance of each Council and the Secretary of Commerce before any major overhaul is considered.

Although the Magnuson Act, the North Pacific Fisheries Management Council and the Secretary of Commerce have critics in Alaska, there is strong support for the conservation and management approach taken by the Council in most of the fisheries. The obvious question is, what makes it work in the North Pacific and not in specific other areas of the country? Some criticism is directed at the Councils because of poor appointments.

If a fisheries resource under the jurisdiction of a specific Council is continually over-fished, do you blame everything on the appropriate Council or do you also point

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the finger at the Secretary of Commerce? From our perspective, you do both. What is disturbing is the continual tendency to consolidate more and more authority and power in the central government of Washington, D.C., when the performance record of the managing agency has for all practical purposes been abysmal. Conceptually, we advocate that you should do exactly the opposite.

We agree that Congress should establish clear and definitive national standards for the management of our nation's fisheries. We also believe that the states and the Councils should be given maximum responsibilities and authorities to implement the Act as long as they conform to the standards set by Congress. In this respect, we definitely feel that S.39 is a move in the right direction.

Both the Alaska State Senate and the Alaska State House support the presentation of the State Administration. We would like to stress several key points that emphasize the importance of some issues from the standpoint of the legislature and the constituencies we represent.

THE FISHERIES ECONOMY IN ALASKA

Considerable testimony has been presented to the Committee on the value of fisheries to the various coastal states, including Alaska. In the context of this presentation, it needs to be reiterated here. Alaska's commercial fisheries is our largest private industry employer, providing more than 77,000 seasonal jobs which equate to about 33,000 year-round jobs. The ex-vessel value of Alaska's commercial fisheries was approximately \$1.5 billion in 1994. The total investment in our commercial fisheries is roughly \$4 billion.

Many of our coastal communities are almost totally dependent on the commercial fishing industry as the mainstay of their economies. In some communities in western Alaska, the limited income from commercial fishing is the only hard cash for economies that are essentially subsistence oriented.

Fishery failures don't just send a ripple through some of our communities' economies, they send real tidal waves. For this reason, Alaska has placed a high priority on creating diversity within our fisheries, promoting stabilization in fisheries cycles, expanding and privatizing selective artificial production, and, most importantly, maintaining healthy stocks through stringent conservation measures. We believe our performance in this regard since statehood has been unsurpassed among the fifty states.

It is important to stress that despite Alaska's discovery of oil and the contributions made by our fishing and other natural resource based industries, some Alaskans, particularly in rural Alaska, are still struggling to raise their standards of living above the poverty level and economic infrastructures are practically non-existent. It is easy to

understand our concern when resources off of our coast are being exploited for short term gains while basic human needs of our communities are not being met. For this reason, we place great importance on the conservation, utilization and allocation of fisheries resources governed by the Magnuson Fisheries Conservation and Management Act.

THE MFCMA FROM THE STATE LEGISLATIVE PERSPECTIVE

Alaska has historically experienced booms-or-busts in its basic economies. Fisheries were no exception. We witnessed the expansion and over-utilization of our salmon fisheries during federal control with declines to historical lows just prior to statehood in 1959. With statehood, the people of Alaska were handed the remnants of a resource. With the implementation of prudent management practices and significant social sacrifices, we brought back our fisheries to the record levels experienced today.

This was a difficult job for the people of Alaska and ourselves as legislators. We learned a lot from the early mistakes of the federal government and our sister states. And while we made our own mistakes, they too contributed to the development of one of the most sophisticated and successful management programs in the nation.

The program we developed for Alaska is certainly different from that of the federal government. In our state, conservation comes first. We establish scientifically based escapement goals and do our utmost to achieve them. The people of Alaska know and accept a conservation first philosophy that requires occasional short term sacrifices for long term sustained resource use. We delegate our management agency true responsibility and authority for resource management that is not filtered by political tampering in the capitol. Our managers are located on the fishing grounds and are given emergency order authority. We feel that the best resource decisions are made on the fishing grounds, in the heart of the fishery where the needs of the resource and the people are best evaluated. We have also established one of the most democratic regulatory systems in the nation. We promote full deliberation and integration of the needs of our citizens with the basic economic needs of the business community and the long-term requirements of the resource.

Our reason for emphasizing the importance of the fishery and the truly outstanding performance of our state management program is to lay the groundwork for a genuine partnership between the state and the federal government. If a state has demonstrated its ability to provide the best management program within the guidelines of national standards, it is only logical that the system should be designed to maximize state involvement. If a regional council's performance meets or exceeds national standards, then it is only reasonable to try and raise the performance of the other councils to that standard, not reduce all councils to the lowest common standard. And, it certainly does not make sense to give a federal agency more authority when demonstrated performance is substantially below congressional established national standards.

In short, the legislature has found itself picking up the pieces of federal mismanagement all too often in the past. It takes our time and it takes our limited dollars which are necessary for basic government needs—not fixing economies broken by federal mismanagement from afar

EXTENSION OF STATE JURISDICTION INTO THE EEZ

We are sure that some members of the Committee have become aware of a situation that occurred within the Gulf of Alaska this year. The Magnuson Act allowed for a vessel to "legally" harvest scallops in federal waters outside the three-mile jurisdiction of the state despite the fact that the total annual allowable catch for scallops had already been taken. This was because the bureaucracy associated with the federal process could not respond quickly enough to put into place an effective scallop management plan.

This loophole can be fixed by adopting an amendment to S.39 which essentially extends the jurisdiction of the state to the EEZ in those situations where a Council Fisheries Management Plan does not exist. This amendment has received considerable support from other parts of the country as well. This proposed amendment to Section 306 of the Act is attached to this testimony for your consideration.

BYCATCH DISCARDS AND WASTE

No one issue has dominated the debate over Magnuson Act reauthorization like the concern over bycatch, discards and waste. We would like to express our appreciation to the Alaska delegation for their attention and commitment to this issue. We also offer our support for Senator Stevens' legislation dealing with these issues which has been incorporated into S.39. We recognize that the complete elimination of bycatch and waste in our off-shore and coastal fisheries may not be possible. However, it seems that there is universal agreement that significant gains can and must be made.

Although others will stress the same points, it is important to put the Issue of waste and bycatch in some perspective. In 1993, discards in the groundfish fisheries off of Alaska totaled over 740 million pounds. In addition, approximately 17 million pounds of halibut mortality, 70,000 Chinook salmon, 300,000 other salmon and 16.5 million pounds of crab bycatch occurred in the same fishery.

We must not sacrifice long-term benefits and resource health for short-term efficiency. It is our observation that this issue has been a long-standing conflict between the Secretary and some of the Councils, particularly the North Pacific Fisheries Management Council. We concur with the State administration position that there is a need for the Secretary to refocus the agency's priorities and more effectively address the bycatch, discard and waste problems.

Particular emphasis should be placed on providing industry incentives to use fishery methods and gear which minimize bycatch and waste. We also support provisions in S.39 to authorize the Council to place a cap on regulatory discards."

THE COUNCIL PROCESS

Most Alaskans support efforts to strengthen the Council process. This includes limiting the role of the Secretary in modifying Council decisions, except in the case of an emergency or as a result of inaction on the part of the Council. We advocate a system which clearly dictates that the Secretary can accept, reject or partially approve, regulations presented by the Council for adoption. We also support the time-frame improvements and requirements outlined in S.39 and the requirement that the Secretary respond to plans or amendments in writing and publish written explanations for any differences between proposed and final regulations.

ITQ'S AND CDQ'S

The North Pacific Fisheries Management Council and the Secretary have openly ventured into the arena of limiting access to some of our northern fisheries. The Department of Commerce has been a strong advocate for the development of Individual Transferable Quotas (ITQ) in most, if not all, of our fisheries. This issue is controversial in Alaska. Most Alaskans can see benefits, as well as disadvantages, from this type of limited entry system. Since we now have halibut and sable fish ITQ's in place for the North Pacific, it is important to evaluate this experiment before embarking on an expanded effort to the other fisheries.

The halibut and sable fish ITQ program appears to have come with conflicts and negative impacts. Early assessments indicate that the consolidation of crews, vessels and ITQ's have resulted in reduced employment for some of our local communities. Younger and potential new entries into the fisheries who are located in our smaller communities are unable to compete economically for high priced quotas. We feel this may well work to the disadvantage of our citizens and the basic economy of many rural communities off whose doorsteps these fisheries take place. S.39 attempts to address this problem by directing the secretary to develop mandatory guidelines for ITQ's. These guidelines would include balancing the "allocation of fishing privileges" with the need to minimize "negative social and economic impacts on fishery dependent communities."

The guidelines would also provide a mechanism to provide a portion of the annual harvest for entry-level fishermen or small vessel owners who do not hold Individual Transferable Quotas. As written, S.39 would require that existing ITQ programs comply with the new provisions within 3 years. We agree with this basic approach but encourage Congress to consider a more immediate legislative solution for the halibut

and sable fish ITQ program. As this is one of the most critical concerns of many Alaskans, we feel it is important to develop a permanent solution for new entries into these fisheries which is not delayed endlessly in the court system.

It is our hope that Congress, the Secretary and the NPFMC will have the opportunity to evaluate the success or failure of the new ITQ programs. If this experiment does not provide the cost-benefits touted for these limited entry fisheries, then some mechanism must be developed to reverse this management option. Unfortunately, history has demonstrated the inability of the federal bureaucracy to accept the concept that what is easiest for the agency may not be in the best interest of our citizens, the economy or the resource. Close examination of the east coast clam and the quahog ITQ fisheries seems to clearly illustrate this point.

We concur that the Councils must have access to all available tools in their efforts to manage the bulk of the nation's fishery resources. This includes limited access systems. But it is also important to stress that all fisheries may not be best managed under an ITQ system. We support the need to maintain the basic structure and balance of our fishing industry, maintain diversity within the fisheries, promote balance between on-shore and off-shore segments of the industry, provide for the conservation of the resource and meet the economic and social needs of our coastal communities. This can only be done if Congress makes these national priorities through the establishment of clear national standards.

The NPFMC initiated a pioneer program to enhance the fisheries economies of rural communities in the Bering Sea by establishing a Community Development Quota (CDQ). Through this program, rural communities which are almost totally dependent on fish and wildlife resources have some opportunities to participate in an adjacent fishery and develop an economic infrastructure which has been lacking from many of these communities. Most Alaskans support this effort to assign a small portion of the harvestable surplus of pollock in the Bering Sea to the CDQ program.

This program is particularly viable for this area as no major reallocation of resources was necessary for its implementation. It is important from our perspective because it provides the economic base from which to build a truly viable economy.

CONFLICT OF INTEREST

We support efforts to address potential conflict of interest problems on the Councils. Although we maintain that more Secretarial emphasis on the quality of appointments to some Councils would improve performance, there is some legitimate concern about the involvement of members in decisions which may or may not directly benefit them. Like the federal government and most states, Alaska has addressed its regulatory system and attempted to reduce these types of conflicts. However, we are all trying to find a balance which encourages participation by those who have a working knowledge of

what it takes to construct and maintain a viable fishing industry while adhering to the conservation principles necessary to sustain the industry and the public benefits. S.39 is, in our opinion, a move in the right direction.

Any recusal process built into the Council system is apt to have some built in biases. It is our recommendation that either Congress establish recusal guidelines or authorize the Secretary to develop guidelines with the approval of a majority of the Councils. Without this check and balance, the Secretary can manipulate the process to favor agency objectives

OVERFISHING

This proposed reauthorization legislation places much needed emphasis on the early identification of overfishing and the need to establish strict guidelines leading to recovery. Quite frankly, the New England cod fishery and other similarly declining or decimated fisheries in this country are sad commentaries on the conservation ethics of our country. It is obvious that sustainable use was rejected in favor of short term economic gain. Unfortunately, those suffering today are not the bureaucrats who stood by and documented the decline of the diversified industries that relocated elsewhere. It is the individuals and the communities of our sister New England states that must now reallocate limited resources and jobs to cover the victims of this mismanagement. Believe me when I say we will do everything possible to make sure that Alaska does not fall victim to the same political abuse. For this reason, we strongly support these provisions of S.39.

VESSEL REGISTRATION AND DATA COLLECTION

Alaskan fishermen look suspiciously at any proposal to create a duplicative system. The proposed nationalized data bank and vessel registration system may well be such a monster. We appreciate language in S.39 which emphasizes the need to establish true partnerships between federal agencies and other regulating bodies in order to avoid this duplication and disruption of already successful programs.

We wholeheartedly support the State Administration's position which advocates retention of existing data collection and vessel registration systems plus regional data access provisions. except for truly confidential information.

For the record, we wish to express concern that Congress may be endorsing the creation of a somewhat duplicative national vessel registration system, including recreational fishing vessels. Although this legislation only calls for a report within 15 months, we are concerned about the waste of federal funds and the unnecessary inconvenience to Alaskans to eventually require participate in such a registration program. We propose that the Secretary be required to submit a cost/benefit analysis on a state by state basis with his report.

EMERGENCY AUTHORITY

We endorse the provision that extends emergency authority from 90 to 180 days with the potential extension of another 180 day period.

HABITAT

Numerous proposals have attempted to place a greater responsibility for habitat protection on the backs of the Councils. Although habitat issues are obviously critical to the survival of the resources involved, it is questionable whether the Councils are prepared to handle the additional responsibilities. The compromise presented in S.39 is reasonable. We agree that responsibility for federal land and water habitat rests with the Secretary and should not divert the Councils from their major resource management responsibilities.

FEES

The establishment of reasonable fees to carry the costs of administering certain programs in the Magnuson Act are probably essential. We, however, want to support those that advocate equitable treatment and balancing of fee structures across industry lines. Clearly, offshore fisheries enjoy many privileges not granted to near-shore fisheries and on-shore processors, including less stringent, or non-existent, waste treatment, state and local taxes, health and safety standards, etc. In light of these inequities, it seems only fair that in assessing any new fees, credit be given for taxes and fees already being assessed by state and local governments.

We feel strongly that fees collected be spent on management and enforcement in the region from which the fees were collected and that an industry oversight advisory committee be established to provide an overview and monitoring system on how these funds are spent.

FISHERY DEPENDENT COMMUNITIES

For the first time, the reauthorization process proposes that fishery management planning consider the real needs of adjacent fishery dependent communities. Recognizing community needs in the national standards is an excellent step in the right direction.

FUNDING

It would not be appropriate to endorse or support many of the concepts in this reauthorization without expressing concerns for the ability of Congress to fund these programs. There is little doubt the Secretary has additional or expanded responsibilities and the Councils will inherit a somewhat more complicated process. Congress is looking at standardized data systems, national registration systems, more intricate planning procedures and mandatory recovery processes--all of which can be beneficial if properly funded. If adequate funding is not going to be available, we suggest that a simpler and less complicated process should probably be considered, such as more delegation of authorities to the coastal states and Regional Councils. Nothing will assure faster deterioration of a properly performing management regime than inadequate funding. These must not be additional unfunded mandates.

CLOSING COMMENTS

In closing we want to again thank the Committee for the opportunity to provide this testimony. We are especially grateful for the Committee hearing being conducted this close to the fisheries.

If we leave one message today, we hope it is that we must emphasize and enhance the portions of this Act which have proven successful.

Senator STEVENS. Now we turn to Mr. Richard Lauber, Chairman of the North Pacific Fishery Management Council.

STATEMENT OF RICHARD LAUBER, CHAIRMAN, NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Mr. LAUBER. Thank you, Mr. Chairman. Thank you for the opportunity to comment on S. 39. S. 39 leaves intact a key concept, and that is that regional fishery problems require regional solutions developed by those closest to the resource.

The North Pacific Council has addressed some very controversial issues such as bycatch, allocations, and conservation, and we take great pride in the abundant fisheries off the coast of Alaska. The groundfish resource has sustained annual harvest of 3 to 4.5 billion pounds for 25 years. The harvest would have been higher if caps on regulatory discards of halibut and crab had not closed the groundfish fisheries.

We also have maintained a 2 million metric ton harvest cap in the Bering Sea, even though stock abundance has increased. For 1995, the groundfish resource off Alaska could yield safely over 7 billion pounds, but the harvest will be much less. We attribute this sustained abundance to five basic practices that exemplify precautionary management. That is peer reviewed scientific advice by our SSC, defined overfishing levels, conservative harvest levels, complete catch reporting and comprehensive observer coverage.

We are developing measures to reduce waste and discards, and we believe that we can meet the schedules identified in S. 39. Please note, however, that revised Section 313 directs the Council to reduce discards in "each fishery management plan under its jurisdiction." Perhaps this could be focused more on groundfish because our plans defer crab and salmon management mainly to the State of Alaska.

We appreciate the bill's references to fishery dependent communities. The North Pacific Council introduced the community development quota, the CDQ concept, in 1992 with our in-shore, off-shore allocation of pollock. Actually, Senator, I think we borrowed it from you because my recollection is the first time I ever heard of a CDQ was in a bill that you had introduced a number of years before we picked it up. But thank you anyway. We took the ball and ran with it.

In that program, we reserved a part of the Bering Sea and Aleutians pollock harvest for disadvantaged communities in the region. The program has been immensely successful in bringing economic benefits, jobs and fisheries related infrastructure to a region that had not enjoyed benefits from the groundfish resource. We may continue CDQs past 1995 when taking final action on extending the in-shore off-shore program this spring. We also have CDQs on sablefish and halibut.

Concerning individual transferable quotas, S. 39 provides for a national lien registry and for processor quotas, both good steps in the right direction. The Council, however, may have concern over the Secretary or a national advisory panel developing stringent ITQ guidelines. It may be best for Councils to develop regional solutions for their fisheries. I cannot imagine, for example, that the National Marine Fisheries Service would have thought of authoriz-

ing CDQs, community development quotas, in their guidelines like we have established for pollock, sablefish, and halibut. There may be other things out there in the future that a regional management Council would think of that may not be thought of back in Washington.

Regarding conflict of interest, my concerns are detailed in the attached full statement. I would note that the proposed recusal mechanism with a designated official making a determination on votes could bring an already protracted process to a standstill. We need a very narrow range of potential instances when a conflict of interest can be called and then leave it up to the Council's voting membership.

One last item I would emphasize is our inability to control the rogue, the system be damned fisherman who decides to exploit a management void. We had this happen in February, as Representative Phillips mentioned, in our scallop fishery outside of 3 miles. The State manages scallops, and we have no plan yet in force. Please consider language offered by the Pacific States Marine Fisheries Service and others that would extend State authority to the EEZ in certain instances if the Council agrees.

Mr. Chairman, this summarizes my full statement. We have not had an opportunity to consider S. 39 as a full Council, but I believe my fellow members would concur certainly in most of my views. Also, I have not touched on the fisheries disaster relief provision mentioned in the bill. If the North Pacific Fishery Management Council manages our fisheries in the future as we have in the past, we will never need such a program.

Thank you, Senator.

Senator STEVENS. Thank you very much.

[The prepared statement of Mr. Lauber follows:]

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RICHARD B. LAUBER, CHAIRMAN
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Statement Before

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

SUBCOMMITTEE ON OCEANS AND FISHERIES

FIELD HEARING ON REAUTHORIZATION

MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

March 25, 1995
Anchorage, Alaska

SUMMARY TESTIMONY

Richard B. Lauber
Chairman, North Pacific Fishery Management Council
March 25, 1995
Before the
Senate Subcommittee on Oceans and Fisheries

Mr. Chairman and members of the Subcommittee, thank you for this opportunity to comment on S. 39. S. 39 leaves intact a key concept, that regional fisheries problems require regional solutions developed by those closest to the resources.

The North Pacific Council has addressed some very controversial issues such as bycatch, allocations, and conservation. We take great pride in the abundant fisheries off Alaska. The groundfish resource has sustained annual harvests of 3 to 4.5 billion pounds for the past 25 years. The harvest would have been higher if caps on regulatory discards of halibut and crab had not closed the groundfish fisheries. We also have maintained a 2 million metric ton harvest cap in the Bering Sea even though stock abundance has increased. For 1995, the groundfish resource off Alaska could yield safely over 7 billion pounds, but the harvest will be much less. We attribute this sustained abundance to five basic practices that exemplify precautionary management: peer-reviewed scientific advice, defined overfishing levels, conservative harvest levels, complete catch reporting, and comprehensive observer coverage.

We are developing measures to reduce waste and discard, and believe we can meet the schedules identified in the bill. Please note, however, that revised Section 313 directs the council to reduce discards in "each fishery management plan under its jurisdiction." Perhaps this could be focused more on groundfish, because our plans defer crab and salmon management mainly to the State of Alaska.

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Regarding conflict of interest, my concerns are detailed in the attached statement. I would note that the proposed recusal mechanism with a "designated" official making a determination on votes could bring an already protracted process to a standstill. We need a very narrow range of potential instances when a conflict of interest can be called, and then leave it up to the Council's voting membership.

One last item I would emphasize is our inability to control the rogue, "system-be-damned" fisherman who decides to exploit a management void, as we had happen this February with scallops outside three miles. The State manages scallops and we have no plan yet. Please consider language offered by the Pacific States Marine Fisheries Commission that would extend State authority to the EEZ in certain instances, if the council agrees.

Mr. Chairman, this summarizes my attached statement. We've not had the opportunity to consider S. 39 as a council, but I believe my fellow members would concur with most of my views. Also, I have not touched on the fisheries disaster relief provisions. I hope we never need them for Alaska fisheries.

Thank you for this opportunity to comment.

EXTENDED REMARKS

Richard B. Lauber
Chairman, North Pacific Fishery Management Council
Before the
Senate Subcommittee on Oceans and Fisheries
March 25, 1995

EXTENDED REMARKS

Richard B. Lauber
Chairman, North Pacific Fishery Management Council
Before the
Senate Subcommittee on Oceans and Fisheries
March 25, 1995

Introduction

Thank you for the opportunity to comment on behalf of the North Pacific Fishery Management Council. The Council has not had the opportunity to review S. 39, but from the discussions we have had on various proposed Magnuson Act provisions over the past two years, I believe that in general the Council members would concur with most, if not all, of my comments.

At the outset, I would like to commend you and your staff for having captured most of the issues of key importance, particularly to the North Pacific Council, without having gone overboard on any single issue. I am particularly pleased that you held off those who, at the onset of this reauthorization process, were calling for complete overhaul of the regional Council system, if not a gutting of the Magnuson Act, and for changes in the composition of the North Pacific Council.

Much of the call for restructuring of the Council process, or even its complete dissolution, has come from those that have feared for the very fish stocks that we manage. Certainly, NMFS' reports on the number of overfished stocks in the U.S. EEZ gave everyone reason for concern. But sometimes the brush can paint too broadly, and with crises and stock depletions in one region of the nation, we lose sight of the fact that resources in other areas are in better shape.

As I am sure you are aware and can take great pride in, annual North Pacific groundfish harvests have been sustained in the 1.3 - 2.0 million metric ton range (3-4.5 billion pounds) for the past 25 years, and could have been higher if not for prohibited species-related closures and the conservation-oriented harvest cap on Bering Sea and Aleutians fisheries. For 1995, the biologically safe yield from the fisheries is about 7.3 billion pounds based on the best scientific information.

Five basic principles have guided the North Pacific Council's precautionary management of groundfish: peer-reviewed scientific advice, defined overfishing levels, conservative harvest levels, comprehensive observer coverage, and complete catch reporting. All our scientific recommendations from our plan teams are peer reviewed by our Scientific and Statistical Committee. Every one of our harvest levels are set within bounds established by our scientists. We have conservative overfishing definitions in our plans. That was concluded by NMFS in a nationwide review. No definition was considered risky.

We have the most comprehensive observer program in the U.S. and the only program under the Magnuson Act that collects fees to support observers. With these observers, we are able to verify catch reports coming in from the fleet and provide estimates of discards, thus giving us a better understanding of the total removals from the fisheries. Overlay these monitoring programs on conservative harvesting limits such as we have in the Bering Sea fisheries, and we think we have a program that will provide for sustainable fisheries into the future.

Many of the proposed amendments to the Magnuson Act in S. 39, will lend guidance to and work hand-in-hand with programs we have already initiated or are now considering for North Pacific fisheries. With that noted, I would offer the following comments on specific provisions of S. 39.

Findings, Purposes, Policy, Definitions and National Standards

The bill would strengthen habitat protection by modifying the Magnuson Act's findings and policy statements. It would add language on being "non-wasteful" to Purpose 6 and definitions on bycatch, essential habitat, economic discards, fishery dependent communities, limited access, individual transferable quotas that could include processor shares, regulatory discards, and overfishing, as well as enhance the optimum yield definition to protect ecosystems and rebuild fish stocks. Addressing overfishing problems and rebuilding would be given emphasis in the National Standards, and Councils would be required in National Standard 5 to consider, rather than promote, efficiency. An eighth standard would be added concerning fishery dependent communities.

I believe the North Pacific Council would support these modifications. We are proceeding already to develop measures to reduce waste and discard, and certainly we are aware that habitat must be maintained in good condition to sustain fisheries resources. As will be noted below, identifying essential habitat will require funding and research above that available now. We appreciate the bill's references to fishery dependent communities and to processor individual quotas, as those tools are currently in use or under consideration by the Council.

Roll Call Votes

This change to Section 302(e), enabling a member to request a roll call vote, would have little impact on the North Pacific Council. Roll call votes are standard procedure for our Council on all significant issues. Individual votes are identified in the minutes of the meeting.

Negotiated Conservation and Management Measures

This new Section 302(i) essentially would codify a process we have used already on issues such as bycatch, limited entry, and the observer program. We have found it very useful to establish committees of diverse interest groups to develop alternative approaches to management and conservation problems. Rarely, however, is such a group able to settle on one particular solution. Normally, a range of alternatives is developed, and then the Council must determine which is the preferable solution. Often that will be a mixture of elements from the range of alternatives. Because this approach is already used by our Council and likely by other Councils, it is not entirely clear why this practice must be codified in the Act.

Changes to Council Procedures

Section 302(j) would be augmented to prevent agenda changes no closer than 14 days before a Council meeting, and only if approved by at least two Council members. Second, written statements and oral testimony would need to include the submitter's qualifications and interests. Third, meeting minutes would need to be detailed and contain all statements and reports "filed, issued, or approved by the Council." H.R. 39 has similar requirements.

Concerning agenda changes, we attempt to publish our agenda well in advance of meetings, but some last minute changes are inevitable as new problems crop up. If an issue is of sufficient importance to require immediate redress, we make every attempt to notify all industry associations in advance by fax or phone. Rarely have we had a complaint. I believe the system needs to be responsible, but also responsive. If this provision needs to be added, it should apply just to items on which final action is contemplated.

Concerning statements of qualifications and interest, our Council sometimes asks witnesses about their interests and affiliations when they testify, if they are not highly evident. We also place all letters on an issue into the meeting notebooks. We have found, however, that there is a considerable range of sophistication in testimony presented to the Council, from the law firm that assiduously follows all procedures, to the local fisherman or native who hand scrawls a quick letter about what she or he likes or dislikes about an issue or the Council. The

fisherman may not know that his qualifications and interests must be stated. If this new requirement on including qualifications and interests means that the less sophisticated statement cannot be distributed to the Council, it could disenfranchise the "little guy" from the process, something I am sure our Council would not want to see happen.

Concerning detailed minutes and inclusion of reports, we would only note that we keep a good set of summary minutes, though they certainly are not verbatim as are those of some of the other Councils. And yet we rarely if ever have had a complaint about them. All meetings are taped and these are available to the public. And finally, to be required to keep all statements filed, issued, or approved by the Council bound with the minutes, rather than just available at the Council office for inspection, would create a significant paperwork problem if the term "statements" includes all formal scientific reports presented at a meeting. Because everything we do is so public, and all reports are offered freely to the public, we fail to see the need for this amendment. If a particular Council is having problems along these lines, possibly that needs to be addressed rather than changing the Act.

Disclosure and Recusal

We are fully aware that there is a prevailing national sentiment to address the conflict of interest issue. A major concern, however is that the proposed recusal mechanism, with a "designated" official making a determination on every vote, will bring an already protracted process to a standstill, especially in the thicket of the many convoluted amendments and main motions that frequently precede a final decision. First, there is the problem of where someone will draw the line in defining "significant and predictable effect," and how to define "minority of persons within the same industry sector or gear group." Strictly speaking, a Council member whose gear group has 100 vessels would have to recuse himself on any issue affecting 49 vessels, even though that is still a very large number, and the person could be said to be representing a large industry group as the Magnuson Act originally intended. Given the state of our data bases, it may be very difficult even to determine when an issue is affecting just a minority of persons.

The language agreed upon by the Council chairmen was that a member must recuse if the vote would "disproportionately advantage that member beyond other individuals participating in a particular fishery." That language would allow industry to still be involved, which is the basic philosophical underpinning of the Act, but if a Council member voted on an issue that only affected himself and a few others, then it would be out of bounds, whereas a Council member voting for something that advantaged him and many others, would be O.K. "Few" might mean 1-3 interested parties, and "many" might mean more than 8-10 other parties.

Language in both the House and Senate bills would take away the industry vote much of the time, and also could upset voting balances on some Councils, particularly the North Pacific. Perhaps also, recusal could only be required on final votes, and then only on matters that had obvious and significant allocational results. We also agree with the Council chairmen that determinations of conflict of interest during a meeting should be made by majority vote of the Council. We agree with the appeals deadline of 10 days in S. 39, and 30 days for Secretarial review of the appeals. Those are within the Council chairmen's guidelines of 15 and 30 days recommended from our May 1994 Chairmen's meeting.

FMP Provisions

I do not believe that the Council would object to any of the new required or discretionary provisions offered by S. 39 to Sections 303(a) and (b). All seem consistent with the direction our Council is heading. We would note, however, that becoming more responsive to essential habitat concerns will require more research and funding by NMFS to identify those habitats and determine their exact roles in sustaining fisheries. In many cases, for example in spawning drainages for salmon, essential habitat may be very obvious and thoroughly studied. But

to identify essential marine habitat in the North Pacific, especially as envisioned in new Section 305 on ecosystem management, definitely will require considerable research and funding.

Concerning overfishing definitions, they are already in each of our fishery management plans as required by 50 CFR 602. Addressing overfishing is more a struggle of political wills than of not having the appropriate tools in the Magnuson Act.

An eleventh discretionary provision would be added to Section 303(b) concerning management measures that provide a harvest preference or other incentives within gear groups for fishing vessels with lower bycatch. For the past year, the North Pacific Council has been considering a harvest priority proposal which would offer a reward fishery on a reserved harvest quota to those fishermen that fished cleanly and met other criteria in the early season fishery. NOAA General Counsel has just sent us a legal opinion stating that fishermen could not be excluded from the reward fishery until all of their appeals procedures have been exhausted, which could take two to three years. While I think that many Council members would like to find a true incentive approach to lower bycatch, unless the appeals problem can be resolved, harvest priority and reward fisheries may not be viable solutions.

Individual Transferable Quotas

New Section 303(f) would place many new requirements on the development of ITQs. Many of these new provisions, such as minimizing effects on fishery dependent communities, establishing a lien registry, and identifying the list of potential ITQ holders as owners, fishermen, crew and processors, are a step in the right direction. But I do not believe that it is a good idea to assign responsibility for developing ITQ guidelines to the Secretary and a national advisory panel, and after three years, requiring all ITQ programs to be consistent with the guidelines.

If the Secretary develops tight guidelines that significantly bind the Councils, then Congress has relinquished regional controls over limited entry. The Councils need to be able to address regional problems with regional solutions. What may be appropriate for the wreckfish fishery off Florida, may not have any application to groundfish off Alaska. I can imagine that there would have been few provisions for community development programs, as we have for sablefish and halibut, if this Magnuson Act amendment had been added several years ago, and the North Pacific Council had been compelled to follow some set of Secretarial guidelines.

Conversely, if the guidelines are too broad and lack definition, the Secretary will have considerable flexibility in interpreting proposals forwarded by the Councils, and will be able to dictate the type of programs that would be acceptable, thus contravening the intent of current Section 304(c)(3) (or as amended by S. 39, Section 304(e)(4)). Other than authorizing the lien registry, minimizing impacts on fishery dependent communities (which is very hard to define), clarifying that processors and crew may be holders of individual transferable quotas, that the term ITQ may apply to either fishing or processing quotas, that leasing and auctions are allowed, and that ITQs are not property rights, design and development of limited entry programs should be left up to the Councils.

Plan Review and Implementation

S. 39 would reduce the total time for implementing plan amendments by 20 days from 145 days (which includes a 30-day APA cooling period) under the current Act, to 125 days as amended. Regulations could be implemented in as little as 95 days (up to 140 days). These are positive steps in the right direction, however, the Councils have found that it is no longer when the clock stops ticking, so much as when it starts ticking, that makes the difference in how quickly regulations are implemented. So long as the Regional Director can dictate when an amendment package is structurally complete and ready to undergo review, NMFS always will have control of the processing

schedule. Unless that procedural defect can be fixed, NMFS and NOAA GC will be able to circumvent the intent of the Act.

Fees

S. 39 expands considerably the fee authority of the Councils, mandating fees for any ITQ program to cover the costs of managing the fishery and enforcement. The North Pacific Council has endorsed an expansion of fee collection authority, especially to fund comprehensive rationalization. Other Councils have done so as well. This endorsement is contingent on the fees coming back to the region from which they were collected, as S. 39 would require.

S. 39 would require that those fees be placed on the sablefish and halibut IFQ fisheries. We agree that the Councils and Secretary should be allowed to determine which value, exvessel or processed, to use as the basis for assessing the fee, since both are specified in the legislation. One final comment on the issue of fees: the North Pacific Council also has voiced concern that any fees imposed by the administration take into account the fees being collected for the observer program. Thus, if ITQs are developed for the pollock fishery, the Council should have the latitude to structure the fee program mandated by any new amendments in the Magnuson Act, taking into account the fees already being paid out in the pollock fisheries for observer coverage.

Ecosystem Management

S. 39 would add a comprehensive new Section 305 on ecosystem management that would require an annual status of stocks report, recovery plans for overfished stocks, identification of essential habitat, gear evaluation and notification requirements, and changes to promulgate emergency rules for 180 days, and renew them for another 180 days. Other than the increased funding and research noted above for identifying essential habitat, I do not believe that the North Pacific Council would object to any of the measures in new Section 305, except the 10-year requirement for rebuilding plans. The Council already produces annual stock assessment reports that are peer reviewed by our Scientific and Statistical Committee, has overfishing definitions in our plans, and has implemented a 14-year rebuilding plan for Pacific ocean perch, a species in very low abundance since it was fished down by foreign fisheries in the 1970s. We are now in the process of examining what can be done to rebuild crab stocks. We believe our management and conservation of the groundfish resources have been exemplary, embodying the principles of precautionary, risk averse management.

State Jurisdiction - Addressing the Scallop Problem

As you may be aware, we had a problem in February with a scalloper fishing for scallops in the Gulf of Alaska EEZ when the State of Alaska had closed all other waters. We have deferred management to the state and do not yet have a formal plan in place. The scalloper, having no state permits, decided to take advantage of this management void and fish as fast as he could before we put in an emergency closure. The same thing could happen with crab and we need to address the issue in the Act.

Perhaps you could consider the language offered by the Pacific State Marine Fisheries Commission and Pacific Council which would amend Section 306 on State jurisdiction to specifically establish and/or clarify the authority of the states to manage species harvested in the EEZ that occur in both the state territorial waters and the EEZ in the absence of a Council FMP, and also amend the section to enable a state, with the concurrence of the appropriate Council to establish landing laws or regulations for species landed from the EEZ as well as state waters.

To do this, alternative language was offered last year that added a new Section 306(a)(4): In any fishery for which no fishery management plan is approved under this title and in which a State has an interest in the

conservation and management of that fishery, a State may enforce its laws and regulations relating to harvesting and landing fish caught in the EEZ adjacent to that State.

North Pacific Fisheries Conservation

This part of S. 39 has comprehensive amendments on reducing waste in North Pacific fisheries, requiring full retention and utilization, reducing regulatory discards, and enhancing observer coverage. The North Pacific Council already implemented or is developing many of the types of measures identified in this revision of Section 313, and probably would support the provisions. We would offer one note of caution, however, relating to the use of the phrase "each fishery management plan under its jurisdiction," which is also in H.R. 39. Most of these amendments have to do directly with the groundfish fisheries. Our concern is that the Council also has management plans for salmon and crab, but has deferred management to the State of Alaska. Literally read, both bills would require the Council to develop bycatch measures for the State's salmon and crab fisheries, which would be a pretty tall order to fill, and could ruffle considerable numbers of feathers now being taken care of by the Alaska Board of Fisheries. Possibly the language could be changed to apply to groundfish, which is where we have the major responsibility.

Concerning giving incentives and harvest priorities to reduce bycatch, I would only reiterate earlier comments that NOAA General Counsel has informed us that allegedly "dirty" fishermen would have 2-3 years of appeals procedures before they could be barred from a reward fishery. This would tend to make harvest priority less attractive as a management approach.

On the issue of enhanced observer coverage, proposed Section 313(i)(1)(A) would increase observer coverage to 100% on all vessels that can safely accommodate observers. Now 100% observer coverage is only required on vessels over 125 ft. Those between 60 and 125 ft long have 30% coverage, though many would be safe for observers. I realize that S. 39 would only require this enhanced coverage if funding is available, but we are finding that, as more needs for observers are identified, not only in the groundfish fishery, but in the crab fishery, increased fee levels and funding may be needed. I doubt that many in industry would want to advocate increasing the present 2% cap on fees for observers, but we are quickly overrunning that cap as observer requirements proliferate. And finally, concerning Section 313, the North Pacific Council has recommended the language in the attachment to enhance confidentiality of observer data. It would be good if we could get that change to the Act.

Thank you for allowing me this opportunity to comment on this important reauthorization and amendment to the Magnuson Fishery Conservation and Management Act.

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Recommended Amendment to Magnuson Act

SECTION TO BE AMENDED: Section 303(d). Confidentiality of Statistics.

RECOMMENDATION: Amend Act to maintain confidentiality of information collected by Section 313, North Pacific Fisheries Research Plan.

SUGGESTED LANGUAGE: 303(d) CONFIDENTIALITY OF INFORMATION.—Any information submitted to the Secretary in compliance with any requirement under subsections (a) and (b) or under section 313, including any information reported by an observer under subsection (b)(8) or section 313, shall not be disclosed if disclosure would significantly impair the commercial interests of the person from whom the information was obtained; except—

- (1) to Federal employees and Council employees who are responsible for management plan development and monitoring;
- (2) to State employees pursuant to an agreement with the Secretary that prevents disclosure of such information; or
- (3) when required by court order.

The Secretary shall, by regulation, prescribe such procedures as may be necessary to protect such information from disclosure. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with a requirement under subsection (a) or (b) or Section 313. This provision applies to any such information submitted to the Secretary since March 1, 1977.

[Legislative history would state that the "person" from whom observer information was obtained is the vessel owner, operator, or crew member.]

RATIONALE: Information recorded by observers for a specific vessel and trip must be protected from disclosure. We have a problem in the North Pacific wherein copious information collected by observers on vessel safety conditions, MARPOL violations, and general living conditions onboard a vessel, and other types of information, may be accessible through a Freedom of Information Act request. NMFS and NOAA GC have not given us a firm opinion on the issue, but they have encouraged us to suggest an amendment to the Magnuson Act that would clearly designate observer reports as confidential. This would be particularly important to all Councils if Section 313 is extended to cover other regions of the U.S.

Senator STEVENS. I note the Governor is here. Clem, I am going to ask you to step aside. Thank you very much. Governor, we will proceed with you. I know you have a schedule. We all got sort of delayed with the prayer breakfast. The Governor's prayer breakfast lasts longer than the Presidential prayer breakfast, I might add.

Governor Knowles: We needed one.

Senator STEVENS. It was a grand meeting.

STATEMENT OF THE HON. TONY KNOWLES, GOVERNOR OF THE STATE OF ALASKA

Governor Knowles: Senator Stevens, thank you very much for the opportunity to come before you today. For the record, I'm Tony Knowles, Governor of the State of Alaska. I believe I'm the first Governor to have served on a regional fishery management Council. I think it may be easier being a Governor.

I want to express my appreciation to you, Senator Stevens, and to the committee for holding this hearing in Alaska. I think by doing so you are sending a strong signal about the importance of the views of Alaskans regarding the management of our fisheries. The Magnuson Fishery Conservation and Management Act is one of the nation's most important pieces of fishery legislation. I welcome the opportunity to present to you the views of the State of Alaska on several important issues which I believe must be addressed in the reauthorization of the Act. Many of the specific recommendations are contained in the written testimony which I am submitting to the committee for inclusion in the record.

Speaking before you today, I'd like to stress four main areas of concern. First, conservation of the resource; second, enhancement of the economies of our coastal communities; third, the continuation of the community development quota program; and fourth, enhancement of opportunities for Alaskans to participate in fisheries off our shore.

Mr. Chairman, the seafood industry is the largest private employer in Alaska. It provides more than 77,000 seasonal jobs. Total investment is estimated at roughly \$4 billion and the annual payroll of approximately \$600 million is the largest in the State. In 1994, Alaska's catch totaled 5.7 billion pounds.

If Alaska were a separate nation, our annual seafood harvest would rank among the top 10 in the world. In addition, subsistence and sport fisheries are vitally important to local communities and economies. They are an economic and cultural imperative. Clearly sound conservation and prudent management of fishery resources is critical for Alaska now and in the future.

Under my administration, the State of Alaska will not condone the waste of fish. In 1993, economic and regulatory discards in the groundfish fishery off Alaska totaled 740 million pounds. And that doesn't include the bycatch of halibut, Chinook and chum salmon and crab. The State and the North Pacific Council have often been frustrated by interpretations of the Act which emphasize harvest efficiency and economic return over conservation. Economic discards of bycatch are treated more as a cost of doing business than as a form of waste.

Senator Stevens, S. 39 provides important leadership that you have initiated to address this problem by strengthening the con-

ervation provisions in the Act and adding incentives for the use of cleaner gear and fishing practices. They constitute a good first step toward giving the Council the tools that it needs to get this important job done.

The State of Alaska is committed to maintaining and enhancing the economic health of our seafood industry and our coastal communities. It's vitally important that Alaskans continue to have the opportunity to participate in the fisheries off our coast. The jobs and revenues generated by the industry are critical to the men and women in the fisheries, their families and the economic well being of the coastal communities. An innovative program which I strongly support is the community development quota program in Western Alaska. This program, which sets aside relatively modest amounts of quota to promote fishery based economic development, has made a big difference in communities which have some of the highest unemployment rates and lowest per capita earnings in the country.

For the first time, these communities have a chance to develop a stable, long-term, private sector economy by participating in a fishery that takes place right at their doorstep.

However, I am concerned about the impact that other Council actions could have on our coastal communities. The Council has embarked on an experiment with individual fishing quotas, or IFQs, in the halibut and sablefish fisheries. One fisherman who received his quota windfall was quoted in a trade journal as saying the program would eliminate what he called ragtag operations. Senator Stevens, many of those so-called ragtag operators are Alaska small boat fishermen whose livelihoods and families depend on this fishery. I did not support IFQ programs when I served on the North Pacific Fishery Council, and I subsequently testified against them when those questions were up before the Council. And I still have serious concerns about the effects of such a program on our coastal communities and our resident small boat fleet.

I feel strongly that before any IFQ program is developed in the future, the Act must address major public policy issues, including excessive ownership of quota share, windfall profits, foreign ownership or control, impacts on coastal communities imperative between in-shore and off-shore sectors of the industry.

Of particular interest to me is the requirement in your bill that you have suggested which is that any IFQ program include mechanisms to provide a portion of the annual harvest for entry level fishermen or small vessel owners who do not own IFQs. I congratulate you for this approach. I believe that such a provision along with a provision creating an IFQ lien registry should be applied to the existing halibut and sablefish IFQ programs.

I strongly urge you to retain those provisions in the bill, and I look forward to working with you to make sure that Alaskans and even that "ragtag" small boat fleet has a future in these fisheries.

Protection of the State's jurisdictional rights is another main concern. As you are aware, we recently had a situation in the Gulf of Alaska where a scallop vessel exploited a loophole in the Act and fished in an area of Federal waters that the State had closed to fishing. At my urging, the North Pacific Fishery Management Council took on Mr. Big, which I believe is owned by Wan Chese

Fish Company, and recommended an emergency closure of the fishery. The unprecedented speed with which the Secretary of Commerce walked that through, as I understand, the fastest that any emergency closure has ever been walked through, was very much appreciated. But this loophole in the Act must be permanently closed.

Senator Stevens, I thank you for your assistance in this matter, and once again ask for your help. We cannot stand by while the nation's fisheries are wantonly pillaged by such unscrupulous operators. Mr. Chairman, the State of Alaska has a strong commitment to the process of managing and conserving our resources. We work through the Council process and with our counterparts in the Federal management agencies to insure that the resources are properly managed. The importance of this partnership between the States, the Council and the Federal agencies must not be over looked at a time of declining revenues and tight budgets. Partnerships should be strengthened both in the Magnuson Act and in our day-to-day working relationships.

I look forward to working with you on this reauthorization. I've attached the written testimony which I've provided to the committee, and also the comments of the Alaska Citizens Advisory Committee which has a broad representation from the seafood industry, coastal communities, commercial and sport fisheries, conservation groups and the general public.

Again, thank you very much, Senator Stevens, for holding this hearing in Alaska. I can't overemphasize the importance of that and the extraordinary efforts that you personally have taken to make this happen and allowing me the opportunity to come before you today. Thank you.

Senator STEVENS. Governor, I thank you very much for coming. I know it is a very difficult day for you. I have been surprised over the scallop episode, too. The surprise came when I found out that the person who really engineered that had once been a member of the Mid-Atlantic Fisheries Council. Did you know that?

Governor Knowles: No, I didn't. I heard a reputation followed him, though.

Senator STEVENS. Very interesting. And it is a loophole in the law which we will close. I do have a related but separate issue to ask you about. As I understand, you did have some correspondence recently with the National Marine Fisheries Service about the authority of the State to preempt Federal management inside the 3 mile limit. Can you tell me what your exchange was with the National Marine Fisheries Service about the State's authority and its ability to manage fisheries within the 3 miles.

Governor Knowles: We have that in reference to sablefish. And what I would like to request is that we look at the possibility of closing that also for halibut because, while we have the sablefish worked on, the halibut, as I understand comes through a different Act—and that's another loophole that yet exists and may be exploited by a similar type of operator.

Senator STEVENS. I will look into that. The Halibut Act preceded the Magnuson Act. I am not sure that it has a loophole like the one found by the scallop people, but we will look into that. Appre-

ciate very much your concern on that. And I do thank you for coming today, Governor.

Governor Knowles: Thank you very much.

[The prepared statement of Governor Knowles follows:]

TESTIMONY OF ALASKA GOVERNOR TONY KNOWLES
BEFORE THE
UNITED STATES SENATE
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
SUBCOMMITTEE ON OCEANS AND FISHERIES
REGARDING
S.39 - REAUTHORIZATION OF THE
MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

Mr. Chairman and Members of the Committee, thank you for this opportunity to come before you today. For the record, I am Tony Knowles, Governor of the State of Alaska. I welcome this opportunity to discuss one of the nation's most important pieces of fisheries legislation, the Magnuson Fishery Conservation and Management Act, and to present to you the views of the State of Alaska on several important issues which I believe must be addressed in this reauthorization of the Act.

I also want to express my appreciation to you, Mr. Chairman, and to the Committee for holding this hearing in Alaska. I know that it would have been easier to hold a hearing in Washington D.C. or Seattle. But the major fishing grounds are just off our shores, and Alaskans have a lot at stake in this reauthorization. I think that by holding this hearing in Alaska, you and the Committee are sending a strong signal about the importance you place on this

reauthorization, and the views of Alaskans regarding the management of our fisheries.

The Importance of Fisheries to Alaska

Before I begin to speak about the Magnuson Act specifically, I want to comment on the importance of fisheries to Alaska. I believe that I am the first Governor of Alaska to have sat on the North Pacific Fishery Management Council. The NPFMC is one of the regional councils established under the Magnuson Act. While I was on the Council, I learned first hand about the importance of fisheries to Alaska.

Mr. Chairman, as you know, Alaska is a state with little or no manufacturing-based economy. The seafood industry is the state's largest private, basic industry employer, providing more than 77,000 seasonal jobs which equal 33,000 year-round direct and indirect jobs. Total investment is estimated at roughly \$4 billion, and the payroll is the largest in the state among private industries: approximately \$600 million.

If Alaska were a separate nation, it would rank among the world's top ten in total fish harvest. In 1994, the catch off Alaska totalled over 5.7 billion pounds of seafood. This was about half the national harvest and over 3 times greater than the amount landed by fishermen in the Gulf of Mexico, the nation's second ranking region. Alaska's 1994 catch was up about 4% from the most recent 5-year average.

The ex-vessel value of Alaska's commercial fisheries has grown from an estimated \$565 million in 1985, to a record \$1.8 billion in 1988. The first wholesale level was estimated at \$3 billion in 1988. Preliminary figures indicate the 1994 ex-vessel value was roughly \$1.3 billion.

Dutch Harbor-Unalaska ranked number one in the nation for seafood landings in 1993, with total landings in excess of 793 million pounds; nearly 3 times greater than the next largest non-Alaska port. Seafood landed at Dutch Harbor-Unalaska was worth about \$161 million to commercial fishermen, about 34% greater than seafood landed in New Bedford, Massachusetts, the highest ranking non-Alaska port in the country. In one region of the state, the seafood industry accounts for almost 90% of the private sector income, and many of our coastal communities are almost entirely dependent on commercial fisheries for cash income.

But what is important is that these numbers aren't just statistics. They represent real jobs, and real families throughout our state. Fisheries, because they are renewable, can bring economic stability to our coastal communities, and provide long-term jobs for our people. That is why sound conservation and prudent management of this resource is critical for Alaska, now and in the future.

In addition, our interest in fisheries conservation and management isn't only about the commercial seafood industry. Sport and subsistence fisheries are also vitally important to Alaska. Marine

sport fisheries are growing and becoming more and more important to local economies. In rural Alaska, locally caught subsistence fish provide almost 100% of the protein needs of some regions. Conserving these fishery resources, and providing for these uses, must be an important factor in fishery management decisions by the state and by the Council.

Importance of the Magnuson Act

The Magnuson Fishery Conservation and Management Act (the Act) plays a vital role in Alaska's fisheries. Early on, the Act established the regime under which the United States gained control of its fisheries and the 200-mile zone. This was an enormous success which eventually led to the Americanization of the immense groundfish fisheries off Alaska. Today, the Act provides the framework for conservation, management, and allocation of the fisheries off our shores.

But with these successes have come many new and challenging issues. The rapid development of the domestic offshore fleet in response to the policy of Americanization has brought about many of the conservation, management and allocation issues which must be addressed in this next reauthorization of the Act. Interestingly enough, there are striking similarities between the issues which were facing the nation when the Act was first passed and those facing us now.

Once again, national concern about the environment and the health of our fisheries resources, coupled with a growing awareness about the problems of bycatch, discards, and waste are front page issues. Once again, competition between a mobile at-sea factory trawler fleet and a local, shorebased industry are the subject of national debate; and escalating concerns about fishing rights, jobs, and the economic health and stability of our coastal communities are hot topics on the waterfront. And once again, the question of who owns our nation's fisheries resources, tied to the age-old problem of too few fish and too much harvesting capacity, is a major source of contention. Only this time, it's not a matter of the U.S. fleet versus the foreign fleets; this time the issues are more difficult because we are fighting amongst ourselves.

Comments on S.39

Mr. Chairman, I support your efforts to complete this reauthorization and get a bill to the President's desk by summer, and I believe that S.39 represents a significant step in meeting this goal. My comments today regarding S.39 will focus on several major issues which I believe warrant special attention.

The Need to Address the Problems of Discards, Waste, and Bycatch.

Mr. Chairman, I want to emphasize the importance I put on the need to strengthen the conservation standards of the Act to promote the long-term health of our nation's fishery resources and address the problems of discards, waste, and bycatch. When I served as a member of the North Pacific Council I pushed for numerous measures

to reduce bycatch and waste. Under my administration, the State of Alaska will not condone the waste of fish, and I believe that the nation has an overriding interest in seeing that these public resources are properly utilized as well.

Economic discards are fish which are harvested in a target fishery but not processed because they are the wrong size, the quality is poor, or for some other economic reason. With proper incentives, harvesting these fish could be avoided. If harvested, these fish could be processed into ancillary products such as meal and oil, and some of their value retained. Instead, they are simply thrown away.

In 1993, economic and regulatory discards in the groundfish fisheries off of Alaska totalled roughly 336,000 metric tons (mt) or 740,200,000 pounds of discarded fish. This does not include the discard of roughly 17 million pounds of halibut mortality, 70,000 chinook salmon, 300,000 other salmon, or the estimated 16.5 million pounds of crab bycatch.

The State and the North Pacific Fishery Management Council have often been frustrated by Secretarial interpretations of the Act which emphasize harvest efficiency and economic return over conservation. Economic discards and bycatch are treated more as a cost of doing business than as a form of waste. By focusing on economic efficiency the Secretary has made it difficult for

regional councils to effectively address the problems of discard, waste, and bycatch.

Mr. Chairman, S.39 provides important leadership to address this problem by generally strengthening the conservation provisions in the Act, and through specific provisions for the North Pacific which allows the Council to develop incentives for use of cleaner gear and fishing practices. I believe that it is in the best interests of Alaska's seafood industry, and the health of the resource, to control and reduce bycatch, and do all we can to eliminate the waste associated with economic discards. The provisions in S.39 to address these issues are a good first step, and will provide the Council with the tools it needs to get this job done.

The Need to Protect Our Coastal Communities and Build a Stable Shoreside Economy

The State of Alaska is committed to maintaining and enhancing the economic health of our seafood industry and our coastal communities which rely on this industry. The jobs and revenues generated by Alaska's seafood industry are critical to the men and women in our fisheries, their families, and Alaska's communities. As such, the state supports provisions in S.39 to ensure that the economies of fishery dependent communities are protected and allowed to grow as new opportunities in fisheries come about in the future.

The purpose of creating 200-mile fishery management zones worldwide was to provide nations, people, and communities immediately adjacent to fishery resources the ability to conserve those resources and benefit from their use. Protecting our coastal fisheries from the impacts of a large distant water fleet of foreign vessels operating off Alaska's shore was a driving force behind the passage of the Magnuson Act. Concern for the economies of the nation's coastal fishing towns is once again on the front burner of the national fishery management agenda.

On the west coast, overcapitalization in the offshore segment of the U.S. fleet is threatening the very industry and coastal communities the Congress was trying to protect at the time of original passage of the Act. This rapid overcapitalization, and the resulting preemption of coastal fisheries, has come about because construction of the fleet was subsidized and encouraged through a combination of foreign financing subsidies, federal loan guarantees, and liberal interpretations of the anti-reflagging [act] by the Coast Guard. No other nation in the world has constructed a distant water fleet to harvest its own resources to the detriment of its existing shorebased fleet and fishery dependent coastal communities.

The State of Alaska has been supportive of allocations to prevent pre-emption of the fishery by one segment of the industry over another, and is supportive of implementation of limited access systems for Alaska offshore fisheries if the nature of the fleet

can be maintained and the economies of coastal communities can be protected. The State believes that the goal of achieving economic efficiency in the harvest of our fishery resources must be balanced along with the need to conserve stocks and achieve full utilization of harvested resources. Too often the desirability of maintaining diversity in the fishery, and the economic and social needs of coastal communities have been ignored. The Act must be amended to require this balance between conservation and economic efficiency. Measures should be included to minimize preemption of one sector of the industry over another, and to reinforce the national intent to protect and enhance the economies of our coastal fishing communities. S.39 contains several new provisions to address these concerns.

A recent innovative program which I strongly support is the Western Alaska Community Development Quota (CDQ) program. This is a joint program among the State, the NPFMC, and the Secretary of Commerce which sets aside relatively modest amounts of quota to promote fishery-based economic development. Over 50 Bering Sea communities, most with a mixed economy based largely on subsistence, are participating in the program. The communities involved in this program have some of the highest rates of unemployment in the country, some of the lowest average per-capita incomes in the country, and some of the highest costs of living in the country. These communities are immediately adjacent to one of the nation's largest fisheries, and have benefited least from that fishery. The CDQ program holds the first true opportunity for many

of these communities to develop a stable, long-term economy. By successfully implementing the CDQ program we hope to reduce dependence on government transfer payments and services in these communities, and provide a solid benefit to the nation by promoting new economic growth and reducing the drain on both the State and federal treasuries.

Strengthening the Regional Fishery Management Council Process

Section 302 of the Act establishes the eight Regional Fishery Management Councils (the Councils). Recently, the Councils have come under increasing criticism. These complaints range from concerns over the make-up of the individual Councils, to real or perceived conflicts of interest on the part of Council members, to the inability of some Councils to address important management and conservation issues. Some of these criticisms are particular to one or two Councils, others are more general and are aimed at the Council system as a whole.

Because the North Pacific Fishery Management Council (NPFMC) is the regional council managing fisheries off Alaska its operation and policies of the NPFMC are of paramount importance to the state. However, because criticisms levelled at the council system as a whole can affect the management of fisheries off our shores, the State of Alaska places a high premium on the effective operation of the entire regional fishery management system.

One of the most serious complaints about the Councils is the quality of representation and perceived conflicts of interest on the part of individual Council members. Presently, the Act calls for the participation of persons who are knowledgeable and experienced in fisheries managed by the Councils. This will, by definition, result in some perceived level of conflict of interest. However, the State believes that the expertise which is brought to the fishery management system by such individuals is an important and critical component of fishery management. These are people who understand, in a very practical sense, how the fishery operates and whether or not management measures will succeed on the fishing grounds. Unless the Congress decides to place fishery management and allocation in the hands of faceless bureaucrats, ivory tower academics, or persons who know nothing about the fisheries, there will be at least the perception of conflict of interest on the Councils.

S.39 contains new provisions to address the conflict of interest problem, including a process to require recusal of a council member under certain conditions. The State of Alaska supports those provisions with one exception. S.39 would have the Secretary establish the guidelines under which the recusal process would operate. We believe strongly that the Congress should establish the rules and standards for recusal, not the Secretary, and we recommend deleting this provision.

The Councils are also coming under criticism for not resolving important conservation and management issues. In much of the United States fish stocks are severely depressed, fisheries are overcapitalized, and management programs are ineffective. Critics are calling for a major overhaul in the nation's fishery management system to correct these problems. The NPFMC has consistently been in the forefront on conservation and management issues, and I believe that these criticisms are more appropriately directed at the Secretary and the NMFS.

For example, I was present when the North Pacific Fishery Management Council, with your help Mr. Chairman, led the fight to prohibit roe stripping and instituted the nation's first comprehensive domestic observer program. That was a difficult battle, but it was worth it. The result has been better conservation of the resource, and better management of the fisheries.

In the past few years, it was the NPFMC which placed a moratorium on new vessels and entrants into the fishery to begin to address the overcapitalization problem. It was the NPFMC which placed the 2 million ton cap on Bering Sea harvests, despite resistance from NMFS. And today, it is the NPFMC which is presently trying to implement further measures to reduce bycatch, institute real-time fishery data gathering programs to enhance in-season management, and improve fishery enforcement; while at the same time trying to reach a fair allocation balance among the various sectors of the

fishing industry--trawlers, longliners, pot fishermen, shorebased or offshore processors, small boats, and big boats.

A related criticism which is levelled specifically at the NPFMC is that the Alaska majority controls the Council process, and works in concert to disadvantage those participants in the fishery which come from outside the state. The example most often cited is the inshore/offshore allocation issue.

An analysis of the record shows otherwise. Of 1125 recorded votes on motions and amendments during the 34 NPFMC meetings from January 1988-June 1994, only 36 votes were "block votes" which found the six Alaska appointees in unanimity against the non-Alaskan members. Of these "block votes," only 4 were final votes that had any allocation aspects. Of those 4 votes, on two occasions the NMFS Alaska Regional Director voted with the Alaskans, on two occasions he voted against the Alaskans.

Mr. Chairman, I think that the record of the NPFMC is one that Alaska can be proud of.

State Jurisdiction

Mr. Chairman, as you are aware, we recently had a serious situation develop in the Gulf of Alaska. The scallop fishing vessel Mr. Big exploited a loophole in Sec. 306 of the Act to go fishing even though the total allowable catch for scallops had been harvested and the fishery closed. The vessel was registered out of Norfolk

Virginia, didn't have a federal permit for the North Pacific, and wasn't registered with the State of Alaska. There was compelling evidence that the harvest would greatly exceed acceptable levels. At my urging, the North Pacific Fishery Management Council met in emergency session and recommended an emergency closure of the entire scallop fishery for the Gulf of Alaska and the Bering Sea. And, through our combined efforts Mr. Chairman, that Emergency Order was adopted almost immediately. I've been told that this was the fastest Emergency Order ever adopted by the Secretary.

This loophole in the Act must be permanently closed. We cannot stand by and let the nation's fisheries resources be wantonly pillaged by such unscrupulous operators. We will be submitting suggested language to you to ensure that, in the absence of federal regulations, state regulations can apply beyond the three mile limit. I look forward to working with you to close this loophole so there will not be any problems like Mr. Big in the future.

Habitat

The State supports provisions in S.39 to strengthen the habitat conservation provisions in the Act. The State strongly supports the conservation of fish habitat. However, we are concerned about the ability of the Councils to effectively address habitat issues given their present workload. The primary responsibility for habitat evaluation and protection should be vested in the Secretary. The role of the Councils should be to work with the

Secretary through an enhanced opportunity to identify, review, and make recommendations on habitat issues.

Limited Access Systems

In an effort to address overcapitalization, the NPFMC has embarked on an ambitious experiment with Individual Fishery Quotas (IFQs) for halibut and sablefish. I did not support that program, and I still have serious concerns about the effects of this program on our coastal communities and our resident small boat fleet.

I recently saw an article about the halibut program in the Alaska Fishermen's Journal where a fisherman who had just received his IFQ windfall stated that "[t]he ragtag operations won't be tenable anymore.." Well, many of those "ragtag" operations were Alaskans with small vessels.

Mr. Chairman, recently, I had to make a painful decision about whether or not to file an appeal in the Alliance Against IFQs lawsuit. It was a very hard decision, but eventually I had to decide that on balance the state should not file such an appeal. Disrupting the fishery at this late date in its implementation would have brought further chaos, uncertainty, and hardship on many Alaskans who were depending on that fishery to make ends meet. Thousands of Alaskans, many of whom opposed the IFQ plan initially, have borrowed money and invested time and effort to try to live with the program. Also, the lawsuit could have jeopardized the halibut/sablefish CDQ program, which I strongly support. But, my

decision to not enter the lawsuit should not be read to imply that I support the halibut/sablefish IFQ plan as it now stands. To the contrary, Mr. Chairman, I think that this program needs a thorough review.

Both the House and Senate are struggling with the need to develop criteria for limited access programs, including IFQ programs. If there are going to be any IFQ programs developed in the future, I feel strongly that the Act must address major public policy issues such as excessive ownership of quota shares and windfall profits, foreign ownership or control, impacts on coastal communities, parity between inshore and offshore sectors of the industry, fees, and related issues.

Of particular interest to me is the language in S.39 requiring that any IFQ program include "mechanisms to provide a portion of the annual harvest for entry-level fishermen or small vessel owners" who do not own IFQs. That provision in your bill, along with the provision for an IFQ lien registry will be very important to Alaska. I believe that it is very much in the interest of Alaska that such provisions be applied to the existing halibut/sablefish program. I strongly urge you to retain these provisions in the bill so we can work together to make sure that Alaskans--even Alaskans in that "ragtag" small boat fleet--have a future in the halibut and sablefish fisheries off their doorstep.

Mr. Chairman, your bill, S.39, contains language that represents a good foundation to work from to develop the standards we need for limited access programs. I believe that we both share the view that such standards will be critical to the future of Alaska's fisheries. I would like to work with you to refine that language and further develop these standards before final passage of the bill.

As a final comment, Mr. Chairman, I want to reaffirm that the State of Alaska has a strong commitment to the process of managing and conserving our nation's fisheries resources. We work through the Council process and with our counterparts in the federal management agencies to ensure that the process goes well and the resources are managed properly. The importance of this partnership among the states, the Councils, and the federal agencies must not be overlooked in this time of declining revenues and tight budgets. This partnership should be strengthened both in the Magnuson Act and in our day to day working relationships.

I look forward to working with you on this reauthorization, and I have instructed my staff to work closely with your office on the many issues which need to be addressed in the Act. In addition, I have attached to my testimony a paper which was prepared in concert with our Citizens Advisory Committee on federal legislation. The committee has broad representation from the seafood industry, coastal communities, sport and commercial fisheries, subsistence users, conservation groups, and other members of the public. These

citizens have devoted a significant amount of time and energy in helping the State identify issues and seek solutions regarding this reauthorization. I deeply appreciate their efforts, and urge you to consider their views as we proceed with this reauthorization.

Mr. Chairman, once again, thank you for holding this hearing in Alaska, and for providing this opportunity to come before you today to discuss these important fishery management issues.

Senator STEVENS. Now to return to the panel. We conclude the panel of Clem Tillion, a member of the North Pacific Fishery Management Council, former Senator, Representative and friend.

STATEMENT OF CLEM TILLION, MEMBER, NORTH PACIFIC FISHERY MANAGEMENT COUNCIL, HALIBUT COVE, ALASKA

Mr. TILLION. Thank you, Ted. Actually, I'm rather—do I need to pull this over? Sorry about that out in the bush. I just dragged it across the table. I'll try to speak briefly to each of the issues laid out in your March 15th letter as well as some of the wording in S. 39 itself.

One, the issue of bycatch and discards is a tough one.

The shorter the season, the tougher it gets on a derby type opening. It has all the winsome benevolence of tiger sharks in a feeding frenzy. If you don't like ITQs or some other individual quota system, you just can't get there from here.

I hear a lot about traditional management measures, but I think the West Coast Canadians that refer to them as traditional mismanagement measures has described them best.

On the ITQ guidelines, please keep it simple.

Micro-management from D.C. is enough of a problem with NOAA lawyers. The quota system that separates boat A from boat B and makes each individually accountable is a necessity for sensible management. Initial allocation of the resource is a tough part and one which we will have to do a good deal on.

As one that's been involved since the Magnuson Act became law,

I've learned if you don't have individual responsibility like the vessels involved with the CDQ groups, there is literally no way to get a vessel to slow down or move with only hours or days left before the harvest limit is reached.

On conflict of interest, I think this is a paper tiger designed to get rid of commercial fishermen on the Councils. As one of two members on the North Pacific Fishery Management Council that are without conflict, my principal fear is the system grinding to a halt when someone chooses not to vote.

It takes six to tango on our Council, and recusal means the member voted no. Please don't let a beltway attorney control the North Pacific Fishery Management Council. The power to disqualify votes means the attorney is voting no. If you don't think this will control the Council or if you don't think the Secretary will use it, just ask a regional director if he is allowed to cast a unanimous vote on an emergency issue. They beat the Congress that way very handily.

On fishery dependent communities, our community development quota program now in place in the Bering Sea proves what a Council can do. Adding community language to the Act will simply remove any concern a lawyer in D.C. may have over our ability to do what we are already doing.

On your new requirements for overfishing definitions, we already have overfishing definitions in our plans. Your language may spur other Councils to use theirs more effectively.

On identifying essential habitat, if you wish this done, NMFS is far better prepared than the Councils, though consultation might have a place. Certainly I agree that essential habitat is a key to sustainable fisheries.

Under an ITQ system—this is seven on the buy-back. Under the ITQ system, the private sector does your buy-back, not the government. My feelings on this are my own, not the Council's. If the people own the fisheries of our nation, why is not the emphasis on a quality product to the consumer at a reasonable price? I don't support government funded buy-back programs. We didn't use them when we brought the salmon back for Alaska. We made everybody pay. We just shut it down till they recovered.

I am pleased to see Senate 39 raises some money through ITQ fees, but as one who no longer fishes, if I as a citizen own a share, where is my royalty and why should it be worth less in an open fishery than a regulated one? My share should be the same whether the managers have the guts to rationalize or prefer to duck the question. We in Alaska have taken care of the fish by grossly under harvesting, but our industry is in trouble because the Council moved too slowly.

I thought back in 1975 that the Councils were to be the fisheries version of the Texas Railroad Commission, an organization that did the dirty work so the heat would not be on the elected officials. It has worked on the west coast and a few spots back east. The failure in New England is on the heads of the Governors who looked at Council nominees as political perks to be handed out to political power groups; but if each time a Council does a gutsy thing, the angered party runs back to D.C. for a change in the law, the Council system is dead. And if, as some NOAA lawyers feel, it all should be run from within the beltway, I'd like to ask the members to have their staff look at the Alaska salmon runs of, say, 1958 compared to now. We didn't bring the salmon back by buying anyone out. We just shut it down and let the fishermen, lodge owners, and sportsmen do without until the stocks were healthy. We imposed area licensing and limited entry and now have runs larger than any since we bought Alaska from the Czar. We put the needs of the fish ahead of the wants of the people and therefore took care of their grandchildren.

When I came to Alaska, there were under 100,000 people in the territory. It is impossible in this time of fast, high capacity boats and electronic finding devices to allow the same freedoms we had then. We have too many people on too many boats. Someone has to Act for the fish.

With your permission, I'll put in a few more detailed remarks.

Senator STEVENS. Thank you very much. I am glad you smiled when you said that one comment about the Texas Railroad Commission. The fishery councils were my idea, you know, and I really was not looking for a way to make you responsible. I hear in this first testimony some changes we had not really thought about. I will be pleased to consult with you on those. I am particularly concerned about a couple of the items that the Governor mentioned. In the interests of time I am not going to go into questions here so we can move on, but I do intend to get a hold of each one of you and pursue some of the suggestions you have made.

Thank you very much for coming. And I thank you for your service on the Council. The Fisheries Management Council, in my judgment—I have said this before—was, in effect, the creation of a new level of government. And most people in the east did not under-

stand it at first. We forced through the Act the delegation of Federal authority to a Council that was made up of people appointed by Governors and in effect had the power, we thought, to do what you suggest: extend the State law to the 200 mile limit. They thought the State's regulation was sufficient. In any event, the eastern people—you are right—did not see the benefit of this consolidation of authority, particularly in New England, and we have seen the results of overfishing and the unwillingness to defer harvesting in this generation in order to benefit the people who might come later.

We have been fortunate that we have only one State that has this enormous potential of the North Pacific off its shores. We do have participation from people from the South 48; that is necessary because it is Federal jurisdiction. But I do think you are right in the comments you make. And we are going to try and improve the law as far as giving more authority to Councils who will take it. I think that is the problem. A lot of the Councils did not take it. If they do not use it, my feeling is we have to go back to the Federal level for protection of those fisheries. But if they do take it, I think the authority should be left where the record has proven the success of the programs that they have undertaken. That is going to be tough to do.

Mr. TILLION. I couldn't agree more.

[The prepared statement of Mr. Tillion follows:]

**Summary Statement by Clement V. Tillion
North Pacific Fishery Management Council
March 25, 1995
Before the
Senate Subcommittee on Oceans and Fisheries**

Mr. Chairman, Committee Members:

I will try to speak briefly to each of the issues laid out in your March 15 letter as well as some of the wording in S.39 itself.

1. The issue of bycatch and discards is a tough one--the shorter the season, the tougher it gets on a derby-type opening. It has all the winsome benevolence of tiger sharks in a feeding frenzy. If you don't like ITQs or some other individual quota system, you just can't get there from here. I hear a lot about traditional management measures, but I think the West Coast Canadian that referred to them as traditional MISmanagement measures has described them best.
2. On the ITQ guidelines, please keep it simple. Micro-management from D.C. is enough of a problem with NOAA lawyers. A quota system that separates boat A from boat B and makes each individually accountable is a necessity for sensible management. Initial allocation of the resource is the tough part. As one who has been involved since the Magnuson Act became law I've learned if we don't have individual responsibility, like the vessels involved with the CDQ groups, there literally is no way to get a vessel to slow down or move with only hours or days left before the harvest limit is reached.
3. Conflict of interest is a paper tiger designed to get rid of commercial fishermen on the councils. As one of two members on the NPFMC that are without conflict, my principal fear is the system grinding to a halt when someone chooses not to vote. It takes 6 to tango on our Council and recusal means the member voted No. Please don't let a beltway attorney control the NPFMC. The power to disqualify votes means the attorney is voting No and if you don't think this will control the council, or if you don't think the Secretary will use it, just ask a Regional Director if he is allowed to cast a unanimous vote on emergency rules.
4. On fishery-dependent communities, our community development quota (CDQ) programs now in place for the Bering Sea prove what a council can do. Adding community language to the Act will simply remove any concern a lawyer in D.C. may have over our ability to do what we're already doing.

5. On your new requirements for overfishing definitions, we already have overfishing definitions in our plans. Your language may spur other councils to use theirs more effectively.
6. On identifying essential habitat, if you wish this done, NMFS is far better prepared than the Councils, though consultation might have a place. Certainly I agree that essential habitat is a key to sustainable fisheries.
7. Under an ITQ system the private sector does your buyback, not the Government. My feelings on this are my own, not the Council's. If the people own the fisheries of our nation, why is not the emphasis on a quality product to the consumer at a reasonable price? I don't support government-funded buyback programs.
8. I'm very pleased to see S. 39 raises some money through ITQ fees, but as one who no longer fishes, if I as a U.S. citizen own a share, where is my royalty and why should it be worth less in an open fishery than a regulated one? My share should be the same whether the managers have the guts to rationalize or prefer to duck the question. We in Alaska have taken care of the fish by grossly underharvesting, but our industry is in trouble because the Council moved too slowly. I thought back in 1975 that the councils were to be the fishery version of the Texas Railroad Commission, an organization that did the dirty work so that the heat would not be on our elected officials. It has worked on the west coast and in a few spots back east. The failure in New England is on the heads of the governors who looked at council nominees as political perks to be handed out to political power groups, but if each time a council does a gutsy thing the angered party runs back to D.C. for a change in the law, the council system is dead. And if, as some NOAA lawyers feel, it all should be run from within the beltway, I'd like to ask the members to have their staffs look at the Alaska salmon runs of, say 1958, compared to now. We didn't bring the salmon back by buying anyone out; we just shut it down and let the fishermen, lodge owners, and sportsmen do without until the stocks were healthy. We imposed area licensing and limited entry and now we have runs larger than any since we bought Alaska from the Czar. We put the needs of the fish ahead of the wants of the people and thus took care of their grandchildren.

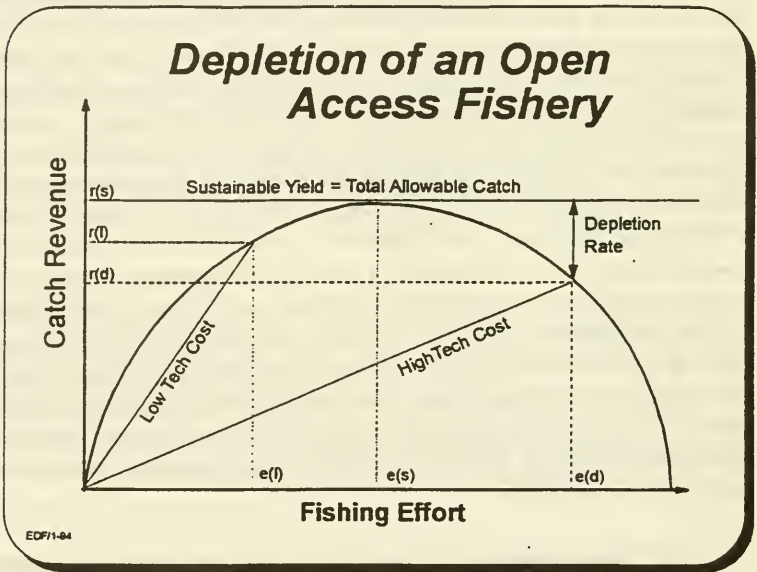
When I came to Alaska there were under 100,000 people in the Territory. It is impossible in this time of fast, high-capacity boats and electronic finding devices to allow the same freedoms we had then. We have too many people on too many boats; someone has to act for the fish.

With your permission I'll submit more detailed remarks on the bill to your staff.

FROM: ENVIRONMENTAL DEFENSE FUND
 DRAFT REPORT
 ACHIEVING SUSTAINABLE FISHERIES IN AMERICA
 WITH INCENTIVE-BASED LIMITED ACCESS POLICIES

dissatisfied fishers exert pressure on fisheries managers to increase the TAC. Managers commonly accede to this political and economic pressure. Excessive TACs further depress fish populations, reduce CPUE, diminish profits, and so on. This vicious cycle is illustrated in Figure IV.A.1. Thus, open access systems, through the promotion of the race for fish, have failed to achieve sustainability in United States fisheries.

Figure IV.A.2.

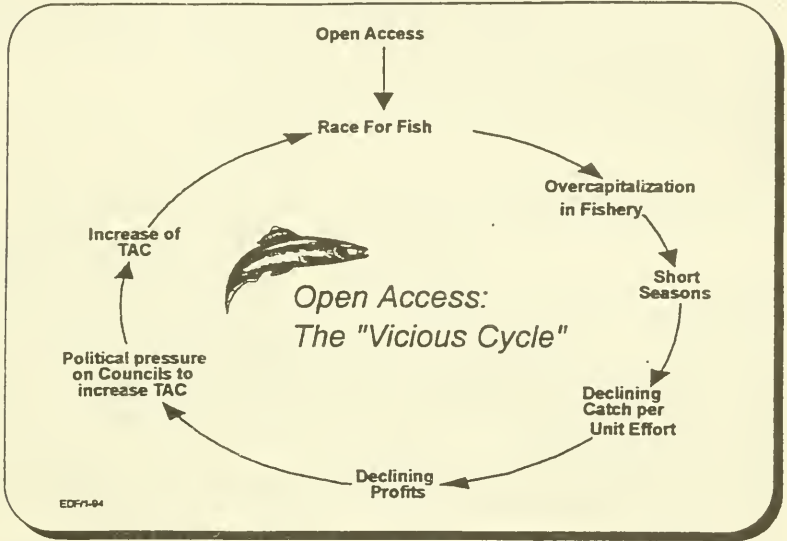


The economics of depletion of an open access fishery are illustrated in Figure IV.A.2.

This simplified graph shows long-term sustainable population or yield $r(s)$ (with constant catch

race for fish compel fishers to exceed the TAC, jeopardizing future spawning and recruitment success (Muse, 1991). Furthermore, in the race for fish, fishers have a tendency to lose or abandon some of their nets, fishing pots, lines, and other gear. Lost or abandoned gear (often made with strong, resilient material) can remain in the ocean for years, damaging habitat and wastefully killing fish throughout those years.

Figure IV.A.1.



Once the race for fish begins, it initiates a vicious cycle within a fishery. When overcapitalization plagues the fishery and seasons are short, fishers profits decline. At the same time, the race for fish stresses fish populations and leads to diminished catch per unit effort (CPUE). Then,

Senator STEVENS. Thank you very much. Howard Baker used to tell me that senators are wonderful people. It is a nice place to be and to have a career. He said that the only trouble with senators is that they lie a little. I am going to change the schedule and stay till 12:30 if that is all right. I hope that will not inconvenience anybody. And I would like to go ahead with Beth Stewart and Paula Cullenberg and Jeff Stephan because we do want to have some participation of the people in the audience, and I do not think we can do that unless we catch up on the time we lost because of our delay. If it is all right, we will proceed in that fashion.

Beth, Paula, and Jeff Stephan, if that is all right. Can we proceed in that order? I know we do have a series of questions. As I said, I think in the interest of time, if we want any clarification, we will call you or submit questions them to you. If you have any additional comments, you submit to us. We will put them in the record, if that is all right.

Ms. Stewart, Director of the Department of Natural Resources in Juneau.

STATEMENT OF BETH STEWART, DIRECTOR, DEPARTMENT OF NATURAL RESOURCES, ALEUTIANS EAST BOROUGH

Ms. STEWART. Well, for the Aleutians East Borough. Mr. Chairman my name is Beth Stewart, and I am the Natural Resources Director for the Aleutians East Borough. The borough is comprised of six fishery dependent communities located in the Western Alaska Peninsula and the eastern portion of the Aleutian Islands. The resident fishermen of this region are indigenous Aleuts. These fishermen operate vessels of 60 feet and under and participate in salmon, herring, cod, pollock, in the past when they had it crab, halibut and sablefish fisheries.

We have already submitted detailed comments in writing to the Commerce Committee and request that those comments be added to the official record.

I would like to spend my time today explaining the need to revisit the halibut IFQ plan so that a halibut fishery can be included in the future development of the fledgling State waters fisheries for groundfish.

The structure of the IFQ program has made it difficult and in many cases impossible for small boat fishermen to meaningfully participate in the halibut fishery. The result has been to exclude indigenous Native Americans from fishing for resources that they have traditionally harvested for thousands of years. The poundage is in many cases too small for independent operators to economically harvest their quota. Additionally, the Sitka block proposal has made it difficult for small boat operators to buy or sell quota shares. The IFQ management concept has the potential to slowly strangle the economic livelihood of these Alaska Native communities, especially if it is expanded to other fisheries such as pollock and Pacific cod. Other small boat communities in Alaska are experiencing the same adverse economic impact.

We therefore strongly support your decision to include provisions in Senate Bill 39 to require the development of guidelines for IFQ programs. Safeguards must be put in place to minimize the negative social and economic impacts that denial to fisheries resources

would have on small boat operators and communities. The current halibut IFQ program does not reflect the changing nature of our communities or the need to bring our young people into the fishery. We believe your IFQ criteria language would bring an important focus to these issues.

Let me give you some examples. Our traditional salmon fisheries have been under severe regulatory and economic pressures for years. In the early 1990's, all of the region's fishermen began to aggressively diversify into other fisheries in order to make boat payments and keep their families fed. Our small boat operators had record landings of halibut in 1991, 1992 and 1993. None of this catch history was recognized. Last year we took only one-third of our sockeye quota, forcing the region into recession. At a time when halibut becomes even more critical to these fishermen, they have been deprived access to this resource.

There are countless generations of fishermen in these Aleut families. Most families have one boat and one salmon permit. A man with four sons or daughters cannot make sure that each child can become a boat owner. The traditional solution has been for the sons to work as crew members, eventually buy a small boat for halibut or cod and then strive to buy a salmon permit. When you privatize the resource through IFQs, you eliminate the ability of these young people to be new entrants into the fisheries.

This is fundamentally unfair to young Alaskans throughout coastal Alaska. The basic unfairness of this regime is highlighted for Alaska Native people in the Gulf of Alaska who have lived in these villages and taken a living from their coastal waters for thousands of years. The only solution to this problem is access to the resource. The best method of mitigating the harm of Federal IFQ groundfish programs is to grant access to groundfish resources in near shore locations with a management regime developed specifically for small boat fishermen. This can be accomplished independently by the State of Alaska.

Alaska regulations provide for a State waters groundfish fishery for all species except halibut. The State of Alaska issues an emergency order every January conforming the in-shore regulations to the off-shore regulations. The Governor of Alaska, in consultation with the Alaska Board of Fisheries, has the discretion to open these fisheries throughout coastal Alaska. The Alaska Department of Fish & Game may simply lift the emergency order or the Board of Fisheries can establish quotas and seasons for specific fisheries. Moreover, the board may impose vessel size limits to insure that the resource is harvested only by small both fishermen.

The creation of such small boat fisheries inside State waters would serve to mitigate the harms to coastal communities and smaller operators caused by IFQs. Coastal fishermen from Yakutat to Atka are now organizing to campaign for the formation of these fisheries by the State.

The Aleutians East Borough is requesting that you retain and strengthen your IFQ criteria language to address the needs of small boat operators and young Alaskans. We believe that any guidelines developed for IFQs in the future should be applied retroactively to the existing halibut plan because halibut is the only groundfish species which may not be allocated or managed by the

State in the proposed State waters multi-species fisheries. The Halibut Act of 1980 preempted the authority of the State of Alaska to manage halibut, thus Alaska is precluded by Federal law from including halibut in a multi-species small boat fishery. The Federal guidelines must force a reevaluation of this issue in order to treat traditional Alaskan fishermen fairly.

An alternative approach may be an amendment to the Halibut Act to authorize and require the Federal Government to allocate a reasonable portion of the annual halibut quota to the State of Alaska to manage as part of the State waters multi-species groundfish fishery for small boats. If such an amendment were adopted by Congress, the need for retroactive application of any IFQ criteria for halibut and black cod becomes unnecessary.

Tensions over the halibut/black cod IFQ program will never go away until a special regime is created for these small boats. The ultimate solution is for a robust State waters fishery designed specifically for small boats, including a halibut component to the mix.

Thank you for the opportunity to testify on this important subject.

Senator STEVENS. Thank you.

[The prepared statement of Ms. Stewart follows:]

Testimony of Beth Stewart
Natural Resources Director
Aleutians East Borough before
the Senate Fisheries and Oceans Subcommittee
on Reauthorization of the Magnuson Act
March 25 Field Hearing
Anchorage, Alaska

Mr. Chairman, my name is Beth Stewart and I am the Natural Resources Director for the Aleutians East Borough. The Borough is comprised of six fishery-dependent communities located in the Western Alaska Peninsula and the eastern portion of the Aleutian Islands. The resident fishermen of the region are indigenous Aleuts. These fishermen operate vessels of 60 feet and under, and participate in the salmon, herring, cod, pollock, crab, halibut, and sablefish fisheries.

We have already submitted detailed comments in writing to the Commerce Committee, and request that those comments be added to the official record. I would like to spend my time today explaining the need to revisit the halibut IFQ plan so that a halibut fishery can be included in the future development of the fledgling state waters fisheries for groundfish.

The structure of the IFQ program has made it difficult, and in many cases impossible, for small boat fishermen to meaningfully participate in the halibut fisheries. The result has been to exclude indigenous Native Americans from fishing for resources that they have traditionally harvested for thousands of years. The poundage is, in many cases, too small for independent operators to economically harvest their quota. Additionally, the "Sitka Block" proposal as made it difficult for small boat operators to buy or sell their quota shares. The IFQ management concept has the

potential to slowly strangle the economic livelihood of these Alaska Native communities, especially if it is expanded to other fisheries such as pollock and pacific cod. Other small boat communities in Alaska are experiencing the same adverse economic impact.

We therefore strongly support your decision to include provisions in S. 39 to require the development of guidelines for IFQ programs. Safeguards must be put in place to minimize the negative social and economic impacts that denial to fisheries resources would have on small boat operators and communities. The current halibut IFQ program does not reflect the changing nature of our communities, or the need to bring our young people into the fishery. We believe your IFQ criteria language would bring an important focus to these issues.

Let me give you some examples. Our traditional salmon fisheries have been under severe regulatory and economic pressures for years. In the early 1990s all of the region's fishermen began to aggressively diversify into other fisheries in order to make boat payments and keep their families fed. Our small boat operators had record landings of halibut in 1991-93. None of this catch history is recognized. Last year we took only one-third of our sockeye quota, forcing the region into recession. At a time when halibut becomes even more critical to these fishermen, they have been deprived access to this resource.

There are countless generations of fishermen in these Aleut families. Most families have one boat and one salmon permit. A man with four sons cannot make sure that each boy can become a boat

owner. The traditional solution has been for the sons to work as a crew member, eventually buy a small boat for halibut or cod, and strive to buy a salmon permit. When you privatize the resource through IFQs, you eliminate the ability of these young people to be new entrants into the fisheries.

This is fundamentally unfair to young Alaskans throughout coastal Alaska. The basic unfairness of this regime is highlighted for Alaska Native people who have lived in these villages and taken a living from their coastal waters for thousands of years.

The only solution to this problem is access to the resource. The best method of mitigating the harm of Federal IFQ groundfish programs is to grant access to groundfish resources in nearshore locations, with a management regime developed specifically for small boat fishermen. This can be accomplished independently by the State of Alaska.

Alaska regulations provide for a state waters groundfish fishery for all species (other than halibut). The State of Alaska issues an emergency order every January to close these fisheries. The Governor of Alaska, in consultation with the Alaska Board of Fisheries, has the discretion to open these fisheries throughout coastal Alaska. The Alaska Department of Fish and Game may simply lift the emergency order, or the Board of Fisheries can establish quotas and seasons for specific fisheries. Moreover, the Board may impose vessel size limits to assure that the resource is harvested only by small boat fishermen. The creation of such small boat fisheries inside state waters would serve to mitigate the harms to coastal communities and smaller operators caused by IFQs. Coastal

fishermen from Yakutat to Atka are now organizing to campaign for the formation of these fisheries by the state.

The Aleutians East Borough is requesting that you retain and strengthen your IFQ criteria language to address the needs of small boat operators and young Alaskans. We believe that any guidelines developed for IFQs in the future should be applied retroactively to the existing halibut plan because halibut is only groundfish species which may not be allocated and managed by the State in the proposed state waters mixed-stock fisheries. The Halibut Act of 1980 preempted the authority of the State of Alaska to manage halibut, thus Alaska is precluded by Federal law from including halibut in a mixed stock small boat fishery. The Federal guidelines must force a reevaluation of this issue in order to treat traditional Alaskan fishermen fairly.

An alternative approach may be an amendment to the Halibut Act to authorize and require the Federal Government to allocate a reasonable portion of the annual halibut quota to the State of Alaska to manage as part of a state waters mixed-stock groundfish fishery for small boats. If such an amendment were adopted by the Congress, the need for retroactive application of any IFQ criteria for halibut and blackcod becomes unnecessary.

Tensions over the halibut/blackcod IFQ program will never go away until a special regime is created for these small boats. The ultimate solution is for a robust state waters fishery designed specifically for small boats, including a halibut component to the mix. Thank you for the opportunity to testify on this important subject.

Senator STEVENS. Ms. Paula Cullenberg, the Director of the North Pacific Fisheries Observer Training Center, University of Alaska.

STATEMENT OF PAULA CULLENBERG, DIRECTOR, NORTH PACIFIC OBSERVER TRAINING CENTER, UNIVERSITY OF ALASKA ANCHORAGE, ANCHORAGE, ALASKA

Ms. CULLENBERG. Thank you, Senator Stevens. 15 years ago, soon after graduation from college, I spent 60 days aboard a Russian trawler in the Bering Sea as a foreign fisheries observer. 2 weeks ago, I became the Director of the North Pacific Fisheries Observer Training Center here in Anchorage. In the decade and a half since I was an observer, the program has changed substantially, mirroring the evolution of the groundfish fisheries in the Gulf of Alaska and the Bering Sea. During my time at sea, all of the observers were stationed on Russian, Japanese, Korean, Polish or even Mexican vessels. Now all observers work on American fishing vessels, factory ships or in shore based processing plants.

In the late 1970's, only 4 or 5 observers would be at sea at a given time; now over 500 fishing trips are covered by trained observers each year. The observer program has become an integral and critical tool to the North Pacific Fishery Management Council, Federal and State agencies in providing the biological data needed to manage and protect the vital fishing resources of the North Pacific.

In 1991, a pilot observer training center, the North Pacific Fisheries Observer Training Center, or the OTC, was established at the University of Alaska Anchorage. The program was an experiment to determine whether NMFS certified groundfish observers could be trained through Sea Grant College program secondary institutions. The support and funding for this effort has come to date from Congressional appropriations through the support of yourself, Senator Stevens, and this committee. Our goal was to use the Sea Grant College program in the development of a training program for groundfish observers in Alaska.

In these last 3 and a half years, the OTC has successfully trained close to 100 groundfish observers and over 80 observers for the State of Alaska's crab and scallop fisheries. So far in 1995, we have trained 26 groundfish observers and 15 crab observers, with another 16 groundfish observers beginning the 3 week intensive training class this Monday. While the Alaska Fisheries Science Center in Seattle performs much of the groundfish training, the number of observers trained in Anchorage is growing as the program moves from an experimental to an established stage of development.

The OTC is unique in two ways. First, it is the only training program for observers in Alaska. Currently, out of the five companies that contract with observers, two of them are Alaskan companies in Anchorage, Saltwater, Incorporated and Data Contractors, who are both here today. And they also contract all of the crab and scallop observers. Virtually all of the observers contracted by these two companies are trained by the OTC. The OTC also offers the only program available to certify shellfish observers. Individuals wanting to become certified as either crab or scallop fishery observers

must successfully complete one of the OTC's training courses. With management of the Alaska crab fisheries coming fully under the purview of the North Pacific Council as of last year, Congress in its most recent appropriation to the OTC included in the budget full support of the training of crab observers.

For the Alaskan contractors hiring groundfish observers and for all of the crab and scallop observers, the OTC provides a less expensive and more efficient source of training. For example, once the OTC begins next month to provide short-term briefings for returning observers, those from Alaska or just completing a contract in Alaska will no longer have to fly to Seattle for training, only to return to Alaska 2 days later.

Locating the OTC in Anchorage provides the opportunity for this employment more readily to Alaskans, both university biology students and to coastal residents who are interested in increasing their involvement in the management of the fisheries near their home. For example, the Bristol Bay Economic Development Corporation and Oceantrawl, their CDC partner, have initiated discussions with the OTC about employment opportunities as certified fisheries observers for their residents.

To date, over one-third of the observers trained in Anchorage have been Alaskan residents. This is significantly higher than the number of Alaskans trained in Seattle throughout the history of the program who come to the program often from elsewhere in the country.

Second, the North Pacific Observer Training Center is unique in that it uses the resources of the university in its training program. Working through the Sea Grant College program offers observer trainees the potential of using their work as a stepping stone to a longer term career in the fisheries science profession or in industry. Currently we are pursuing the steps necessary to award degree earning credit to students for the 3 week training class and their sea time.

Also, by incorporating the Sea Grant College system in observer training, the Alaska Fisheries Science Center personnel are freed up to focus on data analysis. For example, the fishing industry was promised by the North Pacific Council and NMFS that in return for their assessment toward the research plan, they would receive periodic reports and data that they could use to reduce bycatch in a real time manner. To date, National Marine Fisheries Service staff is unable to process data in a timely enough manner to allow for methods such as hot spot closures of sensitive fishing grounds.

The North Pacific Observer Training Center and the University of Alaska are willing and able to continue and expand our training of observers. We have just hired a second full-time trainer to do intensive 3 week groundfish trainings. He will also be certified to do 2 day briefings for returning observers, thus adding these short courses to the classes available at the OTC. We also stand ready today to begin carrying the load of debriefing of observers following their sea time.

We intend to work hard to recruit Alaskans to take a greater part in the data gathering and management of our fisheries. Until now, many people consider Alaskans, both rural and urban, to be better suited for jobs as fishermen or workers in processing plants.

I am convinced that more Alaskans can become qualified fisheries observers. As an Alaskan who has been involved in the fishing industry for many years, I see that most managers and decisionmakers have been recruited and educated outside of Alaska, and I would like to see greater educational and job opportunities be made available to residents.

To this end, I support the wording in Senate Bill 39 that directs the Secretary of Commerce to cooperate with the National Sea Grant College program in establishing adequate training programs for observers. I would further recommend that Congress approve up front an Alaska fisheries observer training program with funding. A commitment mentioned in the MFCMA would provide the stability needed to continue and expand this observer training program.

And for those of you who have never been there, the observer training center is right across the street in that cement building. And if anyone would like to have a tour, they are welcome to it at the break.

Senator STEVENS. Thank you very much.

[The prepared statement of Ms. Cullenberg follows:]

**TESTIMONY TO THE U.S. SENATE SUBCOMMITTEE ON OCEANS
AND FISHERIES OF THE SENATE COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION**

**on the Reauthorization of the Magnuson Fishery
Conservation and Management Act**

by

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March 25, 1995

Testimony to the U.S. Senate Subcommittee on Oceans and Fisheries
of the Senate Committee on Commerce, Science, and Transportation
on the Reauthorization of the Magnuson Fishery Conservation and
Management Act

by Paula Cullenberg, Director
North Pacific Fisheries Observer Training Center

Fifteen years ago, soon after graduation from college, I spent sixty days aboard a Russian trawler in the Bering Sea as a foreign fisheries observer. Two weeks ago, I became the director of the North Pacific Fisheries Observer Training Center here in Anchorage. In the decade and a half since I was an observer, the program has changed substantially, mirroring the evolution of the groundfish fisheries in the Gulf of Alaska and the Bering Sea. During my time at sea all of the observers were stationed on Russian, Japanese, Korean, Polish or even Mexican vessels; now all observers work on American fishing vessels, factory ships or in shore-based domestic processing plants. In the late 1970's, only 4-5 observers would be at sea at a given time; now over 500 fishing trips are covered by trained observers each year. The observer program has become an integral and critical tool to the North Pacific Fishery Management Council, federal and state agencies in providing the biological data needed to manage and protect the vital fishing resources of the North Pacific.

In 1991, a pilot observer training center, the North Pacific Fisheries Observer Training Center, or the OTC, was established at the University of Alaska Anchorage. The program was an experiment to determine whether NMFS-certified groundfish observers could be trained through Sea Grant College Program secondary institutions. The support and funding for this effort has come, to date, from Congressional appropriations through the support of Senator Ted Stevens and this Committee. Our goal was to use the Sea Grant College program in the development of a training program for groundfish observers in Alaska.

In these last three and a half years, the OTC has successfully trained close to 100 groundfish observers, and over 80 observers for the State of Alaska's crab and scallop fisheries. So far, in 1995, we have trained 26 groundfish observers and 15 crab observers, with another 16 observers beginning the three week intensive training course this Monday. While the Alaska Fisheries Science Center in Seattle performs much of the groundfish training, the number of observers trained in Anchorage is growing as the program moves from an experimental to an established stage of development.

The OTC is unique in two ways. First, it is the only training program for observers in Alaska. Currently there are two companies in Anchorage (out of a total of five) that contract with groundfish, crab and scallop observers - Saltwater, Inc. and Data Contractors, Inc. . Virtually all of the observers contracted by these two companies are trained by the OTC. The OTC also offers the only program available to certify shellfish observers. Individuals wanting to become certified as either a crab or scallop fishery observer must successfully complete one of the OTC's training courses. With management of the Alaskan crab fisheries coming fully under the purview of the North Pacific Council as of last year, Congress, in its most recent appropriation to the OTC, included in the budget full support of the training of crab observers.

For the Alaskan contractors hiring groundfish observers and for all of the crab and scallop observers, the OTC provides a less expensive and more efficient source of training. For example, once the OTC begins next month to provide short term briefings for returning observers, those from Alaska or just completing a contract in Alaska will no longer have to fly to Seattle for training, only to return to Alaska two days later. The OTC could also save money by acting as a central clearinghouse for an observer's substantial sampling gear.

Locating the OTC in Anchorage provides the opportunity for this employment more readily to Alaskans, both University biology students and to coastal residents who are interested in increasing their involvement in the management of the fisheries near their home. For example, the Bristol Bay Economic Development Corporation and Oceantrawl Inc, their CDQ partner, have initiated discussions with the OTC about employment opportunities as certified fisheries observers for their residents.

To date, over a third of the observers trained in Anchorage have been Alaska residents. This is significantly higher than the number of Alaskans trained in Seattle throughout the history of the program who tend to come to the program from elsewhere in the country.

Secondly, the North Pacific Fisheries Observer Training Center is unique in that it uses the resources of a university in its training program. Working through the Sea Grant College program offers observer trainees the potential of using their work as a stepping stone to a longer term career in the fisheries science profession or in industry. Currently we are pursuing the steps necessary to award degree-earning credit to students for the three week training class and their time at sea.

Also, by incorporating the Sea Grant college system in observer training, the Alaska Fisheries Science Center personnel are

freed up to focus on data analysis. For example, the fishing industry was promised by the North Pacific Council and NMFS that in return for their assessment toward the Research Plan, they would receive periodic reports and data that they could use to reduce bycatch in a real-time manner. To date, NMFS staff is unable to process data in a timely enough manner to allow for methods such as "hot-spot" closures of sensitive fishing grounds.

The North Pacific Observer Training Center and the University of Alaska are willing and able to continue and expand our training of observers. We have just hired a second full-time trainer, who will be certified by mid April to do intensive three week groundfish trainings. He will also be certified to do two-day briefings for returning observers, thus adding these short courses to the classes available at the OTC. We stand ready today to also begin carrying the load of debriefing of observers following their sea time.

We intend to work hard to recruit Alaskans to take a greater part in the data gathering and management of our fisheries. Until now, many people consider Alaskans (both rural and urban) to be better suited for jobs as fishermen or workers in processing plants. I am convinced that more Alaskans can become qualified fishery observers. As an Alaskan who has been involved in the fishing industry for many years, I see that most managers and decision makers have been recruited and educated outside of Alaska. I would like to see greater educational and job opportunities made available to residents.

To this end, I support the wording in S. 39, Sec. 403 (b) that directs the Secretary of Commerce to cooperate with the National Sea Grant College program in establishing adequate training programs for observers. I would further recommend that Congress approve up front, an Alaska fisheries observer training program with funding. A commitment mentioned in the MFCMA would provide the stability needed to continue and expand this observer training program.

Senator STEVENS. Jeff, Manager of the United Fishermen's Marketing Association of Kodiak.

STATEMENT OF JEFFREY STEPHAN, MANAGER, UNITED FISHERMEN'S MARKETING ASSOCIATION, INC., KODIAK, ALASKA

Mr. STEPHAN. Senator, good morning. My name—for the record, my name is Jeff Stephan, and I am manager of the United Fishermen's Marketing Association in Kodiak. UFMA is a multi-species, multi-gear type fishermen's association. Our members fish crab, salmon, herring, black cod, halibut and groundfish in the Bering Sea and the Gulf of Alaska. We appreciate the opportunity to participate in these hearings. Our membership is extremely affected by the MFCMA and any changes that are contemplated with the reorganization.

Senator Stevens, first we would like to take this opportunity to recognize your vision, your understanding, your tireless and your dedicated leadership in the area of oceans and fisheries issues. We applaud you for your many years of careful and thoughtful attention to the complexities of fisheries management, and for advancing the cause of the resource and the cause of the industry which depends upon that resource. We are grateful for your interest, your never-ending energy and attention with regard to the resource and in regard to our industry. And we thank you very much for that.

We note your concern over the enormous amount of waste and bycatch in the North Pacific fisheries, and we support your initiative to reduce this waste and to also reduce that waste that occurs in other U.S. fisheries. There are a few issues which we would like to highlight.

First, as you know, we have previously submitted a request that the Capital Construction Fund be modified so that fishermen may be able to use the funds in their Capital Construction Fund to buy IFQs. As you may know, many fishermen have found that because of the way the formula was set up, they find that they have less than an adequate amount of IFQs available to them so they are hard pressed to conduct what they consider an economically viable fishery.

There are several fishermen who have Capital Construction Funds. It is a readily available cache of funds that they would be able to use to allow them to continue to participate in the halibut and sablefish fisheries. Quota shares for halibut and sablefish are, as you probably know, very expensive. Fishermen have two options. If they want to buy shares so that they can continue to participate or expand their participation, they can either buy them outright with cash or they can go to the bank and finance them. An outright cash purchase really requires a lot of money. Shares are selling for 6.50 to \$8.20 for halibut. If the fisherman needs 10 or 20 or 30,000 pounds to make a pretty good package, that's a lot of money.

The fishing industry is fairly hard pressed these days. A lot of the fishermen, especially the ones that are most impacted, which would be the smaller ones, they are pretty hard pressed to come up with that money. So some of those people have CCFs and we have been contacted by a number of them, and they would like to be able to use that money.

The fallout effect of that would be—at this point you must use your CCF for increasing efficiency or modernizing your boat or things that would increase efficiency and increase effort or maintain effort, and this will be possibly a way to divert some of those funds from that area.

Another issue that we'd like to talk to you about is we would like the Act, the reauthorization to address an issue—the buy-back program. We would like the S. 39 to provide the North Pacific Fishery Management Council with the authority to establish or institute a buy-back program for licenses that may be created under a license limitation program, and such buy-back program to be designed, funded, governed, and managed by a class constituted of license holders. We explained some details in there regarding that. But we believe that for a license limitation program to work, we feel that the Council should have the authority to sanction a buy-back program if, in fact, the industry and the Council decide that something like that may be useful. I think it is questionable at this point as to whether the Council has authority to create that, and we would like and we have given some suggestions as to the specifics of the authority that we feel are necessary so that the Council could sanction a buy-back program in the industry.

There is no guarantees that it is going to be successful.

There is no guarantees that the Council or the industry will want to go forward with it, but we think that at least that tool ought to be available to the Council clearly without any gray areas. So if we can get authority for the Council to sanction a buy-back program, I think that would be helpful and would be another tool.

Conceptually we suggest that the—we envision this authority as similar to the authority that is granted to the Council under section 313 of the MFCMA. That is the authority that granted the Council the opportunity to prepare the North Pacific Fisheries research plan. Basically we are not asking that any Federal moneys be provided for this. We are not asking that the Congress mandate a plan. We are just asking that the Council have authority if they so wish to proceed with the buy-back program.

On another issue, we would like to see S. 39 reflect the authority of the State to extend their jurisdiction beyond the 3 mile limit in those cases where an FMP does not exist or Federal fishing regulations do not exist. I can remember sometime and I dug—I thought I collected everything I ever had in my office, but I could not find—and I seem to remember from the mid 1980's, a memo actually from someone in NOAA general counsel that talked to this issue. And I seem to remember that that memo reflected that that was possible. A lot of things have changed. Different lawyers, different court cases, different laws since then. But we would like that to be clear that the State has the authority to extend their jurisdiction for fishing regulations in the absence of an FMP.

Also regarding emergency actions, we suggest that the S. 39 include the provision that emergency regulations are of periods of 180 days and not 90 days, and that the extension period also be 180 days, so rather than have an initial 90 day period and another 90 day period, provided that the Secretary and the Council agree to the extension, we would like those periods changed to 180 days.

Also we suggest that the Act be amended to provide that the vote of the regional director is not counted in votes when the question regards an emergency regulation. As you heard from Mr. Lauber and I am sure you heard it other years when this issue has been on other reauthorizations, the regional director automatically votes no on emergency regulations, and we would like, at least in questions of emergency regulations, that the regional director of NMFS be recused and withdrawn from ability to vote on that issue.

In closing, we support the national lien registry for IFQs, and also we support the language in S. 39 that deals with the mandatory ITQ guidelines. As you know, IFQs change drastically the economic rules that govern the fishery, massive economic dislocation, massive redistribution of wealth, fairly arbitrary relative to how the rules and the distribution of that wealth is decided upon. And we think that mandatory ITQ guidelines on an issue is important, as privatization and redistribution of wealth is very important, and we think that we need to have that in the Act. I've read through that. I don't understand the objection to that. I think that the mandatory guidelines are a good idea and I think they are necessary for something that is as far reaching with the very significant impact as IFQs have. Thank you very much.

[The prepared statement of Mr. Stephan follows:]

United Fishermen's Marketing Association, Inc.



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Telephone 486-3453



S. 39, The Sustainable Fisheries Act Reauthorization of the Magnuson Fishery Conservation And Management Act

Testimony

Jeffrey R. Stephan

United Fishermen's Marketing Association, Inc.

Kodiak, Alaska

to the

Subcommittee on Oceans and Fisheries

of the

Senate Committee on Commerce, Science and Transportation

March 25, 1995

Anchorage, Alaska

Mr. Chairman, members of the Subcommittee, my name is Jeff Stephan. I am the manager of the United Fishermen's Marketing Association, Inc., which is based in Kodiak, AK. UFMA is a multi-species, multi-gear-type commercial fishermen's association. Our membership includes seiners, pot fishermen, trawlers and longliners who harvest, salmon, herring, halibut, black cod, king crab, tanner crab, opilio crab, dungeness crab, pacific cod, pollock, and flatfish throughout the Gulf of Alaska and the Bering Sea/Aleutian Islands. UFMA members are interested in, and affected by the reauthorization of the Magnuson Fishery Conservation and Management Act (MFCMA or Magnuson Act). We appreciate the opportunity to participate in these hearings.

Senator Stevens, we wish to recognize your vision, understanding, and your tireless and dedicated leadership in the area of oceans and fisheries issues. We applaud you for your many years of careful and thoughtful attention to the complexities of fisheries management, and for advancing the cause of the resource, and the cause of the industry which depends upon the resource. You have been greatly influential and attentive with regard to not only the birth of this legislation some 18 years ago in 1976, but you have also fostered the careful progress, improvement and strengthening of the conservation and management principles that are embodied in this legislation throughout many

reauthorizations. We are grateful for your interest, and for your never ending energy and attention to the resource, and to our industry. We thank you.

We note and share your concern over the enormous amount of waste and bycatch in the North Pacific fisheries, and we support your initiative to reduce this waste, and to also reduce that waste that occurs in other U.S fisheries.

A. Capital Construction Fund: Authority To Permit a Fisherman To Use Funds From A Capital Construction Fund To Purchase Quota Share For Halibut and Sablefish In The EEZ Off Alaska

We respectfully suggest that the existing statute that governs the Capital Construction Fund ("CCF"; 46 U.S.C. 1177) be amended to permit fishermen who have a CCF to use such CCF to purchase halibut and sablefish Quota Share (QS) and Individual Fishing Quota (IFQ) in the EEZ off Alaska.

Many fishermen have found that the amount of Quota Share (QS) and actual Individual Fishing Quota (IFQ) that they have received under the Halibut and Sablefish IFQ Program (IFQ Program) is not enough to allow them to participate in the halibut or sablefish fisheries in an economically viable manner. Many of these fishermen have a CCF that they otherwise must utilize to increase their capitalization, advance their efficiency, improve their equipment, or enhance their competitive position; all these options result in increased effort. Many fishermen who have a CCF would like to use their CCF to purchase QS.

Many fishermen with a CCF have received a sufficient foundation of QS from the IFQ Program to ensure that they are able to continue their harvesting business without significant disruption. However, while they find themselves in a survivable situation, they may be restrained, at a significant competitive disadvantage, and with less-than-favorable prospects for progressive and necessary growth. Many of these fishermen would like to, and may need to acquire additional QS so that they may be able to continue to participate in the halibut or sablefish fisheries, which, in many cases, can be a significant component of their overall harvesting business.

Many other fishermen with a CCF have received an insufficient amount of QS. These fishermen are at risk, and are seriously disadvantaged because of the IFQ Program. If these fishermen are not able to purchase additional QS, they will either be forced to sell their QS, or not be able to use the QS that has been allocated to them; the costs (insurance, bait, gear, gear loss, groceries, fuel, crew, etc.) associated with harvesting small quantities of QS received under the IFQ Program make it impractical for some fishermen to utilize their QS. Many of these fishermen must acquire additional QS to reasonably utilize their initial QS, and in some cases, to survive. For many of these fishermen, if they are not able to acquire additional QS, they and their crews will experience economic and social disruption; in some cases, this disruption will result in significant and severe disaster. Many of these fishermen do not have other alternatives for employment or survival.

QS for halibut and sablefish is expensive. Fishermen have few options to acquire additional QS; they must either purchase QS outright with cash, or they must finance the purchase of QS. In either case, and because of the price of QS, a sizable amount of cash is necessary to acquire even small amounts of QS.

Many fishermen who wish to, or are in need of acquiring additional QS do not have the large amount of liquid cash available to them that is needed to purchase the amount of QS that they need to ensure their growth, competitive position, modernization, progress, and in some cases, their survival, or to ensure their continuation as an economically and socially viable harvesting entity.

If fishermen are not able to purchase QS outright because of their lack of a sufficient amount of liquid cash, then they must borrow the money that is necessary to acquire the required or desired QS. Generally, the acquisition of additional debt is not an initiative that many participants in the fishing industry are enthused to pursue. The debt burden is very high in the harvesting sector. Financing is not a viable option for many fishermen, and especially for those fishermen who are most at risk, and who are frequently in the most need of acquiring additional QS for their survival. Generally, a fisherman at risk is not in a financial position that warrants the acquisition of an additional debt burden; furthermore, the financing institutions are not inclined to loan money to fishermen who are at risk.

It is our understanding that many financial institutions have established a relatively low loan-to-value-ratio with regard to the provision of financing for the purchase of QS (generally, we have heard of the range of from 20% to 50%, although it may be higher in a few instances). The loan-to-value-ratio is a variable that is greatly dependent upon the financial strength of the borrower, upon the abilities of the borrower (e.g., financial and general business acumen, harvesting record, harvesting potential, etc.), upon the inherent risk of the IFQ Program (e.g., legal challenges, fluctuations and trends in quotas and stock strength, etc.), upon the lack of a National Lien Registry, etc. Therefore, even if a fisherman chooses to pursue financing for the purchase of QS, and is able to qualify for such financing, it is still necessary for that fisherman to raise a substantial amount of cash. We note again that for those fishermen who are most at risk, and who are frequently in the most need of acquiring additional QS for their survival, it is very difficult to obtain or contribute the cash that is necessary to construct a successful financing package.

CCF represents a cache of funds for many fishermen who are in need of acquiring QS. While many fishermen who are in need of acquiring QS do not have a CCF, the suggested modification to the CCF Program is only one of many positive and necessary steps that can be taken to provide opportunities for fishermen to readjust to the new economic rules that have been created as a result of the IFQ Program. Modification of the CCF Program will provide many fishermen with the opportunity to continue to participate in the halibut and sablefish fisheries; for many of these fishermen, it is upon such fisheries that much of their economic and social survival depends. Changing 46 U.S.C. 1177 to permit the use of a CCF to purchase halibut and sablefish QS is a reasonable and helpful step.

B. Buy Back Program: Provide The North Pacific Fishery Management Council With The Authority To Establish, Institute Or Sanction A Buy Back Program For Licenses That Are Created Under A License Limitation Program; Such Buy Back Program To Be Designed, Funded, Governed And Managed By A Constituted Class Of License Holders

We respectfully suggest that the Magnuson Act be amended to provide the North Pacific Fishery Management Council (NPFMC or Council) with the authority to establish, institute

or sanction a Buy Back Program for Licenses that are created or issued under any License Limitation Program that is within the jurisdiction of the NPFMC, and that has been recommended by the NPFMC and approved by the U.S. Secretary of Commerce (Secretary). We believe that it is essential that such Buy Back Program be designed, funded, governed and managed by the class of such persons who own such Licenses ("License Holders") as may be created as part of such License Limitation Program. We believe that the requested authorization should be clear, definitive and flexible so as to avoid weakness, omission or lack of clarity; further, we request that such authorization clearly permit the License Holders to design, fund, govern and manage any such Buy Back Program as may be authorized free from the control of the National Marine Fisheries Service (NMFS).

We ask that the NPFMC be given the authority to establish, institute or sanction the option of a Buy Back Program. This recommendation does not suggest that the NPFMC be mandated to establish a Buy Back Program; we only suggest that there be clear authority within the jurisdiction of the NPFMC for the option to establish a Buy Back Program in conjunction with any License Limitation Program that may be approved.

We note that our concept for the funding of a Buy Back Program does not rely upon any federal monies to fund the design, structure or operation of the Buy Back Program. Our concept incorporates the vision that all funding will come from the class of License Holders that is created as part of any License Limitation Program that may be approved. We envision that the Buy Back Program works best if the License Holders pay for it.

Conceptually, this authority would make it clear that a Buy Back Program is an approved option that is available to the NPFMC. We visualize this authority to be reasonably flexible, broad and non-specific as to the details of any Buy Back Program. We envision this authority as similar to that authority that is granted to the NPFMC under Section 313 of the MFCMA, that is, the authority to prepare the North Pacific Fisheries Research Plan within the jurisdiction of the NPFMC.

Conceptually, we suggest that the Alaska Statutes and Regulations that govern the establishment, structure, operation and funding of the Nonprofit Aquaculture Associations in the State of Alaska may provide some useful examples for options that may be

employed relative to the structure and operation of a Buy Back Program.

We present the following suggestions relative to specific authority that we believe must be provided to the NPFMC with respect to a Buy Back Program:

Authority to mandate that the Buy Back Program be a corporation that consists of Members, a Membership and a Board of Directors that are made up of only the class of License Holders who own such Licenses as may be created as part of a License Limitation Program.

Authority to provide for the election of a Board of Directors of the Buy Back Program. Further, that such Board of Directors shall consist of License Holders who must be elected by and from among the class of License Holders who own such Licenses.

Authority to provide that each License Holder shall cast only one vote for each License that is owned by such License Holder.

Authority to provide that the Buy Back Program shall be managed and directed by a Board of Directors.

Authority to establish an assessment, tax, fee or other funding mechanism to fund a Buy Back Program. Such funding mechanism must be designed, approved and governed by the License Holders.

Authority to mandate that the revenues that are collected as a result of any funding mechanism that may be established under this authority must be generally restricted for use only for the purchase such Licenses as may be created as part of a License Limitation Program, and for the general administration of the Buy Back Program.

Authority to mandate that the revenues that may be collected as a result of any funding mechanism that may be established under this authority must be under the control of the License Holders and the Board of Directors of

the Buy Back Program, and that such revenues must be owned by the Buy Back Program.

Authority to provide that any sale, any change in ownership, or any transfer of ownership of a License will be governed by the Buy Back Program. Further, such authority shall provide that the Buy Back Program shall have the first right of refusal to purchase any License that is the subject of any sale, any change in ownership, or any transfer of ownership of a License (the specific provisions of what constitutes "any sale, any change in ownership, or any transfer of ownership" should be defined).

Authority that provides that all Licenses that are purchased by the Buy Back Program must be permanently retired.

Authority that provides that the Board of Directors of the Buy Back Program shall adopt provisions to ensure that the "fair market value" is paid for any License that is purchased (i.e., retired) by the Buy Back Program.

We note that the concept of a Buy Back Program that we have proposed is only a framework. We suggest that positive and useful suggestions may come from many directions, including from those on the East Coast who may have similar inclinations relative to specific fisheries that are under the jurisdiction of the New England Fishery Management Council.

It is important to note that there are some who are driven by an imperious and blind preoccupation relative to the imposition of IFQ management in the groundfish and crab fisheries off Alaska. We note that some of those who hold this obsession with IFQ management have in the past demonstrated a habitual pattern of objection and obstruction relative to potentially useful and beneficial suggestions for non-IFQ management solutions, options and initiatives that would improve the management of specific fisheries that are under the jurisdiction of the NPFMC. This pattern has been displayed since at least the late 1970's with regard to numerous and potentially useful and beneficial management techniques and initiatives that have been routinely suggested for application in the management of many of the fisheries that are under the

jurisdiction of the NPFMC. This pattern was most clearly and stringently followed with regard to the halibut and sablefish fisheries off Alaska; for years, many of the useful, beneficial and practical suggestions for management of the halibut and sablefish fisheries were frequently rejected, discarded and obstructed with the sweeping, inane and intellectually shallow rhetoric that pretended that nothing but IFQ management would address the challenges of the management of these fisheries. This pattern of behavior ultimately brought about the consequences that were calculated by some of the proponents of IFQ management, and created the imminent and anticipated crisis in management that fed the successful initiative to impose IFQ management in the halibut and sablefish fisheries off Alaska.

It may be that IFQ management in the groundfish and crab fisheries off Alaska will be ultimately recommended and approved. If it is, we intend, as we have with the halibut and sablefish IFQ Program, to diligently contribute to any effort that intends to effect that it perform as efficiently as possible for the benefit of the resource, fishermen, processors, consumers and agencies. However, the NPFMC is currently committed to a process that intends to impose License Limitation in the crab and groundfish fisheries that are under the jurisdiction of the NPFMC; this is a far better choice than IFQ management for the resource, industry, consumers and agencies.

Some intend to influence the Council process so that License Limitation in the crab and groundfish fisheries is a successful solution; we include ourselves among this group. We intend to work with others of like persuasion to provide the flexibility and tools that are necessary to ensure that License Limitation will be workable, that it will achieve all that it is capable of achieving, and to ensure that it addresses the management challenges in the crab and groundfish fisheries. Others appear to intend to influence the process to ensure that License Limitation will not be permitted the flexibility or tools necessary that would otherwise permit it to address the management challenges in the crab and groundfish fisheries. We expect that some will invoke the same pattern of uncooperative behavior as was demonstrated with regard to those non-IFQ options and solutions that otherwise would have addressed the management challenges in the halibut and sablefish fisheries. We expect that some of those who promote the imposition of IFQ management in the groundfish and crab fisheries off Alaska will make every effort to detract from any initiative that may enhance the flexibility or success of a License

Limitation Program in those fisheries.

There are no guarantees that License Limitation will be successful, or that a Buy Back Program will ever be developed, implemented or successful. However, we hope that we are able to embrace all options that have reasonable potential. As a matter of national policy that is correctly addressed in the reauthorization of the Magnuson Act, we respectfully request that you clearly authorize that the NPFMC has the authority to establish, institute or sanction a Buy Back Program as a tool that should be available to the NPFMC and to the industry with regard to any License Limitation Program that may be approved to address the management challenges of the groundfish and crab fisheries off Alaska. In an effort to impede the success of License Limitation, and to challenge any Congressionally authorized Buy Back Program, we expect that some will attempt to capitalize on any weakness, omission or lack of clarity in any such Congressional Authorization. Therefore, we request that the proposed authorization be clear, definitive and flexible so as to avoid weakness, omission or lack of clarity; further, we request that such authorization clearly permit the License Holders to design, fund, govern and manage any such Buy Back Program as may be authorized free from the control of NMFS.

C. State Jurisdiction: Authorize The State of Alaska To Enforce Its Fisheries Regulations Beyond State Waters In the Absence Of A Federal Fisheries Management Plan Or Federal Fishing Regulations

We respectfully suggest that the Magnuson Act be amended to clearly authorize the State of Alaska to extend and enforce its jurisdiction and its fishing regulations beyond State waters and into the EEZ off Alaska for those species that are managed within State waters under regulations of the State of Alaska, and for which there is no Federal Fishery Management Plan (FMP) or no federal fishing regulations.

All fisheries that are under the jurisdiction of the NPFMC are conducted in the EEZ off Alaska. Alaska has a long and successful history of managing several species in State waters, and in the U.S. EEZ. We understand that similar authority to that which is suggested here may not be suitable for use in certain specific regions of the U.S. EEZ; however, in consideration of the foregoing facts, recent and past history, and the needs of

conservation and management with respect to certain species, we believe that this a reasonable and justifiable amendment to the Magnuson Act with regard to those fisheries that are conducted within the jurisdiction of the NPFMC.

D. Emergency Actions: Change The Length Of The Periods For Emergency Regulations To 180 Days; Remove The Regional Director From Voting With Regard To Emergency Regulations

We suggest that Magnuson Act be amended to provide that an Emergency Regulation may remain in effect for an initial period of no more that 180 days (rather than the 90 day period that is currently permitted) Further, we suggest that any such Emergency Regulation may be extended for one additional period of no more than 180 days (rather than the 90 day period that is currently permitted), provided that the Secretary and the Council agree to the extension.

Further, we suggest that the Magnuson Act be amended to provide that the Regional Director of NMFS shall not participate in a Council decision (e.g., shall not vote) when the subject of the Council decision is an Emergency Regulation. That is, that the Secretary shall promulgate an Emergency Regulation if the Council, by unanimous vote of the voting members of the Council, and not including the vote of the Regional Director of NMFS request the taking of emergency action. However, we believe that the Regional Director of NMFS should participate in Council deliberations that relate to any Council decision with regard to any Emergency Regulation that may be requested by a Council.

E. Mandatory Guidelines And Requirements For Individual Fishing Quotas

We respectfully request that the Magnuson Act be amended to require that the Secretary adopt and prescribe Mandatory Guidelines, analyses and other requirements that must be addressed by a Council before the Secretary accepts for review any Fishery Management Plan (FMP), or any Amendment to any such FMP that includes provisions for IFQ management, including Amendments or other provisions that modify an existing IFQ management program.

While it is reasonable for the Secretary to promulgate certain Guidelines after consultation with the Councils, and after public notice and comment, we respectfully request that the Congress must mandate in the Magnuson Act certain minimum and specific guidelines, analyses and other requirements that address IFQ management. For example, the Magnuson Act should require a Social Impact Analysis, Economic Impact Analysis, Cost/Benefit Analysis and an Input/Output Analysis for any action that addresses IFQ management; further, the Magnuson Act should require minimum and specific requirements for these analyses. The Magnuson Act should mandate that the analyses be completed by an entity other than the Department of Commerce (at the least, an entity other than NMFS).

Regardless of whether a person advocates or objects to IFQ management, it is clear that IFQ management has significant, consequential and substantial economic and social impacts; this is why the proponents of IFQ management advocate it, and why the detractors of IFQ management object to it. Regardless of where a person is on the issue of IFQ management, it is universally argued by advocates and detractors alike that major, momentous and leviathan change will occur under IFQ management. It cannot be disputed that IFQ management results in economic and social changes that are of a magnitude, and of a depth and breadth that is unparalleled by other regulatory action that is permitted under the Magnuson Act. IFQ management establishes a new and significantly different set of economic rules under which the fishing industry must survive. IFQ management is social and economic engineering. Economic behavior is substantially changed under IFQ management. IFQ management has ramifications relative to monopoly, concentration of ownership, competition and antitrust considerations. IFQ management results in a major redistribution of wealth. IFQ management results in new partitions relative to the means, and to the sources of the production of wealth. IFQ management will almost certainly result in the extraction of economic rent through the imposition of fees and taxes (e.g., severance taxes, excise taxes, transfer taxes, etc.); such economic rents (e.g., wealth) will likely be extracted from various industry entities that are associated with IFQ management, and will likely be applied at various points in the economic chain. IFQ management creates major new capital demands on the industry. IFQ management has significant consequences that concern unemployment, social and economic dislocation, insolvency, bankruptcy and investment. IFQ management poses new, real, different and complex risks relative to the

future productivity of fisheries populations. IFQ management poses new, real, different and complex considerations relative to management and allocation decisions for species that are not the subject of IFQ management, but that are nonetheless affected by IFQ management. IFQ management dramatically increases the cost of management and enforcement. The demands of IFQ management have consequences with respect to the overall mission of fisheries conservation and management, and with respect to the goals, objectives and strategies which have been adopted relative to the fisheries conservation and management of other species. Whether good or bad, desired or undesired, feasible or unfeasible, the aforementioned considerations, and the intended and unintended consequences of IFQ management are systemically different from those that result from other regulatory action that is permitted under the Magnuson Act; they are of a magnitude that far surpasses other Magnuson Act action. Regardless of whether an individual is for or against IFQ management, the irrefutable consequences of IFQ management demand that Congress must mandate minimum requirements for exhaustive, comprehensive and complete analysis, and for analytical lucidity. Without requirements, guidelines and other safeguards, Council and Secretarial action with regard to IFQ management will result in arbitrary, inconsistent, inequitable and incongruous decision making .

Senator STEVENS. Thank you. I have been giving some thought to the concept that we might have a pooling of funds by people who have quota shares to allow, with the Council's sort of guidance, some type of buy-back procedure like the cooperatives used in the midwest. We have not studied that, but they had a way of buying back cooperative shares. And it is something that we ought to look at. I do not think it is possible to get Federal money for buy-backs right now. There may be an exception in New England. It is such a staggering loss up there. I am not sure that the industry has the ability to help itself right now. But, I want to look at that. Those are good suggestions, and I hope you will send me fully your comments, as we need that guidance.

And I also believe this lien registry will help us a great deal. We had some comments about that in the hearings we have held before. And I will want to talk to each of the Alaska groups about that lien registry before we are through. It is, I think, necessary that we have some way to assure that people who obtain loans to buy ITQs can offer assurance that there aren't other loans against the same ITQ, and there has to be some form of registry. How we do that—we had some suggestion that it might be just strictly a private enterprise concept like a title insurance company. We have to wait and see if we can do that.

It might be best to keep it entirely out of government and to have it work on a regional basis, each region having its own lien registry, perhaps through a private entity. It could be, I think, a profitable enterprise just like the title companies have been profitable. But I appreciate your testimony, particularly the thoughts about the observer program. I wish I could get more money for the observer program, but it does not look great on the Washington scene this year. We will do what we can.

I intend to come back at 1:45. Again, I apologize for the delay this morning. Look forward to seeing you again. We will pick up at that point with Mark Kandianis and Kristin Stahl-Johnson. Thank you. [A break was taken.]

Senator STEVENS. All right. We will proceed. And you are first, Mr. Kandianis. Thank you very much.

STATEMENT OF MARK KANDIANIS, KODIAK FISH COMPANY, KODIAK, ALASKA

Mr. KANDIANIS. Thank you, Senator Stevens. Senator Stevens and members of the committee, my name is Mark Kandianis. I have lived in Kodiak, Alaska since 1980 and fished for scallops in the North Pacific for 15 years. I have always been registered and fished according to regulations set by the State of Alaska. Though Alaska scallop fishery is mostly in Federal waters, it has been managed by the State since its beginning in the late sixties. It is such a small fishery, it was overlooked when FMPs were developed for other North Pacific fisheries.

In 1990, I began working with the Alaska Department of Fish & Game, the North Pacific Fishery Management Council, and National Marine Fisheries Service to develop an FMP and a moratorium for the scallop fishery. Our biggest fear was that East Coast overcapitalization and resource depletion would spill over into Alaska, and that is what has happened. It has been a long, frus-

trating process with little reward for those of us who have been in the fishery the longest.

In 1993, the Council set a control date of July 1, 1993. Still, after that date, more vessels from the overcapitalized East Coast scallop fleet came to Alaska.

After heavy lobbying and the threat of lawsuits, the control date was moved forward, which increased the fleet by 50 percent. The new arrivals came with two boats each. Some fished with very large crews that enabled them to fish on smaller, immature animals. The result was quick depletion of some localized stocks and intense scrutiny of potential bycatch problems.

I have been in the Alaska scallop fishery in good years and bad, but even in the bad times my crew members and I were able to make a living and pay our bills until now. In my 15 years in this fishery, I have learned that this small fragile resource is easily overfished. I have been through several boom and bust cycles. The new participants came at the peak of the cycle and claim it is representative of its resource. I can assure you it is not.

Just recently the largest of these newer arrivals, the Mr. Big, turned in its Alaska registration and then fished outside of Alaska State waters completely unregulated. This boat fished in an area where the annual quota had already been taken and took enough scallops there to exceed the quota by 100 percent. Others fished in a similar fashion depleting the stocks off the Washington and Oregon coast 2 years ago, frustrating State officials there.

This flagrant disregard for conservation concerns is standard operating procedure for the East Coast fleets. They would and have fished until the last fish was taken. These new vessels have more than doubled the scallop fleet here. Conservation concerns prompted the State to impose new regulations to protect the scallop resource as well as control bycatch. I have supported these regulations because my goal is to have a healthy resource and avoid the boom and bust cycles of the past.

A Federal FMP will protect this resource but will do nothing to protect those of us who have historically depended on this fishery. We will be displaced by vertically integrated fleets with deeper pockets than ours.

We are strong supporters of an ITQ system for this fishery. An ITQ program similar to the mid Atlantic surf clam program we feel would be ideal for this small resource. It would encourage conservation and discourage bycatch by giving each vessel responsibilities as well as rights. A quota share based on a historic dependence is our only glimmer of hope for our future survival. Without such a plan, you should include us in your discussions of fishery bail outs.

We also support amending the Magnuson Act to allow fees to be charged for people who benefit from ITQ plans. It is a public resource and the public should be compensated. We started the FMP process in the hope of maintaining a viable fishery. We have come out of this process the biggest losers. Our fishing time and income has been cut in less than half. Because of Mr. Big's recent actions that resulted in an emergency closure, we do not know if we will be able to fish the remainder of 1995. All of the long time participants are now suffering severe financial distress. This is our re-

ward for years of hard work trying to maintain a viable fishery. Those of us who have broken our backs in this fishery for so many years view this recent overspeculation and disregard for management as criminal.

We ask that Congress give the Councils the option to make these acts illegal.

Thank you for allowing me to speak.

Senator STEVENS. Thank you. I think that history is the most despicable I have heard of in our fisheries off our shores. I only wish there were some way and I hope there may still be some way to penalize the people that are involved in that.

[The prepared statement of Mr. Kandianis follows:]

**Mark Kandianis
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March 20, 1995

The Honorable Ted Stephens
United States Senate
Chairman
Subcommittee on Oceans and Fisheries
Committee on Commerce, Science, and Transportation
Washington, DC 20510-6125

Dear Senator Stephens:

My name is Mark Kandianis. I have lived in Kodiak, Alaska since 1980 and fished for scallops in the North Pacific for fifteen years. I have always been registered and fished according to regulations set by the State of Alaska.

Though Alaska's scallop fishery is mostly in federal waters, it has been managed by the State since its beginning in the late 60's. Because it is such a small fishery, it was overlooked when FMP's were developed for other North Pacific fisheries.

In 1990, I began working with the Alaska Department of Fish and Game, the North Pacific Fishery Management Council and the National Marine Fisheries Service to develop an FMP and a moratorium for the scallop fishery. Our biggest fear was that East Coast overcapitalization and resource depletion would spill over into Alaska. And that is what has happened.

It has been a long, frustrating process with little reward for those of us who have been in the fishery the longest. In 1993, the Council set a control date of July 1 of 1993. Still, after that date, more vessels from the overcapitalized East Coast scallop fleet came to Alaska. After heavy lobbying and the threat of lawsuits, the control date was moved forward - which increased the fleet by 50%. The new arrivals came with two boats each. Some fished with very large crews that enabled them to fish on smaller, immature animals. The result was quick depletion of some localized stocks and intense scrutiny of potential bycatch problems.

I have been in the Alaska scallop fishery in good years and bad. But even in the bad times, my crewmembers and I were able to make a living and pay our bills - until now. In my fifteen years in this fishery, I have learned that this small, fragile resource is easily overfished. I have been through several boom and bust cycles. The new participants came at the peak of a cycle and claim that is representative of the resource. I can assure you that it is not.

Just recently, the largest of these newer arrivals, the Mr. Big, turned in it's Alaska registration and then fished outside Alaska's state waters completely unregulated. This boat fished in an area where the annual quota had already been taken and took enough scallops there to exceed the quota by 100%. Others fished for scallops in a similar fashion depleting stocks off the Washington and Oregon coasts two years ago, frustrating State officials there. This flagrant disregard for conservation concerns is standard operating procedure for East Coast fleets. They would, and have, fished until the last fish was taken.

The new vessels have more than doubled the scallop fleet here. Conservation concerns prompted the State to impose new regulations designed to protect the scallop resource as well as control bycatch. I have supported these regulations because my goal is to have a healthy resource and avoid the boom and bust cycles of the past.

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We also support amending the Magnuson Act to allow fees to be charged for people who benefit from ITQ plans. It's a public resource and the public should be compensated.

We started the FMP process in hope of maintaining a viable fishery; but we have come out of the process the biggest losers. Our fishing time and income has been cut in half. Because of the Mr. Big's recent actions that resulted in an emergency closure, we don't know if we'll be able to fish at all the remainder of 1995. All of the longtime participants are now suffering severe financial distress. This is our reward for the years of work in trying to maintain a viable fishery. Those of us who have broken our backs in this fishery for so many years view the recent overspeculation and disregard for management as criminal. We ask that Congress give the Councils the option to make these acts illegal.

Thank you for allowing me to speak on this issue.

Sincerely,

MARK P. KANDIANIS
FV PROVIDER

Senator STEVENS. Ms. Stahl-Johnson.

STATEMENT OF KRISTIN STAHL-JOHNSON, ALASKA MARINE CONSERVATION COUNCIL, KODIAK, ALASKA

Ms. STAHL-JOHNSON. Thank you, Mr. Chairman, for allowing me the opportunity to testify this afternoon. For the record, my name is Kristin Stahl-Johnson. I'm a fisheries biologist from Kodiak, and I've been married to a Kodiak fisherman for the last 14 years. Between us we have studied or fished nearly every resource in the Gulf of Alaska. I'm also a founding board member of the Alaska Marine Conservation Council.

The AMCC is comprised of fishermen and women, subsistence users, scientists and Alaskans, many of whom live and work in remote coastal Alaskan communities. Across the Bering Sea and the Gulf of Alaska, we have seen alarming declines in some fisheries, conspicuous increases in scavengers and dramatic plunges in populations of higher level carnivores, such as Stellar sea lions, harbor seals, fur seals, and sea birds.

While the North Pacific may be managed more conservatively than other regions in the country, it is clearly not good enough. Despite congressional intent, the Magnuson Act has not prevented fisheries across the country from being mismanaged to the brink of ruin. There is reason to believe that without a stronger Act, the same will be true in Alaska.

Senate Bill 39 as introduced makes great strides in restoring emphasis on conservation that fisheries management desperately needs. We would like to thank you, Mr. Chairman, for introducing it, and in our written testimony we make several recommendations for further strengthening the Act.

Today I would like to highlight two of those. The Magnuson Act often uses the word conservation, but in practice, economics often override sound conservation principles. For example, National Standard No. 1 requires prevention of overfishing while achieving optimum yield.

Optimum yield is defined as maximum sustainable yield as modified, that is raised or lowered, by any relevant economic, social or ecological factor.

Under this definition, fisheries managers are pressured to subordinate conservation objectives to short-term economic interests. The National Academy of Sciences found that the result is often an optimum yield higher than the sustainable biological yields. Furthermore, maximum sustainable yield, the foundation of the all important definitions in the Act, is not defined by the Act itself; and where it is defined in the regulations, its definition is so broad and nebulous it is meaningless to provide strict guidelines and accountable limits to managers.

Senate Bill 39 makes important steps in defining overfishing for the first time by amending the definition of OY to require the protection of marine ecosystems and to take into account the rebuilding of overfished stocks. We strongly support these provisions. However, more needs to be done.

AMCC respectfully requests that the committee first define optimum yield in terms of sustainable yield over the long term rather than maximum sustainable yield and provide that sustainable yield

can only be lowered but never raised by social, economic or ecological factors.

Turning to the problem of bycatch and waste, over 740 million pounds of dead or dying fish were dumped over the side in 1993 in the North Pacific alone. You have heard this several times. Clearly, past programs to reduce bycatch have not worked. AMCC supports the language in Senate Bill 39 mandating reductions in bycatch through economic incentives.

AMCC has proposed one such incentive program that would reward the fishermen who successfully minimized bycatch, waste and disruption to habitat by giving them a reserve portion of the total allowable catch. The Alaska harvest priority proposal has been endorsed by the Alaska House of Representatives, the Alaska Federation of Natives, the Alaska Board of Fisheries, the Alaska Sportfishing Association and the North Pacific Fisheries Association, among others. I have with me today petitions from around the State of individuals supporting harvest priority. With your permission, Mr. Chairman, I request that they be entered into the record of this hearing.

Senator STEVENS. Yes, thank you.

Ms. STAHL-JOHNSON. Yes. We want to thank you—we want to take this opportunity to personally thank you, Mr.

Chairman for providing the strong and effective solutions to our fisheries bycatch problems in Senate Bill 39.

We also recommend that the bill be strengthened in two ways. First, equal priority should be given to all types of bycatch, non-commercial species as well as economic discards. And second, the phase in of full utilization must be delayed until evidence is back on how much bycatch and discards have actually been reduced. Otherwise we may create an economic incentive to turn bycatch into fish meal rather than reducing the bycatch in the first place. Once bycatch has been reduced to the lowest levels, full utilization of the smaller amount of bycatch, along with the processing waste, would be a good idea.

Attached to my written testimony is a joint bycatch statement on these two points from the Coalition of Commercial and Sportfishing, Native Alaskans, and conservation groups. Thank you for the opportunity to testify, and I'd be glad to answer any questions.

Senator STEVENS. I do not have any questions. I thank you very much for those suggestions. And we are going to try to do our best to accommodate them. We will be back in touch with you. Some very fine suggestions there. And again, Mr. Kandianis, I am saddened by the report you bring us, and I hope that we can get our bill through in time to prevent further intrusions into our area by people who I think are misusing the law. I really think what they did was illegal at the time, but I do not know whether it is possible to go back and try that in court. I think a boat that was licensed and understood the jurisdiction of the State and then backed off to try to establish a loophole just had no right to do what it did. I thank you very much for your participation.

[The prepared statement of Ms. Stahl-Johnson follows.]

STATEMENT OF KRISTIN STAHL-JOHNSON
ALASKA MARINE CONSERVATION COUNCIL

BEFORE THE U.S. SENATE
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

HEARING ON THE REAUTHORIZATION OF THE
MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

MARCH 25, 1995
ANCHORAGE, ALASKA

INTRODUCTION

Thank you for this opportunity to testify today. For the record, my name is Kristin Stahl-Johnson. I am a marine fisheries biologist from Kodiak, Alaska. I am also a founding board member of the Alaska Marine Conservation Council (AMCC). The Alaska Marine Conservation Council is a broad-based community organization comprised of Alaskans, many of whom live and work in small remote communities along the Alaska coast.

Our members come from diverse cultural and economic backgrounds and many of us depend on marine resources for sustenance, culture and livelihoods. From Ketchikan in Southeast Alaska to Unalaska in the Aleutian Islands to Tununak in the Bering Sea, our members are, or have been, gillnetters, seiners, crabbers, trollers, long-liners, trawlers, jiggers and other commercial fishers and fish workers.

Some of us come from Native communities where we still subsist on marine resources as our ancestors did before us. When marine ecosystems are at risk, not only are our livelihoods as fishermen threatened, so is our subsistence way of life. If declines in the health of marine ecosystems are allowed to continue, our very future is at risk.

Our membership also includes conservationists and scientists who track the health and decline of marine resources. The Alaska Marine Conservation Council is a diverse group. Although our personal interests in marine resources are very different, we share a dependence on, and commitment to, healthy marine ecosystems.

As coastal residents, we have seen alarming regional declines in Steller sea lions, harbor seals, fur seals, certain bird species including murrets and kittiwakes, along with herring, king crab, dungeness, opillio, shrimp and rockfish. These declines concern us not only because of the adverse impact they may have on many of our livelihoods, but as indicator species they warn us of distressing changes in the North Pacific.

Although we do not fully understand the complex interactions which occur in the oceans, we must expand our vision to include food chain interactions as well as human harvest when exploiting marine resources. We must be conservative and we must proceed with caution.

Almost two decades ago, Congress faced a similar problem. Reckless foreign fishing threatened both the marine environment and the economies of Alaska's coastal communities. Congress responded with the original Magnuson Act, designed to Americanize the fishery while putting conservation in the forefront of fisheries management. Our own Senator, Ted Stevens helped write that law.

Yet despite its strong language, somehow the Magnuson Act has been implemented in a way that puts economic considerations before conservation and pushes fisheries across the country to the brink of ruin. The time is ripe to amend the Magnuson Act to give a new direction to fisheries managers. It is fitting that Senator Stevens is now leading the charge to fix the Magnuson Act. S.39 takes important first steps down this path. AMCC would like to thank him for introducing such strong legislation.

We take this opportunity to let you know our recommendations for further changes to the Magnuson Fishery Conservation and Management Act (Magnuson Act). Although generated from Alaskan fishing and conservation experiences, we believe they can be beneficially applied to all areas of the United States Exclusive Economic Zone (EEZ).

SUMMARY

Our specific recommendations are explained below. To summarize, however, we propose Congress amend the Magnuson Act to:

1. Clearly establish conservation over economics as the top priority of the Act;
2. Mandate a reduction in bycatch, discards and habitat disruption through economic incentives that reward clean fishermen;
3. Institute a precautionary, multi-species approach to management and research;
4. Acknowledge the role that people and sustainable communities play in a healthy marine ecosystem;
5. Make marine habitat protection a priority.
6. Ensure that any quota programs allow for conservation of the resource.
7. Allow the public access to bycatch data now confidential.
8. Close a loophole preventing state jurisdiction over bandit fishing vessels.
9. Prevent fisheries recovery financing from encouraging overcapitalization in stressed fisheries

1. CLEARLY ESTABLISH CONSERVATION OVER ECONOMICS AS THE TOP PRIORITY OF THE ACT

In human terms, the consequence of allowing wasteful, destructive fishing practices to continue is vividly portrayed in Newfoundland and Nova Scotia, where entire communities have been placed on welfare rolls and relocation programs are being examined. All this due to poor fishery practices and gear types, resulting in 30,000 men and women losing their livelihoods in just three years. The state of the cod fishery is so dire that the Canadian government has announced it is considering boarding "pirate" vessels fishing cod beyond the 200 mile Canadian EEZ.

In ecological terms the northern districts of that area are considered marine deserts unlikely to recover due to intense bottom dragging and destruction of fishery habitat. Alaska and the United States cannot afford to make these same mistakes. Nonetheless, we have and continue to do so.

According to NMFS, in the United States 65 species or species groups are overfished.¹ This amounts to 40% of all those species assessed. Even in Alaska, with the nation's most productive fishery, we have begun to see problems in the stocks. For example, a moratorium is in place on the Aleutian Basin Pollock Stock (Bogoslof District) in the Bering Sea due to its collapse, which was caused by rampant overfishing on the high seas as well as within the U.S. EEZ, including federally sanctioned fisheries on spawning pollock stocks.

Although the National Standards established in the Magnuson Act often use the word "conservation", in many instances economic and other considerations override the dictates of sound conservation principles. For example, National Standard 1 states that "conservation and management measures shall prevent overfishing while achieving the optimum yield from each fishery on a continuing basis." 16 U.S.C. sec. 1851(a)(1).

Overfishing is not defined in the law. However, optimum yield is defined as the maximum sustainable yield "modified by any relevant economic, social or ecological factors." Id. sec. 1802(21)(B). The economic and social factors are put on an even footing with biological factors. Fisheries managers are pressured to subordinate conservation objectives to short-term economic interests. As the National Academy of Sciences has found, the result is often an optimum yield higher than the sustainable biological yield.²

We can see the interplay of these two often conflicting concepts -- overfishing and maximum sustainable yield -- in the Pacific Ocean Perch (POP) fishery in the Gulf of Alaska. Overfished by the foreign fleet in the 1960s, POP has never recovered. However, facing increasing pressure from the now-domestic fleet, the North Pacific Fishery Management Council in 1993 instituted a rebuilding plan and no direct fishery was allowed that year. Despite the Council's conservative approach, NMFS felt compelled by its interpretation of the Magnuson Act to allow a trawl fishery for POP in 1994. Unfortunately, the biomass survey used does not give adequate information about the age structure of the growing POP stock. With this uncertainty given critical recruitment information, harvesting at this stage could jeopardize the rebuilding of POP. In the face of uncertainty, NMFS felt compelled by the concept of maximum sustainable yield to interpret the Council's action in the least conservative, most aggressive way possible. This is exactly the path that has led our fisheries to ruin in New England.

S. 39 makes important steps in defining overfishing for the first time and by amending the definition of OY to require the protection of marine ecosystems and to take into account rebuilding of overfished stocks. However, AMCC respectfully recommends the following further changes to establish conservation, and not economics, as the top priority of the Magnuson Act:

- allow sustainable yield only to be lowered not raised by social, economic, or ecological factors

¹ National Marine Fisheries Service, Our Living Oceans (1993) at 11.

² National Academy of Sciences, Improving the Management of U.S. Fisheries (1994) at 19.

- define OY in terms of sustainable yield over the long term rather than maximum sustainable yield

- include bycatch when setting optimum yield.

- **Recommendation.** *Adopt the following definition of "optimum" (p.6, line 21):*

The term "optimum", with respect to the yield from a fishery, means the amount of fish, including bycatch --

(A) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and taking into account the protection of marine ecosystems;

(B) which is prescribed as such on the basis of the sustainable yield from such fishery, as lowered by any relevant economic, social, or ecological factor;

(C) provides for rebuilding of an overfished fishery to a level consistent with providing sustainable yield.

- **Recommendation.** *Adopt the following definition of "sustainable yield" (to replace "maximum sustainable yield" wherever it occurs in the Act):*

The term 'sustainable yield' means the yield of a fishery that can be maintained over the long term, taking into account scientific uncertainty and natural variability.

2. **MANDATE A REDUCTION IN BYCATCH, DISCARD AND HABITAT DISRUPTION THROUGH ECONOMIC INCENTIVES THAT REWARD CLEAN FISHERMEN**

A guiding principle of the Alaska Marine Conservation Council is that our living marine resources have intrinsic value in and of themselves within the ecosystem. Among the most flagrant problems of abuse associated with commercial fisheries in the North Pacific is bycatch -- discarding of unwanted fish.

Every year more fish are discarded dead in our fisheries in the North Pacific than are landed by U.S. fishermen in the North Atlantic. Over *740 million* pounds of dead or dying fish were dumped over the side in 1993 including 16 million pounds of halibut, 770,000 pounds of herring, and 16 million crab; over 370,000 salmon were intercepted in the offshore, federal fisheries. In the Bering Sea alone, over 40 million pounds of non-commercial species such as skates, sculpins, sharks, squids, sea stars, and urchins were caught and discarded. Amazingly, the 1993 figure was a 50% increase from 1992. Unfortunately, both the 1992 and 1993 figures are

rough numbers that are almost certainly under-reported.³

Faced with declining populations and potential Endangered Species Act listings of several marine species in the Bering Sea and Gulf of Alaska, many of our livelihoods and subsistence cultures are at risk. What dry statistics term "bycatch" is what subsistence users depend on to eat. What federal managers call "prohibited species" are what other Alaska fishermen make their living on. What some call the "cost of doing business" is what could bankrupt our coastal communities.

For example, the red king crab fishery in the Bering Sea was canceled in 1994 due to severely depressed stocks. In that same year, the rock sole and yellowfin sole bottom trawl fishery disrupted critical red king crab habitat and threw away 259,000 king crab caught as bycatch.⁴ A recent study of the two trawl fisheries found that the lost value in bycatch vastly exceeded the value of the target fishery.⁵

Alaska Marine Conservation Council Proposal to Implement Clean Fishing

This unnecessary and inappropriate waste and disregard of marine life is a public disgrace. The government of the United States, under both Republican and Democratic administrations, has pledged itself within the international community to the goal of reducing bycatch.⁶ Yet although there is consensus both within and outside governments that bycatch is a major problem, little has been done to minimize it because proposed incentives and disincentives are complex, expensive, difficult to enforce, or disruptive to the fisheries. We recognize that in these times of tight budgets and attempts to reduce bureaucracy, mechanisms must be used that are simple, cost effective, easily enforceable, as unobtrusive as possible to current fishing operations. They must also allow for individual choices and responsibility.

History shows us that the U.S. fishing industry, is highly inventive and flexible when there

³ Pacific Associates, *Discards in the Groundfish Fisheries of the Bering Sea/ Aleutian Islands and the Gulf of Alaska During 1993*, prepared for the Alaska Department of Fish and Game (August 1994).

⁴ *Ibid.* at 26-27.

⁵ *Discussion of the Impacts on Bristol Bay Red King Crab of Rock and Yellowfin Sole Trawling*, Homer Crab Group (Nov. 1994).

⁶ On June 14, 1992, former President George Bush signed the United Nations Conference on Environment and Development (UNCED) Agenda 21, which included the following commitment:

Promote the development and use of selective gear and practices that minimize waste of catch of target species and minimizes bycatch of non-target species. (Chapter 17 Program Area D, Sec. 79(d)).

The Clinton administration's position statement presented to the United Nations on Straddling and Highly Migratory Fish Stocks states:

Regional organizations or bodies should promote environmentally safe technologies, including minimizing pollution, bycatch, and other forms of waste, as part of any conservation programme for the area. (General Assembly document A/CONF.164/L.3, Item 9).

is an economic incentive or advantage to be exploited. The way to promote the development and use of selective gear is simply to give priority of harvest to selective gears and practices. Fishing operations would not be forced to change, but the economic incentive of priority harvest would lead to rapid, voluntary change to cleaner fishing now and into the future.

This is not a new idea and in fact was the most successful technique ever used under the Magnuson Act. Priority harvest was the centerpiece of the Americanization of the EEZ Alaskan waters. Each year it was determined how much the American segment of the industry could utilize through the fishing year, and that portion of the Total Allowable Catch (TAC) was reserved for the American fishers to harvest. The remainder of the TAC was allocated to the other segments of the industry. The rapidity with which the fishing industry responded and expanded its TAC requirements astounded all observers.

AMCC proposes that we employ this technique to reduce bycatch. We propose giving a harvest priority allocation to those fishermen who successfully minimize bycatch, waste and disruption to habitat by giving them access to a reserved portion of the total allowable catch. Rapid conversion to improved fishing practices and technology will result as fishermen come up with innovative solutions to minimize their bycatch. Efforts to reduce bycatch will be institutionalized because the best fishermen in each fishery will push for further reductions in bycatch because they know they can be more selective. The reductions can be sequentially lowered in each particular fishery over time.

AMCC has proposed such a Harvest Priority system before the North Pacific Fishery Management Council. Analysis of the proposal has been supported by the Unalaska Native Fisherman Association, the North Pacific Fisheries Association, the Alaska Federation of Natives, the Association of Village Council Presidents, the Alaska Board of Fish, the Rural Alaska Community Action Project, the Alaska Sportfishing Association, the Alaska House of Representatives, and the Western Alaska Fisheries Development Association. This unique coalition of Alaska commercial, sport, and subsistence fishermen is unparalleled for a marine conservation proposal in Alaska. It also serves a useful guide for what could be accomplished in other parts of the country given the right leadership in fisheries management.

Determining the amount of TAC those fishermen could utilize projected throughout the coming year would be a straightforward Council process. Reservation of the priority allocation of the TAC would reduce the level available for less selective fishermen. Seasons for harvest would still be set using the same current Council process. As switching to selective practices continues, the proportion available for nonselective fishermen will decrease and be eliminated. The goal of reducing bycatch and economic discard wastage can be accomplished by allowing individuals and industry make these economic choices. There will be a real, ongoing incentive for industry to develop and use further selective practices.

The primary objective of any legislation aimed at reducing waste at sea must result in minimizing the catch and discard of non-target and juvenile fish. Subsidizing the processing of these fish into fish meal or oil does not solve the larger conservation problem of removing bycatch fish from the ecosystem and may, in fact, contribute to legitimizing dirty fishing practices. Once bycatch is reduced to acceptable levels, we can turn our full attention to increased processing and utilization of catch.

Another important factor to be considered is the importance of reducing bycatch of noncommercial species. Harvest Priority is distinguished from all other strategies to minimize bycatch, waste, and discard in acknowledging the role and intrinsic value that non-commercial and low value species play in the maintenance of the ecosystem. Today, many species are discarded for economic reasons even though they are critical elements in the food chain. By providing fishermen incentives to fish deliberately and selectively for target species and minimize their catch of non-commercial and non-target marine life, Harvest Priority embraces the importance and ecological value of all marine resources.

The Harvest Priority proposal before the North Pacific Council would work within gear groups. The advantage of this approach is that it avoids a gear allocation fight that could detract from the conservation goal of minimizing bycatch. If, however, the Council and NMFS refuse to implement such a proposal, they still retain the authority under current law to make allocation decisions between gear groups based on a fishing gear's performance with bycatch. Such authority should not be undermined by the current reauthorization of the Magnuson Act because it may prove to be a valuable tool in persuading fishermen to switch over to cleaner gear without the perceived problems of rewarding clean fishermen within gear groups.

* * * * *

S. 39 takes important steps toward the goal of reducing and minimizing bycatch in our fisheries, especially in the North Pacific. AMCC strongly supports the language in S.39 mandating reductions in bycatch through incentives and fees. As you know, we have proposed one example of an incentive program for the North Pacific Council. As outlined below, our major concern with S.39 as written is on the timing of mandates for full utilization. Unless fisheries have reduced bycatch to low levels first, a requirement for full utilization could easily turn into an incentive to turn bycatch into fish meal, powder and oil -- rather than an incentive not to catch bycatch in the first place. Turning unwanted fish into meal would provide no ecological benefits to an already stressed ecosystem. comments and suggestions:

- **Clarification.** *Either the bill or the accompanying committee report should clarify that S.39 encourages allocation preferences for individual clean fishermen within gear groups without removing authority under the current Magnuson Act to make allocations between gear groups based on relative amounts of bycatch (page 71, line 20).*
- **Recommendation.** *For the North Pacific, no preference should be made for reduction of processing waste over bycatch (delete page 72, lines 1-5).*
- **Comment.** *NOAA General Council recently issued a legal opinion about the kind of appeals procedure necessary for an individual bycatch incentive proposal before the North Pacific Fishery Management Council. AMCC is currently analyzing the opinion and preparing a response. In the event that our analysis uncovers any need to amend the Magnuson Act in order to streamline the bureaucratic appeals procedure, we will submit further comments and suggestions.*
- **Recommendation.** *Delay phase-in of full utilization until evidence is back on how much bycatch and discards have actually been reduced (p.48, line 15). Once bycatch has been reduced to the lowest practicable levels, fuller use of the smaller amount of bycatch would be a good idea. The*

major tools for bycatch reduction in S.39, fees, total catch measurement, and harvest preference and incentives within each gear group are to be adopted in 1996, 1997, and 1998, respectively. However, S.39 mandates full utilization be phased-in by the year 2000. The problem with going to full utilization before lowering bycatch to low levels is that it may give some fishing companies an incentive to turn bycatch into fish meal rather than to reduce bycatch.

The following language would address this problem by delaying a Congressional requirement for full utilization until levels of bycatch have been lowered:

OPTION 1. Require NMFS to prepare a report by the year 2000 on the progress made in reducing bycatch in the North Pacific and the effect of full utilization on further reductions in bycatch.

page 73, line 16 replace with new language:

Section 313(g). FULL RETENTION AND FULL UTILIZATION --

The Secretary shall submit by January 1, 2000 to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Resources of the House of Representatives a report on the reduction of waste mandated by section 313(f). The Secretary shall include in the report an assessment of how a requirement for full retention by fishing vessels and full utilization by United State fish processors of all fishery resources, except regulatory discards, caught under the jurisdiction of the North Pacific Fishery Management Council would affect further reduction of waste under section 313(f)

OPTION 2. Keep the section as written but delay implementation of full utilization for three years until 2003 in order to give sufficient time for bycatch reduction. In addition, require the phase-in plan to consider the effect of full utilization on further reductions in bycatch.

page 73, line 20: change "1997" to "2000"; change "2000" to "2003"

page 75, line 6: add a new section (G) & (H)

section 313(g)(3)

(G) the effect full utilization may have on further reductions of bycatch mandated under section 313(f); and

(H) the extent to which full utilization may lead to increased production of fish meal, fish powder, and fish oil.

• Recommendation. *In order to ensure that full utilization does not provide an incentive to meal bycatch rather than not catch it in the first place, forbid use of federal loan guarantees for construction of new meal plants in the North Pacific except in fisheries where NMFS or the Council certifies bycatch has been reduced to acceptable levels.*

3. INSTITUTE A MULTI-SPECIES APPROACH TO FISHERY MANAGEMENT AND RESEARCH

Much of the attention on the Magnuson Act reauthorization has been focused on the need to prevent overfishing of single species. Unfortunately the implementation of this mandate may not be effective in protecting the overall health of our marine resources unless Congress also requires regulators to manage ecosystems, not just single species. Noting the negative effects of such single species management on the complex interactions of the marine food web, the National Academy of Sciences has recommended that the Magnuson Act be amended to force managers to move toward an ecosystem approach to management.⁷

This is especially true in Alaska where we are experiencing alarming declines in regional populations of marine mammals and birds that depend on commercially important fish for food. For instance, westward Steller sea lions have declined 50–80% in the last 15–20 years⁸ and are now classified as threatened under the Endangered Species Act. NMFS has developed three models to assess the population viability of Stellar sea lions in Alaska. Under all three models, NMFS reports that the Alaska population of these mammals will approach extinction within the next 100 years. The report states that the next 20 years are crucial to the survival of the Alaska population.⁹

In addition to declines in Stellar sea lions, there has been a 50% decline of the red-legged kittiwake population in the Pribilof Islands and the production of northern fur seal pups has declined 30% in the last ten years.¹⁰ Harbor seals in the Bering Sea may be only 15% of their 1970's population and black-legged kittiwakes and common and thick-billed murres are also declining.¹¹ In Prince William Sound and outlying areas, populations of black-legged kittiwakes, pigeon guillemots, marbled murrelets, and arctic terns have declined 60–80% since 1972.¹²

We recognize and commend the North Pacific Council and its staff for the conservation measures it has taken over the years. Unfortunately, however, even their own Groundfish planning team admits that the effect of annually harvesting large amounts of fish (targeted and untargeted)

⁷ NAS, Improving the Management of U.S. Fisheries at 6, 28.

⁸ National Academy of Sciences, Proposal No. 92-CGER-237 Scientific and Technical Understanding of the Bering Sea Ecosystem, July 1992 (quoting Lowery, et al., 1991).

⁹ Alaska Groundfish Planning Team, North Pacific Fishery Management Council, Stock Assessment and Fishery Evaluation Planning Report for the Groundfish Resources of the Bering Sea/Aleutian Islands Regions as Projected for 1994 (Nov. 1993) at 13–4.

¹⁰ NAS, Bering Sea Ecosystems.

¹¹ U.S. Fish and Wildlife Service, Alaska Seabird Management Plan, Region 7, 1991.

¹² ibid.

on ecosystem productivity is not understood.¹³ Nor do we know the biological consequences of fishing a group of species at or near maximum sustained yield values on community structure and predator - prey relationships.¹⁴

Given this uncertainty combined with the distress signals the North Pacific is sending out, the only responsible course of action is a conservative one. Unfortunately, the Allowable Biological Catch ("ABC") is set by primarily considering only the single species being fished. The Groundfish Planning Team for the Gulf of Alaska noted in its assessment of the 1994 pollock catch that the ABC was defensible looking only at pollock recruitment. However, the Planning Team went on to note that a lower exploitation rate would benefit both the fishery and marine mammals and seabirds:

Declines in some upper trophic level predators, such as Steller sea lions, harbor seals and marine birds, and increases in others such as arrowtooth flounder and halibut, over this period further suggest that *unexplained large scale changes are occurring*. While the pollock fishery/sea lion relationship is uncertain, the team feels that limiting removals of pollock may be appropriate given the current low pollock stock level and continued sea lion population decline.¹⁵

The complex web of life which exists beneath the surface of the oceans remains, in large part, a mystery. In what way is the harvest of over a billion pounds of pollock in the Bering Sea affecting marine mammals, birds and other species? What is the impact of dragging nets across the sea floor? Are we clearcutting the habitat of many species?

As Alaskans whose way of life and livelihoods depend on marine resources, a precautionary approach is warranted until we know the answers to these questions. We cannot afford to have any additional species become listed as threatened or endangered. Managers must begin to manage fisheries with an eye to an ecosystem's health and integrity, not just for the viability of single species. And we must aggressively step up our efforts at understanding the marine ecosystem. Focussing and funding research to accomplish this would be a solid investment in the future of many of our coastal communities.

S.39 takes an important first step by requiring protection of marine ecosystems to be taken into account when setting optimum yield. A further step in this direction would be to amend the definition of overfishing to similarly include consideration of the marine ecosystem.

• **Recommendation.** *Amend the definition of overfishing in S.39 (page 7, line 15):*

(28) the terms 'overfishing' and 'overfished' mean a level or rate of fishing mortality that

¹³ Alaska Groundfish Planning Team, North Pacific Fishery Management Council, Stock Assessment and Fishery Evaluation Report For the 1993 Gulf of Alaska Groundfish Fishery (Nov. 1992).

¹⁴ Ibid.

¹⁵ Alaska Groundfish Planning Team, Stock Assessment and Fishery Evaluation Report for the Groundfish Resources of the Gulf of Alaska as Projected for 1994 (Nov. 1993) at 17 (emphasis added).

jeopardizes the capacity of a fishery to produce the [MAXIMUM] sustainable yield on a continuing basis or fails to provide for the ecological needs of the species that interact within a relevant management unit.

4. ACKNOWLEDGE THE ROLE THAT PEOPLE AND SUSTAINABLE COMMUNITIES PLAY IN A HEALTHY MARINE ECOSYSTEM

As an organization of people who rely on a healthy marine ecosystem for livelihood and way of life, AMCC believes that sustainable coastal communities play an important role in the maintaining the well-being of our oceans and fisheries. The people closest to the resource are more likely to have a greater interest in the long-term sustainability of our resources than those who extract fish like a vein of gold and move onto other parts of the country or the globe for the next great boom. Yet too often in the North Pacific, NMFS makes decisions that help industrial-scale fishery corporations at the expense of local coastal residents.

The North Pacific Fishery Management Council has started to recognize the need to support small-scale, year-round fisheries rather than the boom and bust cycle of industrial fishing. The Council has allocated a portion of the Bering Sea pollock fishery for dozens of communities for Community Development Quotas (CDQs). In addition, in 1994, the Council set aside two percent of the Pacific cod allocation in the Bering Sea for the jig fishery, a small boat fishery with very little bycatch.

S.39 takes a good first step by adding a new national standard to take into account the importance of harvest of fishery resources to fishery dependent communities. AMCC supports allocations for locally-based fisheries accessible to entry-level and small fishermen, particularly those using gear generating little or no bycatch such as jigging for cod.

5. MAKE FISHERIES AND MARINE HABITAT PROTECTION A PRIORITY

Alaska's marine environment continues to suffer from irresponsible development practices and both local and regional pollution. Oil and gas development alone contributes significantly to this problem. Habitat degradation is not limited outside the fishing industry. Closer regard needs to be given to fishing practices that destroy ecologically sensitive and critical marine habitats and their associated ecosystems. By disrupting sea floor habitat, sea mounts, and coral communities and disturbing spawning, nursery and forage areas, we are compounding the difficulties of establishing meaningful stock rebuilding programs or for providing plausible stock assessments.

The Magnuson Act provides no meaningful basis for controlling such detrimental and short-sighted practices. As the National Academy of Sciences has pointed out, fishery management efforts will fail without habitat protection. AMCC agrees with the Academy's recommendation to amend the Magnuson Act to provide NMFS and the regional councils the authority to protect habitat necessary to sustain fisheries resources.¹⁶

¹⁶ Ibid. at 8.

S.39 takes an important first step toward habitat protection by requiring Councils and NMFS to identify and describe "essential fishery habitat" and by requiring federal agencies to respond to comments by the Councils about federal projects disruptive of habitat. More needs to be done.

• **Recommendation.** *Maintain the S.39 language of "fish habitat" (S.39, page 5, line 6) rather than "fishery habitat" as in H.R. 39. The broader definition of "fish" in the Magnuson Act more accurately encompasses the concept of habitat.*

• **Recommendation.** *Congress should require NMFS to make maps of marine habitat data available to the public.*

6. ENSURE THAT ANY QUOTA PROGRAMS ALLOW FOR CONSERVATION OF THE RESOURCE

AMCC has no position on whether quota programs should ultimately be adopted in the North Pacific. But we do believe that (1) bycatch and waste must be cleaned up before any quota programs are adopted to prevent dirty fishing from being institutionalized or rewarded; (2) any rights in fish quota should be issued with a sunset and not in perpetuity so that managers have the option to make conservation adjustments as needed; (3) any conservation problems with existing quota systems should be identified and solved before adopting new quota programs.

The bill's section on quota programs is much improved over last year's committee draft. As written now, the guidelines include consideration of setting aside portions of the fishery for small vessel or entry-level fishermen, the use of leases or auctions, and the use of non-transferable quotas. As is the case now in S.39, existing ITQ programs should be required to come into compliance with any such guidelines within a reasonable time.

S.39 limits fees to 4% of value of fish for ITQs. Experience from quota programs in the U.S. and abroad indicates that such programs will cost a lot more to implement and enforce. See NMFS, Review of the Effectiveness of Enforcement Obligations Under the Surf Clam ITQ Plan (1992). When budgets are tight, the first programs to be cut tend to be habitat, research (especially ecosystem or multi-species research), and enforcement -- all vital for marine conservation.

• **Recommendation:** *Allow fees for ITQs to pay for the full cost of the program, explicitly including enforcement as one of the administration costs for which fees may be used (page 52, line 11).*

7. ALLOW THE PUBLIC ACCESS TO BYCATCH DATA NOW CONFIDENTIAL

In order to construct innovative programs to reduce bycatch, the public needs access to bycatch data at the individual vessel level. Yet under current interpretation of the Magnuson Act, NMFS has refused requests for bycatch data for individual vessels, even where the name of the vessels has been removed.

• **Recommendation.** Amend § 303(d) of the Magnuson Act, 16 U.S.C. § 1853(d), to allow public release of bycatch statistics at the individual vessel level that does not directly reveal the vessel's identity. Similarly amend the data collection section in S.39 (page 97, line 23).

8. CLOSE A LOOPHOLE PREVENTING STATE JURISDICTION OVER BANDIT FISHING VESSELS

A loop hole in the Magnuson Act needs to be closed to ensure that "bandit" fishing vessels cannot operate in the EEZ in fisheries with no federal fishery management plan. Recently, in Alaska, NMFS was forced to adopt an emergency regulation to close all fishing for scallops to stop the F/V Mr. Big from overharvesting scallops. This loophole could also affect other major crab and shellfish fisheries throughout Alaska. AMCC strongly supports language to close this loophole.

• **Recommendation.** Adopt the following language:

Sec. 306 State Jurisdiction.

(a) (3) Except as otherwise provided by paragraph (2), a State may not directly or indirectly regulate any fishing vessel outside its boundaries unless;

(A) the vessel is registered under the laws of that State;

(B) there are no federal fishing regulations established for the fishery pursuant to an approved fishery management plan; or

(C) pursuant to a delegation of management authority under an approved fishery management plan.

9. PREVENT FISHERIES RECOVERY FINANCING FROM ENCOURAGING OVERCAPITALIZATION IN STRESSED FISHERIES

S.39 contains a section which would provide federal loan guarantees to refinance fishing vessels or fishery facilities while a fishery recovery effort is underway (page 105, line 4). It appears that such refinancing can be up to 75% of the market value of the vessel or facility regardless of how much its cost basis has been depreciated (page 107, line 15). While the recovery effort is underway, the fisherman would pay only interest and no principle on the refinanced loan.

Although it is very difficult to understand all the details of the financing section, if the above summary is correct, then this section may have the following effects. Any fisherman participating in a distressed fishery will have an incentive to continue to participate in that fishery -- making rebuilding efforts even more difficult. For example, in Alaska will this section keep vessels fishing in the Pacific Ocean Perch fishery in the hopes to refinance their vessels or facilities, putting even more pressure on the North Pacific Fishery Management Council to

increase fishing levels for POP? Will this section maintain levels of overcapitalization in the fisheries that can least afford it?

• **Recommendation.** *Delete section 301 of S.39 (page 105, line 4)*

Another way that the federal government is stimulating overcapitalization is through the capital construction fund. Under this program, fishermen are given a tax incentive to re-capitalize and overcapitalize their business. If participants want to take their money out of the capital construction fund, they must pay a substantial fine. Instead, Congress should allow participants to dissolve their capital construction fund accounts -- paying all appropriate taxes -- without additional penalties on condition that they do not set up another account for a given period of years.

• **Recommendation.** *As a way to reduce overcapitalization, amend S.39 to allow fishermen to dissolve their capital construction accounts, paying all appropriate taxes, but with no penalties on the condition that they do not set up additional CCF accounts.*

CONCLUSION

Good management and a better understanding of the complex nature of our marine environment will help sustain our coastal communities over time. If managed carefully, fisheries offers one of the best hopes for sustaining both our subsistence and cash economies. While conserving and protecting commercial fish populations is crucial for our economic well being, the overall health of our marine resources and habitat is equally important. For many of us its why we chose to live here, for others of us its a matter of cultural survival.

For these reasons, it is important now more than ever to make conservation the number one priority in the Magnuson Act.

JOINT STATEMENT ON BYCATCH

March 23, 1995

The undersigned organizations join together to urge Congress to pass the strengthened bycatch provisions in S.39, the legislation introduced by Alaska Senator Ted Stevens to reauthorize the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Bycatch is the general term used to describe the catch of unwanted fish and other marine species taken during fishing operations. Due largely to unselective fishing practices, vast quantities of fish are caught and wasted each year. In 1993, off Alaska's coasts, over 740 million pounds of dead or dying fish were dumped over the side including 16 million pounds of halibut, 770,000 pounds of herring, 16 million crab, and over 370,000 salmon. In the Bering Sea alone, the groundfish fleet threw away over 40 million pounds of non-commercial fish such as sharks, skates, sculpins, and squid.

Bycatch and unselective fishing techniques contribute significantly to the decline of our marine fish, bird, and mammal populations. They pose a serious threat to the future of marine fisheries and ecosystems and to the well being of the people and communities that rely upon them. Therefore, we support the language in S. 39 calling for reductions in bycatch and ask that it be strengthened further in two ways.

First, programs to address bycatch should emphasize reducing all bycatch, not just the bycatch of regulated, commercially valuable fish. Harvesting millions of tons of non-commercial species without acknowledging their importance and ecological value is inviting stock depletion and/or disruption in the ocean food web.

Second, bycatch must be reduced to low levels before mandating full utilization of bycatch. Using fish caught as bycatch is not a solution to the bycatch problem. Known as full utilization, this process does not reduce bycatch, but instead sidesteps the issue by promoting the creation of industrial, low-value products, such as fish meal and fish oil, from the unwanted catch. An emphasis must be placed on the development and use of more selective types of fishing gear and fishing methods to reduce bycatch. Once bycatch has been reduced to the lowest practical levels, greater utilization of the remaining bycatch would be a good idea.

The incentive programs and bycatch fees mandated in S. 39 are good examples of ways to reduce bycatch in the first place. Such incentives would reward those fishers who are currently developing methods to reduce bycatch levels and promote sustainable fishing practices.

Mako Haggerty
North Pacific Fisheries Association

Fred Munson
Greenpeace

Scott Highleyman
Alaska Marine Conservation Council

Karl Ohls
Western Alaska Fisheries Development Association

Larry Merculieff
Indigenous People's Council for Marine Mammals

Bob Ward
Halibut Charter Association of Alaska

ALASKA MARINE CONSERVATION COUNCIL

Box 101145 Anchorage, Alaska 99510
 (907) 277-5357; 277-5975 (fax); amcc@igc.apc.org

"Bycatch" is what many of us depend on to eat, make our living on or otherwise enjoy. It is also food for seabirds, other fish and marine mammals. Faced with declining marine life populations in many regions of the state, our livelihoods, way of life and subsistence cultures are at risk.

One way to reduce bycatch is by giving fishermen incentives to adopt clean fishing practices. The North Pacific Fishery Management Council is currently considering one such program, called Harvest Priority, which would give those fishermen who reduce their bycatch the opportunity to fish longer, access to more quota or some other fishing reward. Legislation introduced by Senator Ted Stevens, S.39, mandates adoption of incentive programs to reduce bycatch.

This concept of encouraging fishermen to use their own knowledge and experience to reduce their bycatch by rewarding them with increased fishing opportunity is supported by the following organizations:

Unalaska Native Fisherman's Association
 North Pacific Fisheries Association
 Alaska Federation of Natives
 Association of Village Council Presidents
 Alaska State Board of Fisheries
 Rural Alaska Community Action Program
 Alaska Sportfishing Association
 The Alaska State House of Representatives
 Greenpeace
 The State of Alaska
 Western Alaska Fisheries Development Association (CDQ group)
 Alaska Marine Conservation Council
 Alaska Fisherman's Journal
 National Fisherman

People throughout Alaska working to protect the health and diversity of our marine ecosystem
 A program of Alaska Conservation Foundation

... and others

BYCATCH and WASTE GLOSSARY

BYCATCH: The "incidental" catch, take or harvest of all marine life not directly targeted while fishing. Anything caught and thrown back overboard because it is the wrong size, sex, or species. Bycatch results in the removal of fish that would be better left in the sea alive as part of the intricate food web. Bycatch can be divided into four categories:

Non-commercial discards: fish or other marine life that is not the target of the fishery and for which no commercial use is available. This includes sand lance, capelin, skates, sharks, mollusks, sea stars, snails, etc.

Economic discards: fish harvested by a vessel that could have been retained but were not because of undesirable size, sex, or quality or some other economic reason.

Regulatory discards: fish or other marine life that could have been retained in the fishery but must be discarded because the season is closed for that species or some other regulatory mechanism is in force.

Prohibited species: crab, halibut, herring, or salmon caught in the groundfish fisheries which are illegal to sale or keep.

BYCATCH MORTALITY: The rate of mortality given in certain fisheries for particular species caught. Halibut bycatch mortality varies between trawl, longline, and jig bottomfish fisheries, with trawl gear having the highest halibut bycatch mortality rate. All other bycatch species caught in trawl gear are considered to have 100% mortality.

WASTE: The discard of fish parts which cannot be processed into a saleable product, such as heads, guts, fins, etc. (processing waste). Waste may also refer to target fish that are discarded for economic reasons (economic discards).

HARVEST PRIORITY: A positive economic incentive to reward those fishermen who successfully minimize bycatch, waste and disruption to habitat by giving them additional fishing time, a portion of the catch or some other harvest opportunities.

FULL RETENTION: Requires everything caught by a fishing vessel to be retained, not thrown overboard. Full retention could make counting bycatch easier but will need a high level of enforcement to prevent high grading and night dumping.

FULL UTILIZATION: The complete processing of bycatch and waste. If full utilization results in non-target and juvenile fishing being turned into fish meal and oil, the ecosystem still suffers from the impact of biomass removal.

FULL UTILIZATION: QUESTIONS AND ANSWERS**What is Full Utilization?**

The complete processing of all fish caught into product including fillets, meal, powder, oil etc.

What is the problem?

If full utilization results in non-target and juvenile fish being turned into fishmeal or oil, the ecosystem still suffers the impact of the biomass extraction without knowing the effects. Full utilization may solve the industry's "wanton waste" problem but does little to solve the larger conservation problem of removing bycaught fish from the ecosystem, and may, in fact, contribute to legitimizing dirty fishing practices.

Wouldn't it be better not to catch it in the first place?

Non-commercial species, low value fish, juveniles, prohibited species and other discarded marine life play an intrinsic role in the maintenance of the ecosystem. Today, many species are discarded for economic reasons even though they are critical elements in the food chain. Harvesting them without acknowledging their importance and ecological value is inviting stock depletion and/or disruption in the food web.

Encouraging fishermen to fish deliberately and selectively for target species and minimize their catch of non-commercial and non-target marine life helps assure the long-term health and productivity of fish stocks and other living marine resources.

Once bycatch is reduced to acceptable levels, we can turn or full attention to increased processing and utilization of catch.

NORTH PACIFIC FISHERIES MANAGEMENT: MODEL FOR THE NATION?

Significant problems continue in North Pacific fisheries and the ecosystem of which they are a part. Amid the fish closures and economic disasters on the east coast, many government managers and politicians tout the North Pacific as trouble-free. The record bears closer examination.

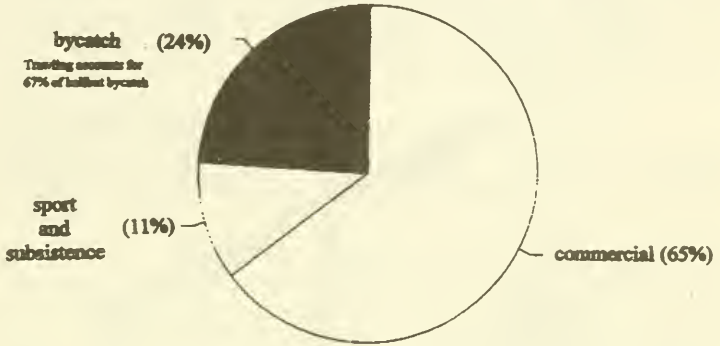
The Bering Sea ecosystem is showing clear signs of stress in declines of regional marine mammal and bird populations, especially those that depend on commercially important fish for food:

- * Steller sea lions in the western Gulf and Bering Sea: 50-80% decline in the last 15-20 years classified as threatened under the Endangered Species Act
- * Northern fur seal pupping in the Pribilof Islands: 30% decline in the last ten years
- * Harbor seals in the Bering Sea: 15% of their 1970's population
- * Red-legged kittiwakes in the Pribilof Islands: 50% decline
- * Common and thick-billed murrelets, black and red-legged kittiwakes in the North Pacific: all decreasing

In addition, North Pacific fisheries are far from trouble-free:

- * Bristol Bay red king crab season CLOSED 1994
- * Kodiak Island tanner crab season CLOSED 1995
- * Kachemak Bay tanner crab numbers low, no season likely in 1995
- * Shelikof Strait pollock stocks in decline since mid-1980's
- * Bering Sea pollock: (International) Donut Hole CLOSED 1993
Bogoslof Area directed pollock fishery CLOSED 1992
- * Cook Inlet shrimp commercial fishery CLOSED since 1987
- * Kodiak Island shrimp commercial fishery COLLAPSED in mid-1980s
- * Gulf of Alaska thoraxhead rockfish numbers very low
- * Gulf of Alaska Pacific Ocean Perch rebuilding, OVERFISHED in the 1960s by foreign trawlers
- * North Pacific halibut in DECLINE at a rate of 10% per year
- * Bering Sea Greenland turbot 65% to 85% DECLINE since the 1960s

1994 Halibut Catch

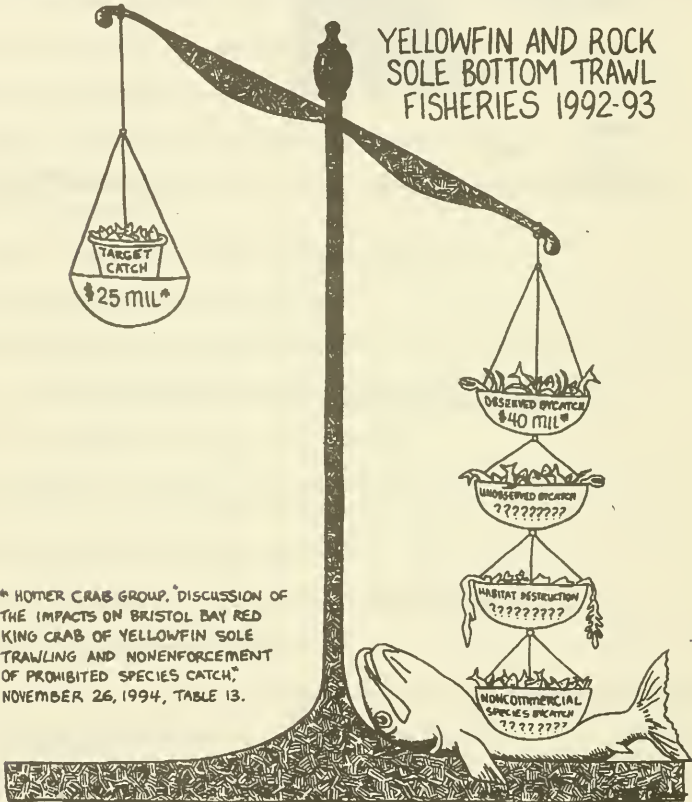


Source: International Pacific Halibut Commission, 71st Annual Meeting, 1995.

DEFICIT FISHING:

THE TRUE COST OF TWO BOTTOM TRAWL FISHERIES

YELLOWFIN AND ROCK
SOLE BOTTOM TRAWL
FISHERIES 1992-93



TOTAL P. 23

Senator STEVENS. Our next witnesses Karl Ohls with Western Alaska Fisheries Development Association, Mr. Ragnar Alstrom, board member from the Yukon Delta Fisheries Development Association, and Ron Philemonoff, President and Chief Executive Officer of Tan—how do I say that?

Mr. PHILEMONOFF. Tanadgusix.

Senator STEVENS. Tanadgusix Corporation. We will follow that with Dick Powell, Kodiak, Dennis Hicks, board member from Alaska Longliners, and Matt Shadle. They can come up here if they want. We will proceed with you, Karl.

Mr. OHLS. Mr. Chairman, I would ask your permission for Mr. Alstrom to go first.

Senator STEVENS. Certainly. Be happy for you to do that.

**STATEMENT OF RAGNAR ALSTROM, BOARD MEMBER,
YUKON DELTA FISHERIES DEVELOPMENT ASSOCIATION,
ALAKANUK, ALASKA**

Mr. ALSTROM. Mr. Chairman, I thank you for the opportunity to testify. My name is Ragnar Alstrom. I am the Vice President for Governmental Affairs and a member of the board of directors of the Yukon Delta Fisheries Development Association. Yukon Delta is one of the six corporations formed to participate in the Western Alaska community development quota program. I also represent Yukon Delta on the board of the Western Alaska Fisheries Development Association.

I wish to discuss two issues: The CDQ commitment to conservation and CDQ program accomplishments. The people of Western Alaska have spoken out for decades on the need for conservation. We remember those terrible years when foreign fishing fleets fished out of control off of Alaskan shores taking salmon, herring, crab, and anything they could. When the CDQ program started, there was some speculation that once we became participants in Bering Sea large vessel fisheries, we would lose our enthusiasm for conservation. If anything, our participation has only intensified our interest because we now have a direct stake in the resource and because we believe we can make a difference.

Mr. Karl Ohls, when he testifies, will provide you with further details on CDQ conservation. In regard to CDQ accomplishments, I wish to note that in less than 2 and a half years, the Western Alaska CDQ program has developed a track record as one of the most innovative and successful economic development programs ever created. At the end of 1993, the CDQ program accounted for 8 percent of the region's entire economy and 18 percent of the region's private sector economy.

You can see how important this program is when it makes up almost one fifth of the private economy in such a short time.

By the end of 1993, the CDQ program had created 556 jobs. By the end of 1994, the total was 1,676 jobs. These jobs make quite a difference in a region with a population of 25,000, an official unemployment rate of over 50 percent and in many villages an actual unemployment rate of 75 percent. Many of our workers, such as from my own village, come from villages that lack basic sanitation services such as running water, flush toilets, and water and sewer systems.

Senator Stevens, just as an aside, we appreciate your efforts to bring attention to this problem and to obtain Federal funds to address this hazardous situation.

The CDQ jobs come from both direct employment on the factory trawlers that are harvesting CDQ pollock and the employment that results from CDQ investments in regional fisheries development projects.

The CDQ corporations have also arranged for hundreds of Western Alaskans to be trained in new job skills and have awarded thousands of dollars in scholarships. Our goal is nothing less than to involve Western Alaskans in all levels of the Bering Sea fishing industry, from harvesting to management.

Most significantly, the Federal Government created the CDQ program without the appropriation of a single Federal dollar, only with the allocation of a small amount of the nation's fisheries resource.

I wish to stress that CDQs are an opportunity program, not a welfare or an entitlement program. The benefits are only available to the communities and the individuals who have the initiative to utilize this program. It is structured competitively so that the CDQ corporations that are not using their quota effectively may have it taken away and awarded to other CDQ corporations.

Another important aspect is that the idea for this program came from Western Alaska, not from Outside. Local people have a vested interest in seeing it succeed.

Two people that deserve credit for the CDQ program are you, the Chairman of this Subcommittee, Senator Ted Stevens, and Congressman Don Young. You supported the idea for many years and worked with Federal fisheries administrators to make CDQs a reality.

Another person who was instrumental in creating CDQs is Harold Sparck of Bethel. Harold is now undergoing treatment for a serious illness, and the existence of the CDQ program is a tribute to his determination and ability.

There are many methods for achieving economic development in Western Alaska. Each CDQ corporation has designed and implemented a strategy that is appropriate to the unique conditions in its specific region.

In the Yukon Delta, we have built a mosquito fleet of 8 32-foot combination fishing vessels. Using people from our four member communities, we are fishing for Pacific cod, rockfish, halibut, sablefish and Norton Sound king crab. We are also developing the human resources of the Yukon Delta region by sponsoring longlining and aluminum welding courses at AVTEC in Seward.

Let me tell you about some of the other CDQ corporations I am representing today. The Norton Sound Economic Development Corporation is developing the underutilized fishery resources of the Norton Sound region. The Coastal Villages Fishing Cooperative is creating a diversified fishing company. The Bristol Bay Economic Development Corporation is building up funds for long-term fishing industry investments. Although they are not members of WAFDA, we work closely with the Aleutian Pribilof Island Community Development Association and the Central Bering Sea Fishermen's Association on many issues of mutual concern.

APICDA is funding infrastructure that will benefit the entire North Pacific fishing industry. Central Bering Sea is developing both fishing industry facilities and human resources on St. Paul Island.

Mr. Chairman, one last thought: S. 39 contains language that recognizes fishery dependent communities. We wish to request that language be added that specifically recognizes the Western Alaska CDQ program. The WAFDA members spent all of 1994 participating in a very expensive lawsuit that challenged the existence of the CDQ program. While the Court ruled in our favor, the decision is under appeal. Attached to my testimony is a transcript of Judge Singleton's decision on CDQs. I wish to request that it be made part of the record. The language we are requesting would reinforce past Congressional intent that CDQs are authorized under the Magnuson Act.

In conclusion, CDQs are not welfare. Our people do not want to be on welfare. They want to earn their living through productive work. Through CDQs, we are doing the best we can to instill in our communities a new sense of hope and self-esteem. We are creating an economy where none previously existed. We can accomplish these goals by continuing the pollock CDQ program and by expanding CDQs into additional Bering Sea species.

Recognition of this in the Magnuson Act will help guarantee that the Western Alaska CDQ program will continue and expand.

Mr. Chairman, I again wish to thank you for the opportunity to testify.

Senator STEVENS. Thank you.

[The prepared statement of Mr. Alstrom follows:]

Testimony of

Ragnar Alstrom
Vice President for Governmental Affairs
Yukon Delta Fisheries Development Association
Alakanuk, Alaska

Saturday, March 25, 1995

Subcommittee on Oceans and Fisheries
Committee on Commerce, Science, and Transportation
United States Senate

S. 39

"A Bill to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes –
The Sustainable Fisheries Act."

MR. CHAIRMAN, THANK YOU FOR THE OPPORTUNITY TO TESTIFY. FOR THE RECORD, MY NAME IS RAGNAR ALSTROM. I AM THE VICE PRESIDENT FOR GOVERNMENTAL AFFAIRS AND A MEMBER OF THE BOARD OF DIRECTORS OF THE YUKON DELTA FISHERIES DEVELOPMENT ASSOCIATION.

YUKON DELTA IS ONE OF SIX CORPORATIONS FORMED TO PARTICIPATE IN THE WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM. I ALSO REPRESENT YUKON DELTA ON THE BOARD OF THE WESTERN ALASKA FISHERIES DEVELOPMENT ASSOCIATION.

I WISH TO DISCUSS TWO ISSUES — THE CDQ COMMITMENT TO CONSERVATION AND CDQ PROGRAM ACCOMPLISHMENTS.

Ragnar Alstrom, YDFDA
Magnuson Act testimony - page 2

THE PEOPLE OF WESTERN ALASKA HAVE SPOKEN OUT FOR DECADES ON THE NEED FOR CONSERVATION. WE REMEMBER THOSE TERRIBLE YEARS WHEN FOREIGN FISHING FLEETS FISHED OUT OF CONTROL OFF ALASKA'S SHORES TAKING SALMON, HERRING, CRAB, AND ANYTHING THEY COULD FIND.

WHEN THE CDQ PROGRAM STARTED, THERE WAS SOME SPECULATION THAT ONCE WE BECAME PARTICIPANTS IN BERING SEA LARGE VESSEL FISHERIES, WE WOULD LOSE OUR ENTHUSIASM FOR CONSERVATION. IF ANYTHING, OUR PARTICIPATION HAS ONLY INTENSIFIED OUR INTEREST BECAUSE WE NOW HAVE A DIRECT STAKE IN THE RESOURCE AND BECAUSE WE BELIEVE WE CAN MAKE A DIFFERENCE. MR. KARL OHLS . . . WHEN HE TESTIFIES . . . WILL PROVIDE YOU WITH FURTHER DETAILS ON CDQ CONSERVATION.

IN REGARD TO CDQ ACCOMPLISHMENTS, I WISH TO NOTE THAT IN LESS THAN TWO-AND-A-HALF YEARS THE WESTERN ALASKA CDQ PROGRAM HAS DEVELOPED A TRACK RECORD AS ONE OF THE MOST INNOVATIVE AND SUCCESSFUL ECONOMIC DEVELOPMENT PROGRAMS EVER CREATED.

AT THE END OF 1993, THE CDQ PROGRAM ACCOUNTED FOR EIGHT PERCENT OF THE REGION'S ENTIRE ECONOMY AND 18 PERCENT OF REGION'S PRIVATE SECTOR ECONOMY. YOU CAN SEE HOW IMPORTANT THIS PROGRAM IS WHEN IT MAKES UP ALMOST ONE-

Ragnar Alstrom, YDFDA
Magnuson Act testimony - page 3

FIFTY OF THE PRIVATE ECONOMY IN SUCH A SHORT TIME. BY THE END OF 1993, THE CDQ PROGRAM HAD CREATED 556 JOBS. BY THE END OF 1994, THE TOTAL WAS 1,676 JOBS.

THESE JOBS MAKE QUITE A DIFFERENCE IN A REGION WITH A POPULATION OF 25,000, AN OFFICIAL UNEMPLOYMENT RATE OF OVER 50 PERCENT, AND — IN MANY VILLAGES — AN ACTUAL UNEMPLOYMENT RATE OF 75 PERCENT.

MANY OF OUR WORKERS ALSO COME FROM VILLAGES THAT LACK BASIC SANITATION SERVICES SUCH AS RUNNING WATER, FLUSH TOILETS, AND WATER AND SEWER SYSTEMS. SENATOR STEVENS . . . JUST AS AN ASIDE . . . WE APPRECIATE YOUR EFFORTS TO BRING ATTENTION TO THIS PROBLEM AND TO OBTAIN FEDERAL FUNDS TO ADDRESS THIS HAZARDOUS SITUATION.

THE CDQ JOBS COME FROM BOTH DIRECT EMPLOYMENT ON THE FACTORY TRAWLERS THAT ARE HARVESTING THE CDQ POLLOCK AND THE EMPLOYMENT THAT RESULTS FROM CDQ INVESTMENT IN REGIONAL FISHERIES DEVELOPMENT PROJECTS.

THE CDQ CORPORATIONS ALSO HAVE ARRANGED FOR HUNDREDS OF WESTERN ALASKANS TO BE TRAINED IN NEW JOB SKILLS AND HAVE AWARDED THOUSANDS OF DOLLARS IN SCHOLARSHIPS. OUR GOAL IS NOTHING LESS THAN TO INVOLVE WESTERN ALASKANS IN ALL LEVELS OF THE BERING SEA FISHING INDUSTRY, FROM HARVESTING TO MANAGEMENT.

Ragnar Alstrom, YDFDA
Magnuson Act testimony - page 4

MOST SIGNIFICANTLY, THE FEDERAL GOVERNMENT CREATED THIS PROGRAM WITHOUT THE APPROPRIATION OF A SINGLE FEDERAL DOLLAR, ONLY WITH THE ALLOCATION OF A SMALL AMOUNT OF THE NATION'S FISHERIES RESOURCE.

I WISH TO STRESS THAT CDQ'S ARE AN OPPORTUNITY PROGRAM, NOT A WELFARE OR AN ENTITLEMENT PROGRAM. THE BENEFITS ARE ONLY AVAILABLE TO THE COMMUNITIES AND THE INDIVIDUALS WHO HAVE THE INITIATIVE TO UTILIZE THIS PROGRAM. IT IS STRUCTURED COMPETITIVELY SO THAT THE CDQ CORPORATIONS THAT ARE NOT USING THEIR QUOTA EFFECTIVELY MAY HAVE IT TAKEN AWAY AND AWARDED TO OTHER CDQ CORPORATIONS.

ANOTHER IMPORTANT ASPECT IS THAT THE IDEA FOR THIS PROGRAM CAME FROM WITHIN WESTERN ALASKA, NOT FROM OUTSIDE. LOCAL PEOPLE HAVE A VESTED INTEREST IN SEEING IT SUCCEED.

TWO PEOPLE WHO DESERVE CREDIT FOR THE CDQ PROGRAM ARE THE CHAIRMAN OF THIS SUBCOMMITTEE, SEN. TED STEVENS, AND CONGRESSMAN DON YOUNG. THEY SUPPORTED THE IDEA FOR MANY YEARS AND WORKED WITH FEDERAL FISHERIES ADMINISTRATORS TO MAKE CDQ'S A REALITY.

Ragnar Alstrom, YDFDA
Magnuson Act testimony - page 5

ANOTHER PERSON WHO WAS INSTRUMENTAL IN CREATING CDQ'S IS HAROLD SPARCK OF BETHEL. HAROLD IS NOW UNDERGOING TREATMENT FOR A SERIOUS ILLNESS. THE EXISTENCE OF THE CDQ PROGRAM IS A TRIBUTE TO HIS DETERMINATION AND ABILITY.

THERE ARE MANY METHODS FOR ACHIEVING ECONOMIC DEVELOPMENT IN WESTERN ALASKA. EACH CDQ CORPORATION HAS DESIGNED AND IMPLEMENTED A STRATEGY THAT IS APPROPRIATE TO THE UNIQUE CONDITIONS IN ITS SPECIFIC REGION.

IN THE YUKON DELTA, WE HAVE BUILT A MOSQUITO FLEET OF SEVEN 32-FOOT COMBINATION FISHING VESSELS. USING PEOPLE FROM OUR FOUR MEMBER COMMUNITIES, WE ARE FISHING FOR PACIFIC COD, ROCKFISH, HALIBUT, SABLEFISH, AND NORTON SOUND KING CRAB.

WE ARE ALSO DEVELOPING THE HUMAN RESOURCES OF THE YUKON DELTA REGION BY SPONSORING LONGLINING AND ALUMINUM WELDING COURSES AT AVTEC IN SEWARD.

LET ME TELL YOU ABOUT THE OTHER CDQ CORPORATIONS I'M REPRESENTING TODAY.

THE NORTON SOUND ECONOMIC DEVELOPMENT CORPORATION IS DEVELOPING THE UNDERUTILIZED FISHERY RESOURCES OF THE NORTON SOUND REGION. NORTON SOUND HAS:

Ragnar Alstrom, YDFDA
Magnuson Act testimony - page 6

- INVESTED IN SALMON PROCESSING PLANTS IN UNALAKLEET AND SHAKTOOLIK
- BUILT A CRAB PROCESSING PLANT IN NOME
- ESTABLISHED A VESSEL AND GEAR LOAN PROGRAM
- PURCHASED HALF-OWNERSHIP IN A FREEZER-LONGLINER

THE COASTAL VILLAGES FISHING COOPERATIVE IS CREATING A DIVERSIFIED FISHING COMPANY. COASTAL VILLAGES HAS:

- PURCHASED HALF-OWNERSHIP IN A FACTORY TRAWLER AND UPGRADED ITS ONBOARD PROCESSING OPERATION
- CREATED A CAREER TRACK PROGRAM
- SET UP A SPECIALIZED PROGRAM FOR BAADER MAINTENANCE TRAINING

THE BRISTOL BAY ECONOMIC DEVELOPMENT CORPORATION IS BUILDING UP FUNDS FOR LONG-TERM FISHING INDUSTRY INVESTMENTS. BRISTOL BAY HAS:

- ESTABLISHED THE ALASKA SEAFOOD INVESTMENT FUND
- SET UP THE BRISTOL BAY PERMIT BROKERAGE TO ASSIST IN THE LOCAL RETENTION OF LIMITED ENTRY PERMITS
- ESTABLISHED VOCATIONAL TRAINING AND SCHOLARSHIP PROGRAMS

THOUGH THEY'RE NOT MEMBERS OF WAFDA, WE WORK CLOSELY WITH THE ALEUTIAN PRIBILOF ISLAND COMMUNITY DEVELOPMENT ASSOCIATION AND THE CENTRAL BERING SEA

Ragnar Alstrom, YDFDA
Magnuson Act testimony - page 7

FISHERMEN'S ASSOCIATION ON MANY ISSUES OF MUTUAL CONCERN.

APICDA IS FUNDING INFRASTRUCTURE THAT WILL BENEFIT THE ENTIRE NORTH PACIFIC FISHING INDUSTRY. CENTRAL BERING SEA IS DEVELOPING BOTH FISHING INDUSTRY FACILITIES AND HUMAN RESOURCES ON ST. PAUL ISLAND.

MR. CHAIRMAN, ONE LAST THOUGHT . . . S. 39 CONTAINS LANGUAGE THAT RECOGNIZES "FISHERY DEPENDENT COMMUNITIES". WE WISH TO REQUEST THAT LANGUAGE BE ADDED THAT SPECIFICALLY RECOGNIZES THE WESTERN ALASKA CDQ PROGRAM.

THE WAFDA MEMBERS SPENT ALL OF 1994 PARTICIPATING IN A VERY EXPENSIVE LAWSUIT THAT CHALLENGED THE EXISTENCE OF THE CDQ PROGRAM. THOUGH THE COURT RULED IN OUR FAVOR, THE DECISION IS UNDER APPEAL.

ATTACHED TO MY TESTIMONY IS A TRANSCRIPT OF JUDGE SINGLETON'S DECISION ON CDQ'S. I WISH TO REQUEST THAT IT BE MADE PART OF THE RECORD.

THE LANGUAGE WE ARE REQUESTING WOULD REINFORCE PAST CONGRESSIONAL INTENT THAT CDQ'S ARE AUTHORIZED UNDER THE MAGNUSON ACT.

Ragnar Alstrom, YDFDA
Magnuson Act testimony - page 8

IN CONCLUSION, CDQ'S ARE NOT WELFARE. OUR PEOPLE DON'T WANT TO BE ON WELFARE. THEY WANT TO EARN THEIR LIVINGS THROUGH PRODUCTIVE WORK. THROUGH CDQ'S, WE'RE DOING THE BEST WE CAN TO INSTILL IN OUR COMMUNITIES A NEW SENSE OF HOPE AND SELF-ESTEEM. WE'RE CREATING AN ECONOMY WHERE NONE PREVIOUSLY EXISTED. WE CAN ACCOMPLISH THESE GOALS BY CONTINUING THE POLLOCK CDQ PROGRAM AND BY EXPANDING CDQ'S INTO ADDITIONAL BERING SEA SPECIES.

RECOGNITION IN THE MAGNUSON ACT WILL HELP GUARANTEE THAT THE WESTERN ALASKA CDQ PROGRAM WILL CONTINUE AND EXPAND.

MR. CHAIRMAN, I AGAIN WISH TO THANK YOU FOR THE OPPORTUNITY TO TESTIFY.

Senator STEVENS. Now, Mr. Ohls, you are next.

STATEMENT OF KARL OHLS, WESTERN ALASKA FISHERIES DEVELOPMENT ASSOCIATION, ANCHORAGE, ALASKA

Mr. OHLS. Thank you, Mr. Chairman. Again, the name is Karl Ohls, Executive Director of the Western Alaska Fisheries Development Association. WAFDA was formed to represent the joint interests of four of the six corporations that are involved in the CDQ program. Mr. Ragnar Alstrom spoke about the economic accomplishments of the Western Alaska CDQ program. In my testimony, I wish to discuss the conservation accomplishments.

One subject the WAFDA members emphasize is conservation. The CDQ participants want to see this industry remain viable, not only for this generation of Western Alaskans, but for the next generation and the one after. They also want to reduce bycatch to the lowest levels possible because their villages depend on those by-caught salmon for sustenance and income.

The CDQ program has set a new standard for conservation in the North Pacific. The CDQ corporations made their industry partners aware that high bycatch rates were unacceptable. The corporations worked with their partners to institute fishing practices to allow the resources to be caught while avoiding bycatch. CDQs are a laboratory for conservation. CDQ groups have demonstrated that a community quota—when fished by a conscientious skipper and a seafood company—can result in lower bycatch, waste and discards. The industry can meet strong conservation standards if it has the proper incentives.

All CDQ vessels carry two observers, report catches daily, and have fish holds that are equipped for mandatory volumetric measurements. These measures provide Federal managers with the most reliable data possible.

The CDQ corporations pay the cost of these additional requirements. They don't mind because they want to be part of the solution in making the Bering Sea a better fishery. The WAFDA members see no reason why all participants in North Pacific fisheries cannot meet these same standards.

Mr. Chairman, I have provided you with this background information in order to demonstrate the importance to the CDQ groups of the reauthorized Magnuson Act. Because of our priorities, we strongly endorse S. 39. It contains many provisions that will greatly improve management of the North Pacific fisheries. In particular, we support the time tables for the North Pacific Fishery Management Council to address waste and bycatch, total catch measurement, full utilization, and 100 percent observer coverage. These deadlines will help assure these important issues are not sidetracked by other considerations.

Our comments on the other sections of the bill are provided in our written testimony.

In conclusion, WAFDA recognizes S. 39 as an ambitious, comprehensive, and impressive attempt to address many of the nation's fisheries problems. And we certainly hope Congress will pass the bill this year. WAFDA also respectfully requests the Subcommittee members to look favorably on the Western Alaska CDQ program during their deliberations on S. 39, and support the program's con-

tinuation and expansion in the Bering Sea. The participation of the Western Alaska villages in North Pacific fisheries has been a constructive experience for the industry, helping to set new standards for conservation and innovative fishing practices.

While other members of the industry may say we can't, the WAFDA members say we can. We can reduce bycatch, waste and discards. We can follow fishing practices that preserve the resource for future generations. We can utilize our fisheries in a manner that is in the best interests of the nation. And we can do all this with an allocation of Federal fish, not with the appropriation of Federal dollars.

Mr. Chairman, thank you for the opportunity to speak today.

Senator STEVENS. That is a good statement. Very nice.

[The prepared statement of Mr. Ohls follows:]

Testimony of

**Karl Ohls
Executive Director
Western Alaska Fisheries Development Association
Anchorage, Alaska**

For

**Nels Anderson, Jr.
Executive Director
Bristol Bay Economic Development Corporation
Dillingham, Alaska**

Saturday, March 25, 1995

**Anchorage Field Hearing
Subcommittee on Oceans and Fisheries
Committee on Commerce, Science, and Transportation
United States Senate**

S. 39

"A Bill to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes – The Sustainable Fisheries Act."

For the record, my name is Karl Ohls. I am the executive director of the Western Alaska Fisheries Development Association. Today, I speak in place of Nels Anderson, Jr., of the Bristol Bay Economic Development Corporation, who was originally scheduled to testify.

WAFDA is made up of four of the six corporations involved in the Western Alaska Community Development Quota program:

- The Bristol Bay Economic Development Corporation
- The Coastal Villages Fishing Cooperative
- The Norton Sound Economic Development Corporation
- The Yukon Delta Fisheries Development Association

The WAFDA members represent 50 of the 56 communities that participate in the CDQ program, 94 percent of the population of the CDQ-eligible region, and have received 74 percent of the community development pollock quota.

WAFDA's testimony can be divided into five parts: (1) Background information about the CDQ program. (2) A discussion of the CDQ program's results. (3) The CDQ provisions included in S. 39. (4) Our comments about specific sections of S. 39. (5) A concluding statement.

1. Background Information on the Community Development Quota Program

Fifty-six communities are eligible for CDQs. According to the 1990 federal census, the combined population is 21,400. Today, it is probably closer to 25,000. The official unemployment rate is over 50 percent, one of the highest levels in the nation. In some villages, it is as high as 75 percent.

The average annual income is less than \$11,000. The number of people living below the poverty line is as high as 40 percent in some regions. Subsistence puts food on the table. Local commercial fisheries provide some income. But there are few opportunities for economic growth. Alcoholism and social problems are, unfortunately, commonplace.

The most ironic aspect of this tragic situation is that all these social problems occur in a region that is immediately adjacent to one of the world's richest fisheries. The Bering Sea is home to millions of metric tons of pollock, crab, Pacific cod, and many other commercially valuable species. In most cases, western Alaskans have had no access to these resources because of the high capital investment required to participate in these fisheries. They are well beyond the means of a fisherman with a skiff, an outboard, a net, and a limited income.

Years ago, some of western Alaska's community leaders wondered if there wasn't a way this resource could be used to address some of the region's chronic problems.

After western Alaskans spent six to eight years testifying, writing letters, and trying to draw attention to this situation, the North Pacific Fishery Management Council and the U.S. Secretary of Commerce approved an allocation of 7.5 percent (approximately 100,000 metric tons annually) of the harvestable Bering Sea pollock for 56 economically-disadvantaged communities located within 50 miles of the Bering Sea coast.

These 56 communities formed six corporations, set up partnerships with established seafood processing companies, and went to work on utilizing

their allocations. Western Alaska benefits from the program in two specific ways. First, village residents can not obtain employment on vessels that harvest Bering Sea pollock. Second, the revenues from the sale of the pollock are invested in fisheries development projects in western Alaska, creating more jobs.

2. Community Development Quota Program Results

Even though the first CDQ fishery occurred just a short time ago - in December, 1992 - the program has developed a track record as one of the most innovative and successful economic development programs ever created.

At the end of 1993, the CDQ program counted for eight percent of the region's entire economy and 18 percent of the region's private sector economy. The fact that the program makes up almost one-fifth of the private economy in less than two years is a vivid demonstration of its impact. By the end of 1993, the CDQ program had created 556 jobs. By the end of 1994, the total was 1,676 jobs. Less than two-and-a-half years ago, these jobs did not exist for the people of western Alaska.

The figures are not yet available for 1994, but through 1993 the CDQ program generated direct wages of \$4.9 million and had a total wage effect of \$8 million.

This year the pollock CDQs will be supplemented by small Bering Sea halibut and sablefish CDQs, created as part of a new Individual Transferable Quota system.

The CDQ corporations have arranged for hundreds of western Alaskans to be trained in new job skills and awarded thousands of dollars in scholarships. It has opened up new worlds of opportunities. The goal of the CDQ corporations is nothing less than to involve western Alaskans in all levels of the Bering Sea fishing industry, from harvesting to management.

Many people would say this program is the best thing the federal government has ever done for the people of western Alaska. The government made all these benefits possible without the appropriation of a single federal dollar. What was required was the allocation of a small amount of the nation's fisheries resource.

Under present management plans, the pollock CDQs will expire at the end of this year. The North Pacific Fishery Management Council is considering a proposal to extend them.

The record of the individual CDQ corporations demonstrates that they took the CDQ opportunity and did more with it than anyone expected. It has inspired new enthusiasm, new energy, and new hope throughout the region.

One subject the WAFDA members emphasize is conservation. The CDQ participants want to see this industry remain viable not only for this generation of western Alaskans, but for the next generation, and the one after. They want to reduce bycatch to the lowest level possible because their villages depend on the by-caught salmon for sustenance and income.

The CDQ program has set a new standard for conservation in the North Pacific. The CDQ corporations made their industry partners aware that high bycatch rates were unacceptable. The corporations worked with their partners to institute practices that allow the resource to be harvested while avoiding bycatch.

CDQs are a laboratory for conservation. The CDQ groups have demonstrated that a community quota – when fished by a conscientious skipper and seafood company – can result in lower bycatch, waste, and discards. The industry can meet strong conservation standards if it has the proper incentives.

All CDQ vessels carry two observers, report catches daily, and have fish holds that are equipped for mandatory volumetric measurements. These measures provide the federal managers with the most reliable data possible.

The CDQ corporations pay the costs of these additional requirements. The WAFDA members don't mind because they want to be part of the solution in making the Bering Sea a better fishery. The WAFDA members believe these standards should be met by all participants in the North Pacific fisheries.

3. Community Development Quota Provisions in S. 39

We have provided all this background information about the CDQ program in order to demonstrate the importance of a reauthorized Magnuson Fishery Conservation and Management Act. As active participants in Exclusive Economic Zone (EEZ) fisheries, the WAFDA members are very concerned about the law that governs fishing activities in the North Pacific and that determines the long-term viability of our industry.

Because of our priorities, WAFDA strongly endorses S. 39. It contains many provisions that will greatly improve the management of our North Pacific fisheries. It addresses many long-standing problems in national fisheries management. We look forward to its passage.

Looking at the needs of the Western Alaska CDQ program, we appreciate the language in the bill that defines a "fishery dependent community" and that requires the management councils and the secretary of commerce to take into account "the cultural and social framework relevant to . . . fishery dependent communities" in establishing limited access systems.

We have been informed by staff that this language will – among other purposes – help ensure that allocations to CDQ communities will be considered when new allocation systems are being designed.

While this language will be helpful, we respectfully request that one change be made to the bill in order to more directly address the priorities of the existing Western Alaska CDQ program in the Bering Sea.

At the current time, WAFDA is participating in an expensive lawsuit that challenges the existence of the CDQ program under the Magnuson Act. In December, the federal district court in Alaska ruled that CDQs are authorized by the Magnuson Act. However, the decision is pending appeal.

Because the intent in S. 39 is not readily apparent, we respectfully request that language be added to reinforce the point that the existing Western Alaska CDQ program with its existing eligibility requirements is fully authorized. We note the previous statements of the subcommittee chairman, Sen. Ted Stevens, and of Congressman Don Young that this is what Congress intended. The new language would clarify that this was always the Congressional intent.

4. Comments on Specific Provisions in S. 39

WAFDA is pleased to see that S. 39 contains long overdue definitions of "bycatch", "economic discards", "essential fish habitat", "optimum", "overfishing", and "regulatory discards". (Pages 4-8.)

We support the addition of new national standards to prevent overfishing, and to recognize fishery dependent communities. (Pages 15-16.)

The creation of negotiation panels could contribute to the resolution of divisive issues that have long troubled the management councils. (Pages 20-26.)

WAFDA believes very strongly that individuals who are directly involved in the fishing industry have the knowledge and experience necessary to make informed decisions on management issues. We oppose a conflict of interest process that is so strict that it would, effectively, prevent commercial fishermen from serving on management councils. We support the recusal process in S. 39 as striking the proper balance between protection

WAFDA Magnuson Act testimony - page 6

of the public interest and allowing meaningful industry participation in council deliberations. (Pages 28-31.)

WAFDA supports the direction the bill provides to management councils to assess bycatch, provide incentives to reduce bycatch, and minimize fishery mortality. (Page 33-34.)

WAFDA agrees that authority should be given to the secretary of commerce to address the problems of overfished fisheries and to play a role in the protection of essential fish habitat. (Pages 54-57, 63-64.)

WAFDA supports the timetables laid out in the bill for the North Pacific Fishery Management Council to address waste and bycatch, total catch measurement, full utilization, and 100 percent observer coverage. From our participation in the NPFMC process, we have observed that the industry strongly supports a cleaner and better managed fishery. The deadlines for specific action will motivate the council to not only give these problems priority attention but to solve them in a timely manner. The deadlines are a safeguard to ensure that the council focuses its attention on the proposed solutions and does not allow itself to be sidetracked by other considerations. (Pages 70-77.)

We wish to recommend that in establishing timelines for these priorities, the Congress should require bycatch to be reduced to the lowest level possible before full utilization is required. On full observer coverage, we have heard complaints about the cost. We wish to note that the CDQ corporations pay the cost of full observer coverage on all CDQ vessels. The data the observers collect is essential for the accurate monitoring of fishery harvests.

WAFDA supports the preparation of a strategic plan for fisheries research. The acquisition of the almost-basic fisheries data described in the bill is long overdue. (Pages 100-102.)

5. Conclusion

WAFDA recognizes S. 39 as an ambitious and comprehensive attempt to address many of the nation's fisheries problems. This is the best effort yet to solve those problems and establish a structure for the long-term sustainable use of the resource.

S. 39 has much to offer the nation and the North Pacific. We urge the Congress to take prompt action to pass the bill into law this year.

WAFDA Magnuson Act testimony - page 7

WAFDA also respectfully requests the subcommittee and the full committee to look favorably on the Western Alaska CDQ Program during their deliberations on S. 39 and support the program's continuation and expansion in the Bering Sea.

The participation of the western Alaska villages in North Pacific fisheries has been a constructive experience for the industry, helping to set new standards for conservation and innovative fishing practices. Where other members of the industry may say, "We can't," the WAFDA members say, "We can." We can reduce bycatch, waste and discards. We can follow fishing practices that preserve this resource for future generations. We can utilize our fisheries in a manner that is in the best interests of the nation. And we can do all this with an allocation of federal fish, not with the appropriation of federal dollars.

Thank you for the opportunity to provide this testimony.

ALASKA FEDERATION OF NATIVES

1994 ANNUAL CONVENTION

RESOLUTION 94-81

TITLE: INCLUSION OF THE CDQ PROGRAM INTO THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

WHEREAS: the CDQ program has been of tremendous benefit to rural Alaskan economies; and

WHEREAS: the CDQ program for pollock expires at the end of 1995, and is subject to re-authorization by the North Pacific Fisheries Management Council; and

WHEREAS: inclusion of the CDQ program into the Magnuson Fishery Conservation and Management Act would permanently establish this program, and

WHEREAS: the CDQ program should remain separate from the IFQ program,

NOW, THEREFORE, BE IT RESOLVED by the delegates of the 1994 Annual Convention of the Alaska Federation of Natives, Inc. that AFN endorses amendments to the Magnuson Fishery Conservation and Management Act to establish the CDQ program into that Act, and

BE IT FURTHER RESOLVED that with the inclusion of the CDQ program into the Magnuson Act, it remain distinctly separate from the IFQ program, and

BE IT FINALLY RESOLVED that AFN endorses and will work to increase the CDQ to 15 percent as recommended in the Final Report of the Alaska Natives Commission.

SUBMITTED BY: Kawerak, Inc.

COMMITTEE RECOMMENDATIONS: DO PASS

CONVENTION ACTION: PASSED



ALASKA FEDERATION OF NATIVES, INC.

1993 ANNUAL CONVENTION

RESOLUTION 93 - 83

TITLE: PROPOSED CDQ RESOLUTION FOR AFN

WHEREAS: the U.S. Department of Commerce has allocated 7.5 percent of the total allowable catch of Bering Sea pollock in the form of Community Development Quotas to the 56 ANCSA-recognized communities situated along the Bering Sea coast; and

WHEREAS: these communities are located in proximity to one of the world's richest fisheries resources yet have not been able to harvest this resource due to the high level of financial investment required for vessels, gear, and operational expenses; and

WHEREAS: the CDQ Program now provides the people of western Alaska, from the Aleutian Islands to the Seward Peninsula, with an opportunity to participate directly in industrial-scale Bering Sea fishing operations; and

WHEREAS: the residents of western Alaska derive benefits from the CDQ Program in the form of direct employment, new markets for salmon and herring, job training, scholarships, economic development opportunities, and funding for fisheries-related infrastructure; and

WHEREAS: the CDQ Program encourages initiative and self-determination, and has created a sense of hope for the future among the people of western Alaska; and

WHEREAS: the CDQ allocation for Bering Sea pollock is scheduled to expire on December 31, 1995; and

WHEREAS: the participants in the CDQ Program strongly support conservation and the elimination of salmon by-catch in the Bering Sea commercial fisheries, and will work with the federal fisheries management process to achieve these goals; and

RESOLUTION 93-83

WHEREAS: the North Pacific Fishery Management Council is engaged in a Comprehensive Rationalization process in order to develop a system for the allocation of federal fisheries resources after 1995; and

WHEREAS: CDQ's will need to be included in the final comprehensive plan if they are to continue after 1995; and

WHEREAS: the CDQ Program requires access to all Bering Sea commercial fishing species in order to establish diversified fisheries and survive expected downturns in the economic and biological cycle; and

WHEREAS: the Magnuson Fisheries Conservation and Management Act is before Congress for reauthorization, and, during public hearings, members of Congress were requested to consider an amendment to the Act recognizing CDQ's;

NOW THEREFORE BE IT RESOLVED by the delegates to the 1993 Annual Convention of the Alaska Federation of Natives, Inc., strongly supports the continuation of the CDQ Program, the expansion of CDQ's into all Bering Sea species and fisheries, and the adoption of a CDQ amendment to the Magnuson Act, that would make CDQ's a permanent part of all Bering Sea fisheries allocation systems; and

BE IT FURTHER RESOLVED that AFN supports the expansion of the CDQ Program to include all of the Native villages which have traditionally fished and are in close proximity to the Bering Sea.

SUBMITTED BY: Bristol Bay Economic Development Corporation

COMMITTEE RECOMMENDATIONS: Do Pass

CONVENTION ACTION: Do Pass



Southwest Alaska Municipal Conference

Putting Resources to Work For People

3300 Arctic Blvd., Suite 203 • Anchorage, Alaska 99503 • (907) 562-7380 • FAX (907) 562-0438

Resolution 94-17

A RESOLUTION URGING SPECIFIC PROVISIONS IN THE REAUTHORIZATION OF THE FEDERAL MAGNASON FISHERIES CONSERVATION AND MANAGEMENT ACT

Whereas, communities in Southwest Alaska lie adjacent to, and depend upon, groundfish resources of the federally-managed exclusive economic zone (EEZ) of the Bering Sea/Aleutian Islands and the Gulf of Alaska; and

Whereas, the U.S. Congress is currently involved with reauthorizing the Magnason Fisheries Conservation and Management Act which proscribes management of those groundfish resources through the regional council process and the National Marine Fisheries Service (NMFS); and

Whereas, there are several general issues of national and regional concern being considered for amendment within the Magnason Act reauthorization;

Be It Resolved that SWAMC does not support alteration of the statutory composition of the North Pacific Fishery Management Council; and

Be It Further Resolved that SWAMC supports general statutory controls to restrict and minimize the bycatch of unwanted species or sizes or sexes of fishery resources, such controls then to be more specifically designed in fishery management plans by the appropriate regional management council, with an ultimate goal of full utilization; and

Be It Further Resolved that SWAMC supports statutory requirements that appropriate regional councils establish and implement protections against overfishing for each and every species under their respective jurisdictions; and

Be It Further Resolved that SWAMC supports federal funding increments necessary to allow NMFS to provide the councils with sufficient biological information to implement reasonable controls against overfishing and provide adequate research for understanding and management of the resource; and

Be It Further Resolved that SWAMC supports statutory provisions to allow regional councils to establish and implement community development quota (CDQ) or community protection set-aside programs to aid fishery development and recognize economic dependence in coastal communities; and

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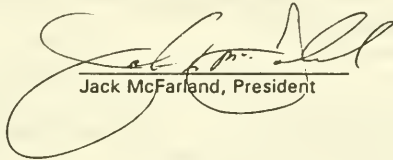
Representing the Bristol Bay, Pribilof, Kodiak Island and Aleutian Island areas.

Be It Further Resolved that SWAMC believes that any fee, tax, or royalty structure which might be levied against the harvesting or processing of fishery resources must recognize and credit other federal, state, or local fees, taxes or royalties otherwise levied on the same resources, and that all revenues should subsequently be utilized for management, research, and administration of fishery programs in proportion to the level of contribution from the areas in which the revenues were derived; and

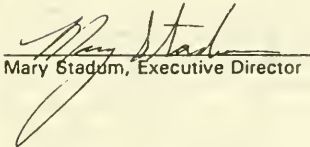
Be It Further Resolved that SWAMC supports the three year or longer moratorium on establishment of Individual Fishery Quota systems on federal fishery resources; and

Be It Further Resolved that SWAMC supports reasonable statutory controls against direct, personal and financial conflicts of interest inherent in the voting of any member of the regional councils but recognizing that some lesser conflicts are inevitable and acceptable given membership of councils by necessity must be comprised of participants in the fishing and processing industry.

PASSED AND APPROVED BY THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE
THIS 18th DAY OF SEPTEMBER, 1994.



Jack McFarland, President



Mary Stadm, Executive Director

WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM

1 NORTON SOUND ECONOMIC DEVELOPMENT CORPORATION

Regional Population 7745

15 Communities

Partner: Glacier Fish Company, Inc.

Diomedes/Ignaluk

Wales
Breving Mission
Teller
White Mountain
Golovin
Elim
Shaktolik
Unalakleet

2 YUKON DELTA FISHERIES DEVELOPMENT ASSOC.

Regional Population 1724

4 Communities

Partner: Golden Alaska Seafoods

Gambell
Savoonga

Stebbins
Emmanak
Alekaok
Kalik
Sheldon Pt.
St. Michael

3 COASTAL VILLAGES FISHING COOPERATIVE

Regional Population 5769

17 Communities

Partner: Golden Age Fisheries

Hooper Bay
Scammon Bay
Charok
Tanuk
Taksook Bay
Newral
Makaryuk
Kuparuk
Kwillingak
Quinhagak

4 CENTRAL BERING SEA FISHERMEN'S ASSOCIATION

Regional Population 752 • 1 Community

Partner: American Seafoods Company, Inc.

St. Paul
St. George
PRIBILOF ISLAND
FISHERMEN
2 Communities

5 ALEUTIAN PRIBILOF ISLAND COMMUNITY DEVELOPMENT ASSOCIATION

Regional Population 404 • 5 Communities

Partner: Trident Seafoods Corporation &
Starbound Partnership

Nelson Lagoon

Folsa Pass

CDQ Allocations

1 Pollock 20%
Halibut 20% (IPHC area 4D)
Sablefish 30% (Aleutian Island subarea)
25% (Bering Sea subarea)

2 Pollock 7%
Halibut 33% (IPHC area 4D)
Sablefish 10% (Aleutian Island subarea)
75% (Bering Sea subarea)

3 Pollock 27%
Halibut 24% (IPHC area 4D)
70% (IPHC area 4E)
Sablefish 25% (Aleutian Island subarea)

4 Pollock 8%
PRIBILOF ISLAND FISHERMEN
Halibut 100% (IPHC area 4C)

5 Pollock 18%
Sablefish 10% (Aleutian Island subarea)
ATKA FISHERMEN'S ASSOCIATION
Halibut 100% (IPHC area 4B)

6 Pollock 20%
Halibut 23% (IPHC area 4D)
30% (IPHC area 4E)
Sablefish 25% (Aleutian Island subarea)

BRISTOL BAY ECONOMIC DEVELOPMENT CORPORATION

14 Communities

Regional Population 5013

Partner: Oceantrawl, Inc.

6

Turn Hills
Dillingham
Clark
Naknek
King Salmon/
Seversonski
Eggek
Pilot Point
Ugashik
Hogai
Manokotok
Aiknagik

Part Hadden

Aika
Nikolki

The Honorable James K. Singleton
U.S. District Court – Anchorage, Alaska
Oral Decision on Alliance v. Brown
December 19, 1995

Transcript of the statement on CDQs

Next, the plaintiffs argue that the CDQ program violates National Standard Four and the Halibut Act because it impermissibly discriminates and unfairly allocates fishing rights. Now, the plaintiffs were not able to find any case law. And I'm not faulting them for that. I don't think there is any case law dealing with a system similar to this one. We're in an area where the federal government is not adopting a state statute or a state policy discriminating against non state residents. This is not a situation in which residency in Alaska per say entitles anyone to any beneficial or preferential rights under the statute. The question is much narrower. And that is, "Is the standard . . . Standard Four . . . violated where the federal government, irrespective of any state action, prefers certain residents of a state to everyone else including other residents of that state?" And my conclusion is that National Standard Four simply doesn't apply to that situation.

It is therefore not necessary to go the one step further that I think could arguably be gone. And that is, whether the secretary could disregard National Standard Four or rationalize it out of existence because the beneficiaries of the discrimination are Alaska Natives living on the coast. That would bring us into consideration of the whole history of Indian law in the United States and the oft-repeated comments by the United States Supreme Court that discrimination in favor of Indians does not violate any of the constitutional provisions limiting discrimination between other citizens. And that is because of the special consideration that American Indians, and, by extension, Alaska Natives, are entitled to under the Constitution of the United States.

(I'm) Not ruling on that, but I think that is a very significant issue. It is probable that if the secretary wanted to do so, she could significantly benefit Alaska Natives at the expense of everyone else without violating the Magnuson Act and definitely without violating the Constitution of the United States. I'm not satisfied that she has done that. I think that the rationale that has been given for her actions by the defendants . . . the economic problems of the west coast of Alaska irrespective of the ethnic background of the men and women affected by those economic problems . . . are sufficient in and of themselves to justify the secretary's actions.

But I do want to make it clear . . . because the issue might arise again . . . that the secretary probably has substantial authority, without violating

Judge Singleton statement - page 2

National Standard Four, to specifically, intentionally, and voluntarily benefit Alaska Natives if she spells out the fact that that is what she is doing.

Plaintiffs argue that the IFQ violates National Standard Five because economic allocation is the sole purpose of the CDQ plan. I'm not sure that's true. Again, I think that there are significant overlapping Indian law considerations that transcend mere economics. But I think that in the context in which the secretary acted, her conclusions are within the parameters of the statutes and therefore do not violate National Standard Five.

(Transcribed by Karl Ohls, WAFDA)

Senator STEVENS. Ron Philemonoff, President of—you say it, Ron.

**STATEMENT OF RON PHILEMONOFF, PRESIDENT AND CEO,
TANADGUSIX CORPORATION, ANCHORAGE, ALASKA**

Mr. PHILEMONOFF. Tanadgusix. Greetings to you, Senator Stevens, and members of the—representatives of the Senate committee. My name is Ron Philemonoff, and I'm Chairman and CEO of the Tanadgusix Corporation on St. Paul Island. We are the largest Aleut community in the world. My people are remnants of a civilization that lived in the Aleutian chain for many centuries, long before the arrival of either the Russians or the American fishermen who came to our part of the world for renewable resource extraction.

Our people were enslaved to serve those purposes in the fur seal fisheries in the Bering Sea. The impacts of the Fur Seal Act, the Magnuson Act, the Marine Mammal Protection Act and the Endangered Species Act have greatly changed the lives of our people and community. Throughout all the years of the resource extraction and domination of our people, we never had a resource interest that we can call our own or that was even recognized.

Our people are now starting to see some small changes to that, thanks in no small part to the continuing efforts of Ted Stevens and the U.S. Senate. Thank you, Mr. Senator.

We support the reauthorization of the Sustainable Fisheries Act, Senate Bill 39. It contains substantial mandates to address the questions of wasteful bycatch, discard practices in the fisheries, and to strengthen the integrity of the North Pacific Fishery Management Council and to recognize the Bering Sea communities like ours located in the middle of the resources as having a special dependency that entitle them to some special consideration in making the fisheries management plans. The Pribilof Islands are participants in the community development quota, and we are certainly grateful for the significant steps taken by the program to address the needs of coastal communities in Alaska.

We think that the program establishes a valuable precedent in sharing of the Bering Sea resources with coastal communities that surround the Bering Sea. My company expended considerable time and resources to develop and support such a program. And we support its continuation. We do, however, strongly believe that the Pribilof Islands still present a special and unique situation in this fishery. We are caught somewhere between the unique industry compromise, that is the in-shore off-shore settlement, and the local entitlement program and sharing it as the CDQ program.

Senator as you know, the community of St. Paul has become a processing center for the crab industry. My company has made great efforts to solicit and encourage development of fishery industries on the islands and so have the Federal and State Governments. This has resulted in a blossoming of the Pribilof communities as ports of call for the major fishing companies and for the big fishing fleets in the Bering Sea. But at the same time, it has underscored for us the degree to which our people are nonparticipants in this industry. The need remains for us to obtain a resource claim for our communities. It provides the leverage for

the largest Aleut community in the world not to be swallowed up by the fishing industry.

For this reason, we do not support a limited entry authority that would provide processors with ownership and control of fishing quota before first addressing the needs of communities like the Pribilofs where substantial investments have already been taking place.

Our communities have for many years used—our communities have for many years used a direct allocation of fish. We have proposed for years establishment of an international scientific research center in the region to study and better understand the Bering Sea and its resources and the marine life. This is important to all United States citizens, not just to the Pribilofs. Our harbors and communities are barely adequate to contain the impacts of the fisheries that have overtaken our communities.

As I have stated before, our local participation in these fisheries is only a very token level. CDQs are a great start, but if we cannot reach the people with them because of inflexibility or program limitations, then the efforts have been wasted.

We believe that the promises made to the people under the Fur Seal Act amendment provide the means and authority for the fisheries managers to address the special and unique needs of the community of the Pribilofs, but we have as yet been able to forge a special solution that addresses our people's needs. We hope that protection for those proposed in this reauthorization and new authorities granted to assist the fishery dependent communities such as the Pribilof Islands will help, but the unique rights and status of the Pribilof Islands under the Fur Seal Act and the memorandum of understanding must also be addressed.

For this reason we support additional amendments which would specifically recognize our Contract with America, which is the Fur Seal Act, as it requires consideration in any fisheries management plan.

We thank you, Mr. Senator, for the opportunity to speak to you today.

Senator STEVENS. Thank you, Mr. Philemonoff.

Tanadgusix raises some interesting questions there with regard to the Fur Seal Act. We will look into that with you and discuss that with you further.

[The prepared statement of Mr. Philemonoff follows:]

TESTIMONY OF RON P. PHILEMONOFF**TANADGUSIX CORPORATION, ST. PAUL ALASKA****BEFORE THE SUBCOMMITTEE ON OCEANS AND FISHERIES,
SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION****MARCH 25, 1995****ANCHORAGE, ALASKA**

I am the President and Chairman of the Board of Directors for Tanadgusix Corporation ("TDX"). TDX is the Alaska Native village corporation for St. Paul, Alaska, one of the Pribilof Islands. The Pribilofs are located in the Bering Sea, approximately 250 miles from mainland Alaska and 250 miles from Dutch Harbor in the Aleutians. St. Paul has a permanent population of approximately 800, nearly all of whom are Alaska Natives and TDX shareholders.

TDX generally supports the provisions of S.39 as reflecting positive changes in the management of fishery resources, especially in Alaska. We believe that the Congress is right to demand an accounting by the fishing industry for wasteful bycatch and discard practices, and a cessation to the waste of valuable resources. The fact that 17 million pounds of Bering Sea halibut is available as bycatch in the trawl fishery, while only 5 million is available to the directed halibut fishery is indicative of a system gone awry.

At the same time, however, there remain very significant areas of concern which TDX believes the Congress should and must address in any reauthorization of the Magnuson Fishery Conservation and Management Act.

The Bering Sea is unique in the world in the breadth and size of its fishery resources. Likewise, the Pribilof Islands and their Alaska Native residents are unique in both our history and our position in the world's greatest fishery. The sad and painful history of the Pribilovians has been highlighted before. Forcibly brought to the Islands as slaves to harvest fur seals, our people existed in a cultural and economic vacuum unlike any other part of Alaska. Little changed with the United States' purchase of Alaska as the Pribilovians lives continued to revolve around a commercial harvest over which we had no control or direct economic stake, first under government chartered enterprises and then under the direct management of the Federal government. As late as the 1960s islanders were denied many of the most basic constitutional rights enjoyed by U.S. citizens. Equally as important, however, was the fact that we were practically and legally restrained from taking advantage of the unmatched fishing resources of the Bering Sea which surrounded us. Year in and year out, we watched as others from afar came in and reaped the wealth of this natural bounty.

Gradual progress was made towards the political and economic liberation of the islands, especially through the Alaska Native Claims Settlement Act. Even so it was not until the early 1980s that the Federal government finally recognized its responsibility to the Pribilovians and the need to give us the means of managing our own lives was acknowledged. Even then the change was brought on not so much because of the injustice of the situation, but by economics: the Pribilofs' fur seal harvest program was losing money so the Reagan Administration decided to eliminate it.

Out of this cost cutting decision, however, developed a cooperative effort, led by the Alaska Congressional delegation, but also involving the U.S. Department of Commerce and the State of Alaska, to transform the Pribilofs into economically independent and self-sufficient communities. The selected means of doing so was to make them active participants in the Bering Sea fishing industry that surrounded the islands. The Fur Seal Act Amendments of 1983, Pub. L. No. 98-129, ("FSAA") attempted to do just that.

Among other things, the FSAA created a special Pribilof Islands Trust to manage the transition of the islands away from a Federally managed installation and, ". . . to promote the development of a stable, self-sufficient enduring and diversified economy not dependent on sealing. . . ." 16 U.S.C. § 1166(a)(1). The Trust was to provide the funds necessary for the islanders to survive as commercial sealing operations were closed out and while the State of Alaska constructed the boat harbors on both islands that would enable the islands to participate in the fishery service/support industry. The legislative history of the FSAA is explicitly clear that Congress expected and intended this new stable and self-sufficient economy to be based primarily on a Pribilof fishing industry and fishing fleet service facilities.¹

The FSAA also provided for the completion of a Memorandum of Understanding (MOU) among the U.S. Secretary of Commerce, the State of Alaska and the Pribilovians.

¹ See generally, House Report No. 98-213, 98th Cong. 1st Sess. 7 (1983); S. Rep. No. 98-212, 98th Cong., 1st Sess. 1 (1983) ["The primary economic activity which is anticipated is fishing."] See also House Hearings on H. R. 2840 before the Subcommittee on Fisheries and Wildlife Conservation and the Environment, House Committee on Merchant Marine and Fisheries, 98th Cong., 1st Sess. 261 (1983); and _____ Cong. Rec. H 7444 (9/26/83) (Statement of Rep. Breaux: "[The Trust], . . . would supplement the islands' economy during the development of halibut, king crab and groundfish fisheries and other industries.").

The MOU was to set forth the respective responsibilities of the Federal Government, the Trust and the State during the transition from Federal management and the creation of a private enterprise economy. The MOU was completed on February 10, 1984, and in its most pertinent part states:

All governmental entities signatory to this MOU acknowledge the difficulties inherent in creating a viable, long-term private enterprise economy in an environment which has existed heretofore as a governmental enclave. All government agencies should take special note of this fact in considering programs of assistance to the Islands and give special recognition to the many legitimate, educational, infrastructure, social, environmental, and economic needs of the people of the Islands.

MOU at ¶ 7.

Further on, the parties made the following binding commitment: "The signatories agree to take all actions that may be necessary and appropriate for carrying out the purposes of the [FSAA]." MOU at ¶ 10. The Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration ("NOAA") was the Federal signatory to the MOU. In this way the transformation of the Pribilofs from Federal "Company towns" whose residents possessed little or no control over their economic well-being into independent economically, self-sufficient communities was begun. This re-creation of the Pribilofs was a difficult process and was not without its problems and unforeseen complications. Since 1984 the people of the Pribilofs and the communities of St. Paul and St. George have made great strides. The march of an overcapitalized fishery has gone much faster. Even now, the transformation of our communities is far from complete, and we still wrestle with many of the same problems, including high unemployment and development needs that far outweigh our financial resources. These

problems have been intensified by the development of our harbors and the arrival of the fishing industry.

Beginning in 1989 with the North Pacific Fishery Management Council's ("NPFMC") consideration of inshore/offshore and IFQ proposals, it was obvious to us that more was going to be necessary to secure the objectives of the Fur Seal Act and fulfill the obligations under the MOU. The Pribilofs were faced with the very real prospect of being effectively barred from participating in the fishery which was supposed to be our savior, thereby nullifying all of the time and money invested in creating the infrastructure for doing so. At that time, the Pribilofs requested and argued for, among other things, a special allocation of 5% of Bering Sea resources. We believed then, and continue to now, that such allocations are not only necessary, but are legally required under the FSAA and the MOU.

In 1992, NOAA established the Community Development Quota (CDQ) program. The CDQ program was proposed so that the Bering's fishery resources would provide a financial means for Western Alaska's small coastal and island communities to improve the economic lifestyle of the residents through participation in the fisheries. At the same time it encouraged the establishment of onshore facilities that would benefit the overall Alaskan economy. While we had serious reservations about the ability of the CDQ program to meet the very substantial economic needs in the Pribilofs and to otherwise fulfill the legal obligations and responsibilities under the FSAA and the MOU, we were willing to give the CDQ program a chance and work with it.

There is no question that the CDQ program has been very beneficial to the coastal communities of Western Alaska. It has brought a much needed infusion of capital into many of these communities. It has also brought a measure of cooperation and mutual assistance between the communities and the commercial fishing interests which benefits both groups. But, that is not to say that the program is not without its problems and flaws. The program and its administration are marked by an inflexibility and subjectivity which reduce its effectiveness and fairness. Moreover, the business arrangements which the program has given rise to do not necessarily contribute to the long-term onshore development in Alaska the program aims to foster. Nevertheless, we believe the positive impacts in those other communities outweigh the problems and so we strongly support continuation of CDQs. While there is need for improvement, we recognize the value of the CDQ program to the other communities and we urge the Congress to include such authorities in S. 39 or any other Magnuson Act reauthorization measure.

Unfortunately, however, the CDQ program has not adequately met the needs of the Pribilof communities. The Pribilofs, which have by far the greatest development needs and potential, are currently allocated less than 1% of the Bering Sea's total allowable catch of groundfish. This level falls well short of what is necessary for the islands to become truly self-sufficient. What's more the CDQ program and its regulatory restrictions on the recipient organizations does little that meaningfully benefits the communities. Having a processor locate on the island does little to meet the real needs of the islanders. Moreover, the lack of meaningful resource control dilutes the ability of the Pribilovians to direct and control their own

destiny and leaves the promises of the FSAA unfulfilled.

The simple fact remains that it is not possible for the unique development needs and economic rights of the Pribilofs to be addressed through a State-run program which is and must be designed to deal with more the generic issues facing the coastal communities in Western Alaska. Nor is it fair to force the Pribilofs to give up their legal and economic rights simply to make it more convenient to serve the needs of other communities.

There is a legal and moral obligation owed to the Pribilofs which can only be properly satisfied through a special allocation of Bering Sea resources. Only in this way can we be assured of the means of permanently establishing the congressionally-mandated fisheries based economy. Such an allocation would finally give the Pribilovians the means and ability to control our own economic destinies. It would be more than just a property right, it would be a source of independence and self-sufficiency that would put us on a level playing field with the giant corporate processing interests that have moved into our communities. It would enable us to complete the harbor and dock improvements which are still needed and it would provide capital for the establishment of real local participation Pribilof fishing industry. An allocation could and should also serve as a source of funding of the much needed Bering Sea Scientific Research Center which is authorized, but not funded, under the Marine Mammal Protection Act. No one better appreciates the need for a greater understanding of the Bering Sea and all of its resources, including birds, marine mammals, and fisheries. We have used CDQ funds and our partially-owned vessel to support the development of scientific information and data about Pribilof waters

for the National Science Foundation studies. A research center focused in the Bering Sea is imperative if we are going to be able to manage and protect those resources wisely. However, in these times of budgetary difficulties, it is not clear if and when Federal dollars will be available. But a small portion of a Pribilof allocation could be targeted to provide the funding, at no recurring cost to the government.

It is our position that the authority to make such an allocation already lies with the NPFMC. Under the Magnuson Act the council is authorized to allocate resources and take other appropriate management and conservation measures. Moreover, the Magnuson Act requires the council to develop its fishery management plan ("FMP") consistent with applicable law, of which the FSAA clearly is part. This is borne out by the fact that certain of the existing National Standards for the FMP are the same as the justification behind the FSAA: achieve optimum yield, promote efficiency and minimize costs.

Nevertheless, we believe it necessary and appropriate that the authority to respond to the needs of the Pribilofs and other communities, through both a program like CDQs and other measures, be expressly recognized in the Magnuson Act. The provision in Section 109 of S. 39 to include consideration of the importance of fisheries harvests to fishery dependent communities is a significant step in the right direction. Certainly no place in Alaska better meets the definition of "fishery dependent community" than St. Paul and St. George Islands. At the same time this existing language may not be specific enough. In our case, the needs of the Pribilof communities were overlooked in the larger inshore/offshore debate, and buried in the

scope of the State-administered CDQ program. Our needs are specific and unique and difficult to address in such generic programs. For that reason, we ask that the Committee amend the existing language of S. 39 to include two additional provisions. First, a provision to amend section --- of the Magnuson Act to include a specific reference to the FSAA as a required consideration for the NPFMC in the development of its FMP. Second, specific authority to provide for a special allocation of resources to fishery dependent communities. Through such amendments the unique needs and rights of the Pribilofs can be addressed. At the same time the very real development assistance needs of other communities can continue to be served, as well.

The people of the Pribilofs have a history that is uniquely their own. Over the last 12 years much has been done to bring us to a point of a real and meaningful independence and self-sufficiency. However much remains to be done and the fishery remains the key. Recognizing and securing our special place within the Bering Sea is the only way the commitment that were made by the Federal Government and the State can be kept.

We thank the Committee and Subcommittee for the opportunity to present this testimony and look forward to working with you in the development of this important legislation.

Senator STEVENS. Mr. Dick Powell of Kodiak.

STATEMENT OF DICK POWELL, KODIAK, ALASKA

Mr. POWELL. Thank you, Senator Stevens. For the record, my name is Dick Powell from Kodiak, Alaska. I have lived there since 1964. My wife, my son Sam, and myself would pay all our bills with the money we make from commercial fishing.

I came to Anchorage today to ask you to stop ITQs by outlawing them in S. 39 or at least by declaring a 5 year ITQ moratorium in your bill. You and Don Young have the influence in Washington, D.C. to make that happen. And many of us wish you would do that next week or sooner.

Your son and my son share something unfortunate in common. None of them qualify for ITQ shares in the halibut and black cod fisheries. Without big money to purchase ITQs on the open market, they will be on the outside looking in for the rest of their lives.

I was glad to hear that last week in Seattle at the hearings you said that by the year 2000, unless we do something soon, you thought the Alaska fisheries would be completely investor owned and federally—Federal bureaucracy controlled and that you were not concerned about the bottom line of any one boat or company, that you had to be concerned about the bottom line for the whole fishery. Most of us agree with you, at least I know I do.

We both know that ITQs have created many instant millionaires with the give away quota shares that National Marine Fisheries Service mailed out last month. This is not funny money, Senator. It's real cash on the barrelhead, and it's already changing for the worse the Alaska fishing business and the fishing towns and villages that depend on it.

If you give ITQs much longer to run without getting a handle on them, you will have a genuine house divided here like Alaska had never seen before. The greed these quota shares spread is like a virus. Once you get infected by the free money from ITQs, your vision narrows and your business thinking becomes me first only. All you care about is the value and the amount of your shares versus the other guy's. Forget what is best for your town or State. It just doesn't enter your mind. Greed crowds it out.

Start with the Bering Sea crab fishery. Some Seattle crabbers say that we need ITQs immediately.

Overcapitalization and vessel safety problems they say makes ITQs an urgent and logical solution; but look at the free money they will make if crab ITQs pass like some of the North Pacific Council Alaska members want them to.

But to see if overcapitalization is really happening, I tried to figure out how much money the average crab boat earned in the 3 big Bering Sea crab fisheries during the past 10 years. I took that number and multiplied it by five to get a conservative figure for the give away value of Bering Sea crab ITQs. I got the figures from ADF&G to base those calculations on. Over the last 10 years, the average boat grosses stayed fairly stable. Senator, these numbers make it hard for me to see any urgent signs of overcapitalization in the Bering Sea crab fishery. The average boat gross is still on the high end of the last 10 years.

It looks to me like the open access Bering Sea crab fishery has helped the fleet stay in business by shifting to the fishery where the best pay day can come from. Crabbers have survived because of the flexibility in the open access management system. Open access has been our ace in the hole. I'm worried now that well-being bureaucrats, some voting members of the North Pacific Council, and the Secretary of Commerce are going to take that ace away from us in April by pigeon-holing us into 11 or less categories under license limitations that will peel off our flexibility and put us in kind of a straightjacket. One license for all 11 Bering Sea Aleutian Island crab fisheries would be most like the open access system we have survived under for the past 30 years.

No one on the Council is leading the charge for one license. Some members even seem eager to pigeon-hole us if they can because that will make ITQs easier to pass later. And no one high up in Alaska has questioned them on what the cost to the State will be of making their ITQ dreams come true. Someone really should, Senator, because my figures tell me that the cost will be in the billions and the number of people that end up with the give away quota shares will be less than 1,000 people.

Here's how I figured that out. First I did a rough estimate of ITQ values in the three big Bering Sea crab fisheries. And on page 5, it shows the total of 262 million. If you times that by 5, 1.3 billion for the crab—I have been told that most ITQ sales in Alaska this year, halibut and sablefish, have been made at more than five times the current ex-vessel price. Using that multiple is how I come up with that 1.3 billion. I think that's half of our State budget this year. I just can't see the sense in giving away this much free money to anyone, including myself.

Senator you have got to stop this nonsense before it gets completely out of hand. Leaving it to the regional Councils whose members have already made millions from the halibut and black cod ITQ give always and the National Marine Fisheries Service who intends to pay its future costs of operation from ITQ taxes to correct the problems ignores the built-in conflict of interest. You people at the top are the only ones that can close down the ITQ slot machines now.

Second, I figured the same thing for Bering Sea pollock. The 1995 Bering Sea pollock TAC is 1.2 million tons. And if you times that by 200 ex-vessel price, it comes out to 240 million, times that by 5; the total give away is about \$2.5 billion for 515 vessel owners. Compare that to the 2.5 billion in the Alaska State budget this year that is spent on 550,000 of us, that's the same amount of money for 1,000 times more people. Senator, there is no reason to make 550 people equal to 550,000.

Future ITQ give always in Alaska are going to break all records unless you and Don Young put a stop to them soon. I ask both of you to put some common sense back into this business before it's too late. If you can't, I guess a special part of Alaska will slip away from us forever. Thank you, Senator.

[The prepared statement of Mr. Powell follows:]

S 39 Testimony of Dick Powell

FV Patricia Lee

P.O. Box 2074
Kodiak, Alaska
99615

before

the

U.S. Senate Commerce Committee's
Sub-Committee on Oceans & Fisheries

March 25, 1995

Anchorage, Alaska

Good morning, Senator, my name is Dick Powell from Kodiak, Alaska where I have lived since the '64 Earthquake. My wife, my son, Sam, and I pay our bills with the money we make from commercial fishing.

Your son and my sons share something unfortunate in common. None of them qualifies for ITQ-shares in the halibut and blackcod fisheries. Without big money to purchase ITQ's on the open market, they'll be on the outside looking in for the rest of their lives.

And if our State's leaders don't put a stop to the ITQ-virus soon, Alaska will become a worse place to live and work for most residents.

I came to Anchorage today to ask you to stop ITQ's by out-lawing them in S39 or at least by declaring a 5-year ITQ-moratorium in your bill.

You and Don Young have the influence in Washington, DC to make that happen and many of us wish you would do so next week.

Some people say that there has already been a political deal made to pass ITQ's in the Bering Sea pollock and flatfish fisheries in exchange for permission to sell North Slope oil in Japan. That will hurt a lot of us, if it turns out to be true.

I was glad to hear what you said at the hearing last weekend in Seattle.

"By the Year 2000, unless we do something soon,
I think that the Alaska fisheries will be completely
investor-owned and federal bureaucracy-controlled."

and

"I'm not concerned about the bottomline of any
one boat or company. I have to be concerned about
the bottomline for the whole fishery."

Most of us agree with you. I know I do.

And I would like to do something NOW to prevent that nightmare in the Year 2000 from coming true.

We both know that ITQ's have created many instant millionaires with the "give-away" quota-shares that NMFS mailed out last month.

This is NOT Funny-Money, Senator. It's real Cash-on-the-Barrelhead and it's already changing for the worse the Alaska fishing business and the fishing towns and villages that depend on it.

You give ITQ's much longer to run without getting a handle on them and you'll have a genuine House Divided here like Alaska has never seen before.

The greed these quota-shares spread is like a virus.

Once you get infected by the "Free Money" from ITQ's, your vision narrows and you're business thinking becomes Me-First only. All you care about is the value and amount of your shares versus the other guy's. Forget what's best for your town or state. It just doesn't enter your mind. Greed crowds it out.

The "Free Money" from halibut and blackcod ITQ's is big but not as big as the Bonanza that a few Seattle crabbers and factory trawlers will win if the North Pacific Council passes ITQ's before you and Don stop them.

Start with the Bering Sea crab fisheries, Senator.

Some Seattle crabbers say that we need ITQ's immediately. Over-capitalization and vessel safety problems, they say, make ITQ's an urgent and logical solution, they claim.

But look at the "Free Money" they'll make if crab-ITQ's pass, like some of the North Pacific Council's Alaskan members want them to.

Well to see if over-capitalization is really happening, I tried to figure out how much money the average crab boat earned in the three big Bering Sea crab fisheries during the past 10-years.

Then I took that number and multiplied it by 5 to get a conservative figure for the Give-Away value of Bering Sea crab ITQ's.

I got the figures from ADF&G to base my calculations on.

Estimated Earnings of a Bering Sea Crab Vessel
1984-1994

(All numbers in millions of Dollars)

	Average Boat Gross	Fishery		
		Red King Crab	Bairdi Crab	Opilio Crab
1984	.300	.121	.029	.150
1985	.452	.094	.098	.260
1986	.965	.283	<i>No Fish</i>	.682
1987	.941	.206	<i>No Fish</i>	.735
1988	1.06	.188	.049	.589
1989	1.09	.241	.186	.659
1990	1.14	.421	.174	.541
1991	1.05	.170	.166	.713
1992	1.02	.142	.200	.677
1993	1.00	.189	.107	.705
1994	.833	<i>No Fish</i>	.082	.751

Senator, these numbers make it hard for me to see any urgent signs of over-capitalization in the Bering Sea crab fisheries. The average boat gross is still on the high-end of the last ten years.

It looks to me like the Open Access, Bering Sea crab fishery has helped the fleet stay in-business by shifting to the fishery where the best pay-day can come from.

Crabbers have survived because of the flexibility in the Open Access management system. Open access has been our ace in the hole.

I'm worried now that well-meaning bureaucrats, some voting members of the North Pacific Council and the Secretary of Commerce are going to take that ace away from us in April by pigeon-holing us into 11 or less categories under License Limitation. That will kill-off our flexibility and put us in a kind of straight-jacket.

One license for all eleven BSAI crab fisheries would be most like the Open-Access system we have survived under for the past thirty years.

But no one on the Council is leading the charge for One-License. Some members even seem eager to pigeon-hole us, if they can, because that will make ITQ's easier to pass later.

And no one high-up in Alaska has questioned them on what the cost to the State will be of making their ITQ-dreams come true.

Someone really should, Senator. Because my figures tell me that the cost will be in the billions and the number of people that end up with the "give-away" quota-shares will be less than a thousand people.

Here's how I figured that.

First, I did a rough estimate of ITQ-values in the 3-big Bering Sea crab fisheries.

Value of Bering Sea Crab ITQ's

Using 1993 ADFG figures, the total ex-vessel value of the 3-big Bering Sea crab fisheries was

Red King Crab	\$ 40 million
Bairdi Tanner Crab	\$ 31
<u>Opilio Tanner Crab</u>	<u>\$191</u>
 Total	 \$262 million

I have been told that most ITQ-sales in Alaska this year (halibut and sablefish) have been made at more than 5 times the current ex-vessel price. Using that multiple, I estimated a conservative "give-away" value of Bering Sea crab ITQ's like this.

$$\text{\$262 million} \times 5 = \text{\$1.3 billion}$$

I think that's half of our State budget this year and I just can't see the sense in giving away this much free-money to anyone, including myself.

Senator, you have got to stop this nonsense before it gets completely out of hand. Leaving it to the Regional Councils, whose members have already made millions from the halibut and blackcod-ITQ giveaways, and the NMFS, who intends to pay its future costs-of-operations from ITQ-taxes, to correct the problem ignores the built-in conflict of interest.

You people at the top are the only ones who can close down the ITQ-slot-machines now.

Second, I figured the same thing for Bering Sea pollock.

The 1995 Bering Sea pollock TAC is 1.2 million tons.

1.2 million tons x \$200 ex-vessel/ton	=	\$240 million
\$240 million x 5	=	\$1.2 billion

Senator, someone in Washington, DC twenty-years ago said,

"A billion here and a billion there and before you know it you're talking about real money."

We certainly are here.

Third, I added the dollar value of Bering Sea crab and pollock ITQ's together and looked up the number of boats in each fleet.

Crab	\$1.3 billion	250 crab boat owners
Pollock	\$1.2 billion	200 medium trawlers
		65 factory trawlers
Total	\$2.5 billion worth of ITQ's	515 vessel owners

Compare that to the \$2.5 billion Alaska state budget this year that is spent on 550,000 of us. That's the same amount of money for one thousand times more people. Senator, there's no reason to make 550 people equal to 550,000.

Future ITQ give-aways in Alaska are going to break all records unless you and Don Young put a stop to them soon. So I ask both of you to put some common sense back into this business before it's too late. If you can't, I guess a special part of Alaska will slip away from us forever.

Table . Bristol Bay red king crab catch and value, by season, 1984-1994.

YEAR	GHL ^a	SEASON TOTAL ^b	VESSELS	NUMBER LANDINGS	PRICE PER POUND	DOLLAR VALUE (MILLIONS)
1984	2.5- 6.0	4.1	89	137	\$2.60	\$10.8
1985	3.0- 5.0	4.2	128	130	\$2.90	\$12.1
1986	6.0-13.0	11.1	159	230	\$4.05	\$45.0
1987	8.5-17.7	12.2	236	311	\$4.00	\$48.7
1988	7.5	7.4	200	201	\$5.10	\$37.6
1989	16.5	10.2	211	287	\$5.00	\$50.9
1990	17.1	20.2	240	331	\$5.00	\$101.2
1991	18.0	17.1 ^c	302	332	\$3.00	\$51.2
1992	10.3	8.0 ^c	281	289	\$5.00	\$40.0
1993	16.8	14.6 ^c	292	361	\$3.80	\$55.1
1994		NO	FISHERY			

^aGuideline Harvest Level^bMillions of pounds.^cIncludes test fishery.Dick Powell
Newville, Alaska

Senator STEVENS. Thank you. Mr. Hicks, board member of the Alaska Longline Fishermen's Association.

**STATEMENT OF DENNIS HICKS, BOARD MEMBER, ALASKA
LONGLINE FISHERMEN'S ASSOCIATION, SITKA, ALASKA**

Mr. HICKS. Thank you, Mr. Chairman. On behalf of the Alaska Longline Fishermen's Association, I would like to thank you for this opportunity to testify. ALFA is a nonprofit fishermen's organization composed of over 80 members from the Southeast Alaska communities of Sitka, Pelican, Port Alexander, Ketchikan and Tenakee Springs. Our members participate in the longline halibut and sablefish, Pacific cod and rockfish fisheries as captains or crew members on vessels ranging in length from 85 foot halibut schooners to small skiffs.

We would like to offer the following comments on S. 39. In the provisions concerning waste, bycatch and discards, we are always concerned about this in Southeast, and frankly we feel that the IFQ program for sablefish and halibut will greatly reduce waste, will reduce dead loss, bycatch, discards. And we support the National Standard 8 in the bill which asks or mandates the Councils to take into consideration the impact on fishery dependent communities when figuring out new rules, new laws.

We also support the wording for the conflict of interest of Council members, although we certainly feel that most of the time—virtually all the time that all the Council members should vote on things and this should be just—they should only be recused in the case of overwhelming conflict of interest or the perception of that.

We also strongly support the new wording on the new language on habitat and on stock rebuilding. We are very sensitive to this in Southeast because we have such limited habitat as opposed to Western Alaska. We have a very narrow band that we fish on. The continental shelf is very close to the beach there, and so we feel protective of our habitat and appreciate the language in the bill concerning that.

That brings me to the language concerning ITQs. I have a different view, as most all of our members do, than Mr. Powell. We feel that the IFQ program that's been implemented for halibut and sablefish is a good program. It will help the communities. It will offer an entry level. It will stabilize the fishery. It will cut down on waste and dead loss and lost gear and many things. We believe that any new Magnuson Act standards applied to IFQs should be made applicable to all new limited entry programs developed by regional Councils and not just to the IFQ programs and not to the existing IFQ programs, the halibut and sablefish.

We support a review of the sablefish/halibut quota share program to determine its consistency with goals articulated by the Council when the program was developed and approved. Years and years have gone by with the Council. Every meeting they have public testimony. They talk about this program. They have had—it's been worked over and gone by lawyers, and it's time to let it work. It's a good program. There is a lot of provisions in it to help entry level people, particularly the Sitka block plan which we appreciate that you were very instrumental in seeing that was important and part of the program.

We have helped—ALFA has helped formulate these goals and remains committed to the provisions designed to achieve them. If these provisions prove inadequate, we would support amendments to correct shortcomings in the program. We would not, however, support changes that allow processors or other corporations to buy quota shares, and we are concerned that S. 39 as written could lead to such amendments.

We object to the formation of advisory panel, seeing it as an extraneous layer of bureaucracy. If the Magnuson Act is amended to include these new standards, operational guidelines should be developed by the National Marine Fisheries Service and interpreted by the regional Council as per the existing system. Any review of existing programs should be conducted by appropriate Council with the Secretary acting as the final judge of compliance. We don't feel that we need another panel for this. We feel that the Council is doing a good job. That's what the Council is for, and we feel that the review of the program and the amendments to it should be taken care of at the Council level.

We are concerned with the language in the bill which could be interpreted to require IFQ programs to allocate a portion of the quota to vessel owners who do not hold IFQs. Our members believe this provision will not effectively provide an entry level fishery and will undermine the stability that has been created by the quota share program. Carving out quota for an open access fishery will hurt rather than help the Alaska small boat fleet for the following reasons.

80 percent of Alaskan residents who received halibut quota shares received less than 10,000 pounds. And 42 percent of the recipients received less than 1,000 pounds. Now, if you have an open access component to the fishery that's competing against people with small blocks—in other words, their small blocks are suddenly going to be worth—be virtually meaningless because they are commensurate with the amount that they could get in an open access fishery. We feel it's a poor idea. You are going to have one or two things with a small open access part of a fishery. You are going to have another derby with all of its problems, or you are going to have a trip limit where anyone who applies gets a certain amount. It's going to be such a small amount that it's not going to—it's not going to help.

You know, we just need to carry on. The program is in. We need to work with it. Where is the 20 percent of Bristol Bay put aside? Where is the 20 percent of the sac roe fishery that's right in my front yard that I see the 52 boats fishing on?

It is a good program, and like all limited access programs, it's controversial. It doesn't—it isn't perfect for everybody. There is people hurt by it like the State limited entry program. It's a good program. It's been worked out for many years, lots of public testimony, scrutinized and analyzed. We need to stick with it.

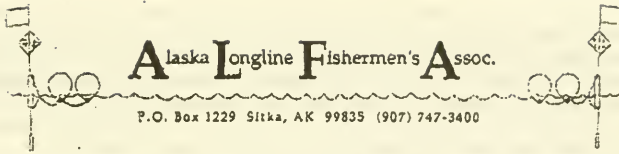
Just in summary, Senator Stevens, although we are concerned by some of the IFQ language, ALFA considers S. 39 a very strong and necessary bill. We particularly appreciate the emphasis on bycatch and waste reduction, habitat protection, conservative ecosystem management and consideration of fishery dependent communities.

We hope Subcommittee members find our comments on IFQs helpful and that changes will be made in this section.

Thank you for the opportunity to testify.

Senator STEVENS. Thank you very much. You raised some interesting points, too.

[The prepared statement of Mr. Hicks follows:]



March 22, 1995

Testimony of
The Alaska Longline Fishermen's Association
on Senate Bill 39
Reauthorization of
The Magnuson Fishery Conservation and Management Act
Senate Sub-committee Hearing
in Anchorage, Alaska
March 25, 1995

Presented by Dennis Hicks

Mr. Chairman, members of the panel,

On behalf of the Alaska Longline Fishermen's Association (ALFA) I would like thank you for this opportunity to testify. ALFA is a non-profit fishermen's organization composed of over 80 members from the Southeast Alaska communities of Sitka, Pelican, Port Alexander, Ketchikan, and Tenakee Springs. Our members participate in the longline halibut, sablefish, Pacific cod and rockfish fisheries as captains or crew members on vessels ranging in length from 85' halibut schooners to small skiffs.

We would like to offer the following comments on SB 39:

Waste Reduction:

Our Association welcomes provisions within S. 39 that address the problems of waste, bycatch and discards. ALFA recognizes the magnitude of the existing problems, and supports the recent efforts of both Congress and the North Pacific Fishery Management Council (NPFMC) to identify workable solutions. We are encouraged by the introduction of total weight measurement provisions, full retention requirements, and the "clean fishing multiplier" developed by the State of Alaska as part of the NPFMC's comprehensive rationalization program. We are also interested in the harvest priority concept, but recognize the legal and logistical obstacles to implementation, and are concerned by the potential effects on the small boat fleet of the increased observer coverage prerequisite to a harvest priority system. Because these obstacles may prove insurmountable, we request that the language in Sec. 118 (3) be modified such that implementation of a harvest preference be contingent on resolution of existing legal and logistical obstacles and sensitive to the limited ability of small vessels to accommodate and afford observers.

National Standards:

ALFA supports the addition of National Standard 8, which requires regional councils to take into account the importance of fishery resources to fishery dependant communities. The fishing industry is the economic base of many Alaskan coastal communities, often providing the only source of employment and income. The future of these communities depends on fishery management decisions; the council's must safeguard the socioeconomic health of these communities by developing management policies that provide community residents with access to local resources and promote sustainable harvest.

Council Reform:

ALFA considers the language in S. 39 an appropriate solution to the real, or perceived problem of conflict of interest on the regional councils. As stated in the preamble to S. 39, these changes will prevent council members from voting on issues that provide disproportionate personal benefit or injury, yet still inform decisions with the expertise of the industry.

Habitat and Stock Rebuilding:

ALFA considers the strengthened habitat language in S. 39 critically important to the future health of the marine fisheries and the fishing industry. If the productivity of our Nation's fisheries is to be restored, heightened importance must be placed on protecting riparian, estuarine, and benthic habitat. ALFA is especially committed to protecting the unique, and highly sensitive habitat off southeast Alaska, and welcomes Magnuson Act provisions that support this effort. We also support language mandating explicit rebuilding plans for depleted stocks, and consider strengthened Magnuson Act language with regards to this issue essential.

Individual Fishing Quotas (IFQs):

Our Association discussed at length the IFQ section of S. 39. We would like to offer the following comments.

First: we believe any new Magnuson Act standards applied to IFQs should be made applicable to all new limited entry programs developed by regional councils, not just IFQ programs and not existing IFQ programs.

Second: we support review of the sablefish/halibut QS program to determine its consistency with goals articulated by the Council when the program was developed and approved; for example: the program was intended to maintain the owner/operator nature of the fleet and the existing diversity of vessel sizes, provide an entry level through the availability of small blocks, and safeguard the socioeconomic health of fishery dependent communities. ALFA helped formulate these goals, and remains committed to the provisions designed to achieve them. If these provisions prove inadequate, we would support amendments to correct short-comings; we would not, however, support changes that allowed processors or other corporations to buy quota share, and are concerned that S.39 as written could lead to such amendments.

Third: we object to the formation of an advisory panel, seeing it as an extraneous layer of bureaucracy. If the Magnuson Act is amended to include these new standards, operational guidelines should be developed by the National Marine Fisheries Service and interpreted by the regional councils, as per the existing system. Any review of existing programs should be conducted by the appropriate council, with the Secretary acting as the final judge of compliance.

Finally, we are concerned by the language in Sec. 111 (f)(2)(B) which could be interpreted to require IFQ programs to allocate a portion of the quota to vessel owners who do not hold IFQs. Our members believe this provision will not effectively provide an entry level fishery, and will undermine the stability that has been created by the QS program. Carving out quota for an open access fishery will hurt, rather than help the Alaskan small boat fleet for the following reasons:

Eighty percent of Alaskan residents who received halibut QS received less than 10,000 pounds, and forty-two percent received 1,000 pounds or less. Alaskans are purchasing quota shares in an effort to maintain viable operations, investing heavily in a future they considered predictable and stable. Reallocating 10% to 30% of the shares away from these Alaskans will undermine these investments, eliminating marginal operations and destabilizing the industry. Since the small quota holdings initially received or recently purchased by Alaskans would disqualify them from participating in the open access pool, the losses imposed by the pool would not in any way be off-set.

In constructing the original halibut and sablefish QS plan, the NPFMC considered and rejected a proposal to maintain an open access segment of the quota. The Council discussed the inconsistency of maintaining a dangerous and wasteful derby-style fishery within an IFQ system, and dismissed the proposal. For Congress to now mandate such an irrational management plan would be inconsistent with the Magnuson Act intent of allowing the expertise of the regional councils to guide development of management policies. The sablefish/halibut plan as written by the NPFMC protects the small boat fishermen and provides an entry level fishery through the vessel size classes and the Block Amendment. ALFA aggressively promoted these provisions and continues to support them. The open access pool would compromise the investments being made by new entrants and hurt the small vessel operators the program seeks to assist. Congress could effectively benefit both of the above by continuing to support the safeguards developed by the NPFMC and by expediting implementation of a centralized IFQ lien registry.

In sum: the halibut /sablefish IFQ program was scrutinized and analyzed for years. It is the result of countless hours of testimony and hard work by scores of people. It is time to let the program work, and let the industry adjust to the new system. Congressional support of safeguards developed by the NPFMC that truly benefit small vessels, new entrants and fishery dependent communities will enhance the program; creating an open access pool or establishing an advisory panel will destabilize the industry and recreate the chaos and controversy of the derby years. The NPFMC has done its job. Any new IFQ guidelines should apply to new IFQ programs.

Fees:

Although we have always been supportive of a fee system dedicated to IFQ management costs, we are staggered by the possibility of paying 8-10% of gross profits (and a significantly higher percentage of net) through IFQ fees, research program fees, and raw fish tax. We ask that fees assessed to sablefish/halibut fishermen be commensurate with those charged to other users of federal resources, and that other fees being paid by North Pacific fishermen be taken into consideration.

Summary:

Although we are concerned by some of the IFQ language, ALFA considers S.39 a very strong and necessary bill. We particularly appreciate the emphasis on bycatch and waste reduction, habitat protection, conservative ecosystem management, and consideration of fishery dependent communities. We hope sub-committee members find our comments on IFQs helpful, and that changes will be made in this section. I would be happy to answer questions or provide further clarification. Thank you for the opportunity to testify.

Senator STEVENS. Mr. Matt Shadle, please, owner of the Great Alaska Fish Company, Kodiak.

STATEMENT OF MATT SHADLE, OWNER, GREAT ALASKA FISH COMPANY, KODIAK, ALASKA

Mr. SHADLE. Thank you, Senator Stevens. My name is Matt Shadle. I'm 31 years old. I have lived in Alaska for the past 11 years and started my career as a fisherman a few months after arriving here. As a teenager, fishing jobs were hard to get, and my first opportunity was the smelly job of working on the deck of Kodiak's fish waste boat. I dreamed of the day I could get on a fishing boat, which finally arrived when I got my first real fishing job in 1985 as a deck hand on a local longliner.

For the next 5 years, I worked as a deck hand on a variety of fishing boats, catching groundfish with longliners, trapping crabs with seiners, and—did I mention trapping crabs? Sorry. Trapping crabs with seiners—trapping crabs and seining salmon. Longlining became my passion. My goal was to own and operate my own longline vessel. It took me 8 years until I saved enough money to achieve my dream of buying my first vessel.

The FV Risky Business I bought at a U.S. Marshal sale. The Risky was run down, basically a derelict, and I spent several months going entirely through all the boat's systems until I finally had a fully sound, safe, reliable vessel. Now I was ready to begin what I hoped to be a lifelong career as captain/owner in the Alaska fishing business.

Having started at the very bottom hauling guts, I felt as if now I had the world at my feet. Being a highliner, someone who has his peer's respect of being a top producer became my new goal. I fished like a man possessed, never missing a halibut or black cod opener. This meant running distance of thousands of miles. Having good crews and lots of determination for a relatively new skipper, I did produce a lot of fish. Starting in 1990, I produced over 400,000 pounds of fish per year up to the present. I've dedicated my life to this one goal of becoming a highliner and was truly getting close to achieving my dream, and along comes IFQs, smashing my dream.

Now, the government can give—how the government can give away fish that haven't even been born yet is an idea I just can't understand. With the IFQ window years being 1984 to 1990, I only qualify for a very limited amount, less than 50,000 pounds. However, through my dedication and hard work,

I was catching 10 times this amount before IFQs became a reality. My future as a longliner simply no longer exists. My crew of seven face unemployment this year, as do the crews on most of the vessels in my home port of Kodiak. I'm sure the same scenario is being repeated all over Alaska.

IFQs are costing Alaskans thousands of fishing jobs, not to mention jobs in related support industries. Not only am I receiving limited poundage of IFQs, the geographic distribution of the shares is a ridiculous situation, as evidenced by the attached copies of my shares. I received 209 pounds of black cod in the Aleutians and 37 pounds of black cod in Southeast. A distance of that would take 10 to 12 days running wide open day and night to cover. I can't even

make one stop along the way to catch my 13 pounds of black cod IFQs in the western gulf without first stopping and unloading my 209 pounds from the Aleutians.

Being a recipient of small shares, I'm understandably upset with the system. I also know fishermen who received large shares who are adamantly opposed to IFQs. These people have morals. Sorry. I lost my place.

For example, Lou Douchterman and Skip Bolton, both of Kodiak, both long time highline fishermen, view IFQs as a destruction of not only the resource but the Alaska fisherman's way of life. The halibut IFQ program also affects other established Alaskan fisheries because of bycatch problems. In Southeast, the IFQ holders have been assigned 430 metric tons of the DSR, demersal shelf rockfish, TAC.

This leaves only 150 metric tons for the directed fishery, attachment 2. This effectively eliminates the Sitka small boat rockfish fleet. They were blindsided by this action. I have heard this will cost the Port of Sitka approximately \$2 million or 10 percent of that port's annual fishing revenue.

Rumors are also being heard about taking a portion of the fixed gear allocation for Pacific cod and assigning this also over to IFQ shareholders. It seems to me this IFQ program is a thinly veiled license to steal Alaska fishery resources for the benefit of a small select group or individuals. These same individuals have used this safety issue as a rallying cry for the need for IFQs.

Already this season, boats have gone fishing out of Sitka and other ports during stormy conditions attempting to capture the high ex-vessel prices offered at the initial start of the season. IFQs do not inherently promote safety.

As a Member of Congress, I'm asking you to protect Alaska fishermen and resources we depend on. IFQs are not the solution. Take them out of the Council's toolbox so that reasonable alternatives can get fair evaluation. Trip limits, cumulative limits or poundage by vessel length are just a few ideas for alternate management regimes.

Another Magnuson concern of mine in S. 39 is the habitat language. I feel habitat is the most critical area that needs assessment and protection. S. 39 looks good on this issue, except it does not provide for any funding mechanism to get the job done. Increased funding for the desperately needed marine science is truly—marine science to truly produce sustainable fisheries must be included in S. 39.

Senator STEVENS. Thank you. I remember when you brought that permit back to show it to me.

Mr. SHADLE. Yeah. I got another, you know, little bit here. This is—this is an updated economic analysis of the Canadian experience in using IFQs. These papers are prepared by Dr. Karl Laubstein, Director General, Industry Renewal,

Department of Fisheries and Oceans. And that's in Canada. And also by Dr. Parzival Copes, Director of the Institute of Fisheries Analysis, Simon Frazer University, British Columbia, Canada.

Senator Stevens, I request your permission to insert this into the hearing record.

Senator STEVENS. I will take it. I am not sure how much of it we will print in the record. We will take a look at it and put part of it in anyway. We have to print all this up several hundred times. We will take a look at it and print part of it. Is there a summary in the front of it?

Mr. SHADLE. Yes. It's all broken down. It's in four different sections. And this particular person, I saw a letter that he wrote 10, 12 years ago about IFQs and he was much with the IFQ program. And 10 to 12 years later, he did a complete turn around in the IFQ program. And he's totally against the IFQ program. He could see the problems with it.

He's also been—he's in charge of distributing the \$1.9 billion to the Northeasterners up in Canada. That's his governmental agency he's involved in. Thank you.

Senator STEVENS. Thank you. We will take that to have it in the record. Appreciate all your testimony. I wish we had time today for more dialog about some of the issues you are raising, but my staff and I will be back in touch with some of you on some of the issues you raise. I am very worried about the situation you described, Matt, and your comments. I still have some personal reservations about IFQ, but I still also believe in the Council system. And I think that Councils ought to have the authority to take action to produce programs that will protect the resource, and really give us sound conservation practices. I am hopeful that they will find a way to deal with some of the problems you are raising. I really still do not understand that time period for allocation, Matt, but we have to look at that again.

Mr. SHADLE. Maybe we can work on that.

Senator STEVENS. I just do not think that we can second guess a Council that has had hearings and has made a decision. We will look at that. We may reprint that so everybody can read it. Thank you very much for the materials—I am familiar with that study in Canada, what is going on up there. Thank you very much. I appreciate you coming. Very nice to have you spend Saturday afternoon here.

[The prepared statement of Mr. Shadle follows:]

MARCH 18, 1995

DEAR HONORABLE SENATORS:

MY NAME IS MATT SHADLE I'M 31 YEARS OLD. I'VE LIVED IN ALASKA FOR THE PAST 11 YEARS AND STARTED MY CAREER AS A FISHERMAN A FEW MONTHS AFTER ARRIVING HERE. AS A TEENAGER FISHING JOBS WERE HARD TO GET AND MY FIRST OPPORTUNITY WAS THE SMELLY JOB OF WORKING ON THE DECK OF KODIAK'S FISH WASTE BOAT. I DREAMED OF THE DAY I COULD GET ON A FISHING BOAT WHICH FINALLY ARRIVED WHEN I GOT MY FIRST REAL FISHING JOB IN 1985 AS DECKHAND ON A LOCAL LONGLINER. FOR THE NEXT FIVE YEARS I WORKED AS A DECKHAND ON A VARIETY OF FISHBOATS CATCHING GROUND FISH WITH LONGLINES, TRAPPING CRABS AND SEINING SALMON. LONGLINING BECAME MY PASSION, MY GOAL WAS TO OWN AND OPERATE MY OWN LONGLINE VESSEL. IT TOOK ME 8 YEARS UNTIL I SAVED ENOUGH MONEY TO ACHIEVE MY DREAM OF BUYING MY FIRST VESSEL.

THE F/V RISKY BUSINESS I BOUGHT AT A U.S MARSHALLS SALE. THE RISKY WAS RUN DOWN BASICALLY A DERELICT AND I SPENT SEVERAL MONTHS GOING ENTIRELY THRU ALL THE BOATS SYSTEMS UNTIL I FINALLY HAD A FULLY FOUND SAFE RELIABLE VESSEL. NOW I WAS READY TO BEGIN WHAT I HOPED WOULD BE A LIFE LONG CAREER AS CAPTAIN OWNER IN THE ALASKAN FISHING BUSINESS. HAVING STARTED AT THE VERY BOTTOM, HAULING GUTS, I FELT AS IF NOW I HAD THE WORLD AT MY FEET.

BEING A "HIGHLINER", SOMEONE WHO HAS HIS PEERS RESPECT BY BEING A TOP PRODUCER BECAME MY NEW GOAL. I FISHED LIKE A MAN POSSESSED NEVER MISSING A HALIBUT OR BLACKCOD OPENER. THIS MEANT RUNNING FROM S.E. ALL THE WAY OUT TO THE BERING SEA AND BACK AGAIN A DISTANCE OF THOUSANDS OF MILES. HAVING GOOD CREWS AND LOTS OF DETERMINATION, FOR A RELATIVELY NEW SKIPPER I DID PRODUCE A LOT OF FISH. STARTING IN 1990 I PRODUCED OVER 400,000 LBS OF FISH PER YEAR UP TO THE PRESENT. I'VE DEDICATED MY LIFE TO THIS ONE GOAL OF BECOMING A HIGHLINER AND WAS TRULLY GETTING CLOSE TO ACHIEVING MY DREAM AND ALONG COMES I.F.Q.'S SMASHING THIS DREAM. FOR THE BENEFIT OF SOMEONE ELSE'S' RETIREMENT PLAN.

HOW THE GOVERNMENT CAN GIVE AWAY FISH THAT HAVEN'T EVEN BEEN BORN YET IS AN IDEA I JUST CAN'T UNDERSTAND. WITH THE IFQ WINDOW YEARS BEING 1984-90 I ONLY QUALIFIED FOR A VERY LIMITED AMOUNT, LESS THAN 50,000 LBS. HOWEVER THRU MY DEDICATION AND HARD WORK I WAS CATHING 10 TIMES THIS AMOUNT BEFORE I.F.Q.'S BECAME A REALITY. MY FUTURE AS A LONGLINER SIMPLY NO LONGER EXISTS. MY CREW OF 7 FACE UNEMPLOYMENT THIS YEAR AS DO THE CREWS ON MOST OF THE VESSELS IN MY HOME PORT OF KODIAK. I'M SURE THIS SAME SCENARIO IS BEING REPEATED ALL OVER ALASKA. I.F.Q.'S ARE COSTING ALASKA THOUSANDS OF FISHING JOBS NOT TO MENTION JOBS IN RELATED SUPPORT INDUSTRIES.

NOT ONLY AM I RECEIVING LIMITED POUNDAGE OF IFQ'S, THE GEOGRAPHIC DISTRIBUTION OF THE SHARES IS A RIDICULOUS SITUATION AS EVIDENCED BY THE ATTACHED COPY OF MY SHARES. I RECEIVED 209 LBS OF BLACKCOD IN THE ALEUTIANS AND 37 LBS OF BLACKCOD IN S.E. A DISTANCE OF THAT WOULD TAKE 10-12 DAYS RUNNING WIDE OPEN DAY AND NIGHT TO COVER. I CAN'T EVEN MAKE ONE STOP ALONG THE WAY TO CATCH MY 13 LBS OF BLACK COD IFQ IN THE WESTERN GULF WITHOUT FIRST STOPPING & UNLOADING MY 209 LBS FROM THE ALEUTIANS.

BEING A RECIPIENT OF SMALL SHARES I'M UNDERSTANDABLY UPSET WITH THE SYSTEM. I ALSO KNOW FISHERMEN WHO RECEIVED LARGE SHARES WHO ARE ADAMANTLY OPPOSED TO I.F.Q.'S. FOR EXAMPLE LOU DOUCHTERMAN AND SKIP BOLTON BOTH OF KODIAK, BOTH LONG TIME HIGHLINE FISHERMEN, VIEW I.F.Q.'S AS THE DESTRUCTION OF NOT ONLY THE RESOURCE BUT OF THE ALASKAN FISHERMEN'S WAY OF LIFE.

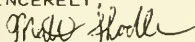
THE HALIBUT, IFQ PROGRAM ALSO AFFECTS OTHER ESTABLISHED ALASKAN FISHERIES BECAUSE OF BYCATCH PROBLEMS. IN S.E THE I.F.Q. HOLDERS HAVE BEEN ASSIGNED 430 MT OF THE DSR (DEMERSAL SHELF ROCKFISH) T.A.C. THIS LEAVES ONLY 150 MT FOR THE DIRECTED FISHERY (ATTACHMENT #2). THIS EFFECTIVELY ELIMINATES THE SITKA SMALL BOAT ROCKFISH FLEET. THEY WERE BLINDSIDED BY THIS ACTION. I HAVE HEARD THIS WILL COST THE PORT OF SITKA APPROXIMATELY 2 MILLION DOLLARS OR 10% OF THAT PORTS ANNUAL FISHING REVENUE. RUMORS ARE ALSO BEING HEARD ABOUT TAKING A PORTION OF THE FIXED GEAR ALLOCATION FOR PACIFIC COD AND ASSIGNING THIS ALSO OVER TO IFQ SHARE HOLDERS. IT SEEMS TO ME THIS IFQ PROGRAM IS A THINLY VEILED LICENSE TO STEAL ALASKA'S FISHERY RESOURCES FOR THE BENEFIT OF A SMALL SELECT GROUP OR INDIVIDUALS.

THESE SAME INDIVIDUALS HAVE USED THE SAFETY ISSUE AS A RALLYING CRY FOR THE NEED FOR I.F.Q.S'. ALREADY THIS SEASON BOATS HAVE GONE FISHING OUT OF SITKA AND OTHER PORTS DURING STORMY CONDITIONS ATTEMPTING TO CAPTURE THE HIGH EX-VESSEL PRICES OFFERED AT THE INITIAL START OF THE SEASON. I.F.Q.S' DO NOT INHERENTLY PROMOTE SAFETY.

AS MEMBERS OF CONGRESS I'M ASKING YOU TO PROTECT ALASKAN FISHERMEN AND THE RESOURCES WE DEPEND ON. I.F.Q.S ARE NOT THE SOLUTION, TAKE THEM OUT OF THE COUNCILS TOOL BOX SO THAT REASONABLE ALTERNATIVES CAN GET FAIR EVALUATION. TRIP LIMITS, CUMMULATIVE LIMITS, OR POUNDAGE BY VESSEL LENGTH ARE JUST A FEW IDEAS FOR ALTERNATIVE MANAGEMENT REGIMES.

ANOTHER MAGNUSON CONCERN OF MINE IN S39 IS THE HABITAT LANGUAGE. I FEEL HABIT IS THE MOST CRITICAL AREA THAT NEEDS ASSESSMENT AND PROTECTION. S39 LOOKS GOOD ON THIS ISSUE EXCEPT IT DOES NOT PROVIDE FOR ANY FUNDING MECHANISM TO GET THE JOB DONE. INCREASED FUNDING FOR THE DESPERATELY NEEDED MARINE SCIENCE TO TRULY PRODUCE SUSTAINABLE FISHERIES MUST BE INCLUDED IN S39.

SINCERELY,



MATT SHADLE

IFQ Annual Fishing Permit

for the 1995 season

MATT SHADLE
Permit: 000000004855

is the holder of the following Individual Fishing Quota for sablefish in vessel category C as measured in round weight:

Area	Initial Pounds	Underage(+)/ Overage(-)	Leased In (+)	Leased OUT (-)	Total IFQ Pounds
AI	209	0	0	0	209
BS	181	0	0	0	181
CG	1563	0	0	0	1563
SE	37	0	0	0	37
WG	13	0	0	0	13
WY	14695	0	0	0	14695

This permit is an Individual Fishing Quota Permit, issued under the provisions of the Pacific halibut and sablefish Individual Fishing Quota program, as promulgated by the Secretary of the U.S. Department of Commerce. Under the terms of the Individual Fishing Quota program, as set out in 50 CFR, Part 676, this permit authorizes the holder to harvest halibut or sablefish in the amount(s), in the IFQ regulatory area(s), and aboard a vessel of the appropriate category as described above. Prior notice of IFQ landing must be made to NMFS via the toll-free number (800-304-4846).



By Direction of the
National Marine Fisheries Service
Steven Pennoyer, Alaska Regional Director

By: Philip J. Smith Date: 27-Feb-1995
Philip J. Smith
Chief, Restricted Access Management Division

**IFQ Annual Fishing Permit
for the 1995 season**

**MATT SHADLE
Permit: 000000004996**

is the holder of the following Individual Fishing Quota for halibut in vessel category C as measured in net weight:

Area	Initial Pounds	Underage(+)/ Overage(-)	Leased In (+)	Leased OUT (-)	Total IFQ Pounds
2C	623	0	0	0	623
3A	2778	0	0	0	2778
3B	5372	0	0	0	5372
4A	3493	0	0	0	3493
4B	11623	0	0	0	11623
4C	969	0	0	0	969

This permit is an Individual Fishing Quota Permit, issued under the provisions of the Pacific halibut and sablefish Individual Fishing Quota program, as promulgated by the Secretary of the U.S. Department of Commerce. Under the terms of the Individual Fishing Quota program, as set out in 50 CFR, Part 676, this permit authorizes the holder to harvest halibut or sablefish in the amount(s), in the IFQ regulatory area(s), and aboard a vessel of the appropriate category as described above. Prior notice of IFQ landing must be made to NMFS via the toll-free number (800-304-4846).



By Direction of the
National Marine Fisheries Service
Steven Pennoyer, Alaska Regional Director

By: Philip J. Smith Date: 17-Feb-1995
Philip J. Smith
Chief, Restricted Access Management Division

COMMERCIAL FISHERIES NEWS RELEASE

ALASKA DEPARTMENT OF FISH & GAME

STATE OF ALASKA
Department of Fish and Game
Carl L. Rosier, Commissioner

Jeffery P. Koenings
Director

Sitka Area Office
304 Lake Street, Rm 103
Sitka, Alaska 99835

Contact: Tory O'Connell
(907) 747-6688

FOR IMMEDIATE RELEASE

December 28, 1994

1995 DEMERSAL SHELF ROCKFISH OPENINGS ANNOUNCED

Sitka The Alaska Department of Fish and Game announced today that the EYKT, CSEO, and SSEO sections of the Southeast Outside Subdistrict will open to directed fishing for Demersal Shelf Rockfish (DSR) at 12:00 noon, Sunday, January 1, 1995. Demersal shelf rockfish is a seven species assemblage including the following species:

Canary rockfish	<i>Sebastes pinniger</i>
China rockfish	<i>Sebastes nebulosus</i>
Copper rockfish	<i>Sebastes caurinus</i>
Quillback rockfish	<i>Sebastes maliger</i>
Rosethorn rockfish	<i>Sebastes helvomaculatus</i>
Tiger rockfish	<i>Sebastes nigrocinctus</i>
Yelloweye rockfish	<i>Sebastes ruberrimus</i>

The North Pacific Fishery Management Council removed redbanded rockfish from the DSR assemblage at their September meeting. Redbanded are now part of the "other rockfish" category. The 1995 TAC for DSR in the Southeast Outside Subdistrict is 580 mt. Given the reduction in TAC and the uncertainty regarding DSR bycatch in the new halibut IFQ fishery, ADF&G is releasing 150 mt of DSR for harvest by the directed fishery. Of this amount, 50 mt is allocated to the EYKT section. The NSEO section will not open to directed fishing because new survey data indicates that there is not sufficient resource available.

The directed fishery harvest guidelines in the SSEI and NSEI sections have been reduced to 25 mt in each section. Harvest rates will be closely monitored and closures announced when needed. There is a 12,000 pound trip limit in any 5-day period in EYKT and a 6,000 pound trip limit in the other sections. Logbook pages corresponding to each trip must be turned in with the fish ticket at the time of delivery.

Senator STEVENS. Now we are going to turn to the next panel, which is Chris Blackburn, Director of the Alaska Groundfish Data Bank; Fred Munson, Greenpeace here in Anchorage; Robert Wurm, President, Kodiak Longline Vessel Owners' Association, Kodiak; Paul Seaton, the Alliance Against IFQs from Homer; and Mr. Robert Storrs, Unalaska.

**STATEMENT OF CHRIS BLACKBURN, DIRECTOR, ALASKA
GROUND FISH DATA BANK, KODIAK, ALASKA**

Ms. BLACKBURN. I want to thank you, Senator Stevens, for creating this opportunity to testify before you in Alaska on the reauthorization. I'm Chris Blackburn, Director of Alaska Groundfish Data Bank, AGDB, which represents shoreside processors and trawl catcher boats in both the Gulf of Alaska and Bering Sea. I want to say after having worked through in-shore off-shore—and I want to thank you again for your help there—I was really pleased to see you refocusing the Magnuson Act on conservation of the resource rather than on net benefit to the Nation and efficiency, which have been treated as the overriding considerations in the past. We have submitted in conjunction with Aleutians East Borough very extensive comments earlier this year, and for this hearing, I just want to focus on a few items on the North Pacific Fishery Conservation Section 313.

And I really want to thank you for the definitions on bycatch and discard, separating regulatory and economic discards. I think it's very important because each will require different approaches when it comes to reducing discards. And on the regulatory discards, I hope that your intent or that the Councils will sense an intent perhaps to go back and look at some of the existing regulations, including those propagated to protect sea lions on waste and discards. In the Gulf of Alaska, the chum salmon bycatch in the trawl fleet can be reduced from the current thousands of fish to a mere few hundred fish if we didn't have to fish pollock in July because that's where all that bycatch comes from; but to protect marine mammals, we are required to do our pollock fishery in each of four quarters to spread it out in time and space.

The trawl fleet is not very happy about having to look at a high chum salmon bycatch. It could be gotten rid of if we could only fish in the winter and fall months rather than in the middle of the summer. And I hope the Council will take it to look at not just new regulations, but to go back and review old regulations, including the marine mammal regulations.

On economic discards, certainly in the community of Kodiak where I live, the discussion, the language in the Act has already caused a number of changes in the way business is done. I looked at the first 10 weeks of data from 1994. The total discards were 5.9 percent of the shore based catch. This year we are at 3.8 percent, so without any regs, people are making the efforts to bring these discard rates down. And I wanted to point that out.

There has been a lot of talk on harvest priority and incentives. I appreciate the language in the bill that mentions harvest priority, but also allows for other incentive programs. In other words, whatever will work, we need to go forward with it. I have been involved with harvest priority type programs for over 10 years. The first

ones were voluntary joint ventures. They did work. Every effort to do a regulatory program under the Federal Government has quite frankly been a failure because we cannot get instant response. We cannot forgo because of legal reasons the whole due process. There are people who are still waiting to have their cases come up in the—before administrative law judges years later. There has been, to my knowledge, no cases made on our current vessel incentive programs. Most vessels try to stay under the vessel incentive program rates, but there is always the dirty dozen who don't seem to care. And there is nothing we can do about them.

In my own group, we look more and more at time and area closures and openings, public data on bycatch rates, so we all know how everybody is doing. Peer pressure to assist in cleaning up. We don't have a lot of hope that harvest priority will make big differences, but we do think data and anything—

The other things that we feel like would help us is one, if the regional director could take rapid action in season, not 6 months later or 2 years later, but when bycatch rates are climbing, when the situation is getting out of hand, close the fishery. The State of Alaska can do that. They have 2 and 3 week closures to let things settle out and try it again. They are not allowed in volatile situations to go on. Under the Federal system, it just goes on until caps are reached and the quota is caught, and we think this is not responsive management.

The other thing that we are promoting and I think has concurrence of most of the industry is changing the way we calculate bycatch rates for the purposes of incentive programs or for announcing how people are doing to calculate them against the retained catch. The way it is done right now, your halibut bycatch rate is calculated against your entire catch, including all the fish you have discarded. This is an incentive to discard. To be blunt, this happens: They're out fishing, the halibut bycatch rate is a little higher than you would like it in the flat fish fishery, it's easy to bring it down; go pull up a net or two full of pollock that has very little halibut, discard the pollock, but your overall catch is increased. Your halibut bycatch rate is decreased. Boats do do this. And everybody is open about it, and I've met no one that says we shouldn't change the way we do this so that now your incentive would be to retain catch to minimize your bycatch rates, not to discard.

We support the concept of full retention. We have—and I have heard some other people mention it up here—some concerns that if full retention does not also require the tracking of the amount of juvenile fish that are brought in, that we will end up with a meal fishery on juvenile fish. I've had fishermen express this to me. Right now there is no full retention requirements. We look at the vessel discard rates and we have a pretty good idea how many juvenile fish are going overboard. If everything has to be retained, looking at the discard data, it all goes to meal. It all gets reported as meal with no reporting of juvenile fish taken.

They're turned into meal. We are going to lose a sense of what we are doing to our fish. And frankly, taking juveniles is one of the biggest problems with discards as far as I'm concerned and many

other people. It's not the discarding so much; it's allowing the taking of juvenile fish, and that's where we need to reduce.

I also wanted to point out because we don't see this in the press and we don't hear it much here, that the trawl industry—not only the trawl industry, but the crab and longline industries—have also made a lot of efforts on their own to reduce discards, to reduce waste and to reduce the catch of juvenile fish. And I would point out everything from the fingers used in the cod pots to keep halibut out, tanner ports to reduce smaller crab getting in, the trawl fleets have proposed many of the way we run our fisheries and time and area closures and seasons adjusted to minimize waste and bycatch, to maximize the amount of fish we take for our halibut. It's a long way from perfect, but we keep working on it.

The most recent efforts have been to hire at industry's own costs technical groups such as Sea-State which can provide the industry with daily data on how its overall rates are going, which areas boats have problems in, which areas were clean. It reduced—this kind of approach reduced the king crab bycatch in the rock sole fishery substantially this year. I understand that the Bering Sea longline Pacific cod fishery is using this, and certainly in the data I'm seeing boats shift out of high areas and their bycatch rates are lower.

We are not sitting here doing nothing. We really have continued in all gear types and modes to increase—to decrease bycatch and waste.

Our group opposes the fees on bycatch, and our reasoning is that we are already forgoing millions of dollars in catch because of the closures on prohibited species. We are paying a cost—in Kodiak alone if we had 1,000 metric more tons of halibut cap, 2 million more pounds, we could create another 90,000 man days of work. The current halibut caps cost the nation, they cost the community, and they cost the industry a lot of money. And we are doing everything we can to decrease our halibut bycatch so we can bring in more fish.

This is not a request for more cap; it's to point out that we are already paying a substantial fee because of the controls. We don't want to have to pay more direct money when we catch a halibut. We want more help not catching the halibut.

There is also talk in the bill of 100 percent observer coverage with the caveat it can be done. I did want to point out that to do 100 percent observer coverage in the Alaska fisheries would probably require 6 to 8 percent of the ex-vessel value to go strictly to observers even under the research plan.

The research plan—which I want to thank you, Senator, for helping get implemented is going to allow us to adjust observer coverage so we are not wasting observer time where it's not needed, but are actually getting better observer coverage where it is needed. And we are looking forward to doing that. The mandatory weighing of fish I think is supported by all industry. There is concern that smaller boats cannot afford the scales that are now available and may not have deck space that they can put them on. They are bringing their catch on-shore, but even related to discards they are wanting to weigh at sea. I think until technology is available

to accommodate both price wise and size wise the smaller boats, we need to have the Councils work that out.

We also really appreciate the need for the time and the action and the time lines in the Magnuson Act. I do have some concerns that right now there is not enough money and there is not enough staff on either the Alaska Senate or the Juneau management or the Council to actually meet these time lines. This year we saw proposals that were supported by the entire industry turned down by the Council, not because they weren't good proposals, but because there was no staff available to prepare the required analysis of regulatory packages. And we are hearing more and more of that. No staff.

The hiring freeze has left NMFS increasingly handicapped.

As secretaries, analysts and people leave, they can't replace them. And then there is not money to do a lot with. This is serious. And that is the closing remarks on my testimony here is that the Federal hiring freeze, combined with reduced budgets is stripping the National Marine Fisheries Service of people it cannot replace, eliminating its ability to do much of the research that would help us all reach the goal of wise use of this resource.

A lot of the data for critical issues such as the collapse of the crab stocks is data that was conducted in the mid 1970's during the oil days when there was money, and there has been no money for follow-up studies, new studies, advanced work. We are really hanging by a shoestring using old data because of lack of funding, and it frightens me very much.

And again, I thank you very much for the opportunity to testify. Senator STEVENS. Thank you.

[The prepared statement of Ms. Blackburn follows:]

Alaska Groundfish Data Bank

TESTIMONY OF CHRIS BLACKBURN, DIRECTOR

ALASKA GROUND FISH DATA BANK, KODIAK, ALASKA

TO THE U.S. SENATE MARCH 25, 1995, ANCHORAGE FIELD HEARING

REGARDING REAUTHORIZATION
OF THE MAGNUSON FISHERIES CONSERVATION AND MANAGEMENT ACT

I want to thank you Senator Stevens for creating this opportunity to testify before you in Alaska on the reauthorization of the Magnuson Fisheries Conservation and Management Act. I am Chris Blackburn, Director of Alaska Groundfish Data Bank (AGDB), which represents shoreside processors and trawl catcher boats in both the Gulf of Alaska and Bering Sea.

AGDB's membership appreciates your efforts to increase the Magnuson Act's focus and priorities on conservation of the resource rather than the "net benefit to the nation" and "efficiency" criteria which have been treated as the over-riding considerations in the past.

AGDB in conjunction with Aleutians East Borough submitted extensive comments earlier this year. For this hearing I intend to focus on the North Pacific Fisheries Conservation Section 313 proposed amendments.

DISCARDS AND BYCATCH

DEFINITIONS

We appreciate the recognition that there are several kinds of discards including economic and regulatory since reducing the bycatch and discards in each of the basic categories will require different approaches.

REGULATORY DISCARDS

We hope that the intent of the language requiring reduction of regulatory and economic discards will allow the North Pacific Management Fishery Council to review the impact of all regulations, including those propagated to protect sea lions, on waste and discards.

In the Gulf of Alaska the chum salmon bycatch could be reduced from thousands of fish to hundreds of fish simply by fishing pollock only in the early and late part of the year. However, currently, the regulations mandate spreading out the pollock catch over time and fishing in June and July.

ECONOMIC DISCARDS

The Gulf of Alaska shorebased processors are working to develop markets, investing in equipment and working with their fleets to reduce the economic discards. During the first 10 weeks of 1994 economic discards were 5.9% of the total shorebased catch. During the same time period in 1995 economic discards represented only 3.8% of the total Gulf shorebased catch.

We feel this reduction in economic discards shows that when attention is focused on an issue industry will respond quickly.

Chris Blackburn • Director • P.O. Box 2298 • Kodiak, Alaska 99615 • (907) 486-3033 • FAX (907) 486-3461

HARVEST PRIORITY AND INCENTIVES TO REDUCE DISCARDS, WASTE AND BYCATCH
AGDB has been supportive of and involved in a number of programs designed to reduce bycatch through harvest incentive type programs. Our ten years of experience is that any program based on bycatch rates works only when it is voluntary and fleet wide. This was possible for the joint venture fleets.

However, every effort to duplicate the joint venture voluntary program through federal regulations on the domestic fishery has failed to produce the results industry desired because the due process necessary under U.S. laws makes litigation difficult, if not impossible, and certainly precludes any timely action. The result is that most fishermen voluntarily attempt to abide by the incentive standards, but the "dirty dozen" continue to "fish dirty" unimpeded.

Most effective in the current open access fishery appear to be time and/or area closures. Public data on bycatch rates by vessel and rapid feed back on what the industry rates are and where the areas of high bycatch are, assist industry in assessing the overall vessel performance and in fishing clean areas.

REGULATIONS WHICH COULD HELP REDUCE DISCARDS AND BYCATCH

RAPID INSEASON ACTIONS BY THE REGIONAL DIRECTOR

One element we feel is needed is freedom for the Regional Director to quickly make temporary time and/or area closures when bycatch rates start to climb. To us "quickly" means within 24 hours of industry reporting a problem.

REVISION OF THE BASIS FOR CALCULATING BYCATCH RATES

Currently bycatch and discards rates are calculated against the total catch. This means that if a vessel is showing a high halibut or crab or salmon bycatch rate it can reduce that rate by catching AND DISCARDING a species which has little associated bycatch. In the Gulf of Alaska, pollock has been taken and discarded to reduce bycatch rates of halibut.

In other words, the current method of calculating rates encourages discards. Alaska Groundfish Data Bank strongly recommends that all bycatch and discard rates be calculated against **RETAINED CATCH**. Were rates calculated against retained catch, the current incentive to discard would be replaced by an incentive to retain catch.

FULL RETENTION

We support the concept of full retention; but have concerns that mandating full retention will actually increase the amount of juvenile fish taken. If the rules only say "you catch it, you keep it," there is no longer an incentive to avoid juvenile fish. The logical response to full retention is onboard meal plants which create the potential to create meal fisheries on juvenile fish.

If full retention is required, then inseason accounting of the amount of juvenile fish taken and turned into meal should also be required.

INDUSTRY EFFORTS TO REDUCE BYCATCH AND DISCARDS

In the media attention to bycatch and discards, and in the comments of many people not involved in the groundfish fisheries, there appears to be no awareness of the industry's own efforts to reduce bycatch.

Over the years there have been many adjustments made in fishing seasons, available amounts of prohibited species caps by season and area closures proposed by industry and implemented with industry's support to focus fishing time on the areas and times when bycatch or bycatch mortality is lowest. Industry also is involved in continual education programs through its industry groups.

Most recently industry has hired, at its own cost, technical groups such as Sea-State to provide industry with daily data on bycatch rates by area based on data provided daily by the industry itself. This approach, which lets industry know where bycatch rates are high, has proved effective in reducing salmon bycatch in the pollock fishery, king crab bycatch in the rocksole fishery and halibut bycatch in the Bering Sea longline Pacific cod fishery.

FEEES ON BYCATCH

We oppose fees on bycatch. Bycatch is already costing the U.S. and the industry millions of dollars in catch foregone because prohibited species closed fisheries. In Kodiak alone, another 1,000 MT of halibut mortality cap for the trawl fleet would create a minimum of 90,000 man days of work -- in other words, the current halibut cap is costing the nation, the community and the industry millions of dollars. We are now paying for bycatch and need regulations which work to reduce bycatch, not additional costs.

100% OBSERVER COVERAGE

The cost of 100% observer coverage would require raising the research plan fee from 2% to somewhere around 6-8% or more. The effect of this provision would be to eliminate the Alaskan small boat fleet. However, the proposed language "to the extent that funding for such coverage is available" does allow flexibility. The Research Plan will allow the Council to adjust observer coverage to improve the data and increase coverage on fisheries with bycatch problems by allowing NMFS to put observers where most needed rather than the current system of observer coverage by vessel size.

WEIGHING

We support the mandatory weighing of fish, but are concerned that the technology is not yet available to provide onboard scales for small catcher vessels at an affordable cost nor of a size which can be safely accommodated on the decks.

TIME LINES

While we appreciate the need for timely action by the Council in addressing bycatch and waste, we are concerned that the timelines contained in the act can not be met due to lack of staff and money. This year we saw proposed regulatory changes supported by the whole industry turned down by the Council simply because there was no staff time available to prepare the required analyses and regulatory packages.

AGENCY IN CRISIS

We want to take this opportunity to bring to the Committee's attention the fact that the Federal hiring freeze combined with reduced budgets is stripping the National Marine Fisheries Service of people it cannot replace and eliminating its ability to do much of the research that would help us all reach the goal of wise use of the resource.

For critical issues, such as the collapse of the crab stocks, NMFS can do little more than document the decline. Data on predation, juvenile mortality, effect of trawling on the bottom, changes in feed abundance, oceanographic changes -- all the basic scientific data needed to move toward ecosystem management -- cannot be collected and has not been collected since the mid 1970's. This lack of baseline data, in the long term, threatens our ability to manage our resources more than the current problems of bycatch, discard and waste.

Again, we thank you for this opportunity to testify.

Senator STEVENS. Fred Munson of Greenpeace.

**STATEMENT OF FRED MUNSON, GREENPEACE, ANCHORAGE,
ALASKA**

Mr. MUNSON. Thank you, Senator Stevens. My name is Fred Munson. I'm the fisheries policy analyst for Greenpeace here in Alaska. Thank you for this opportunity to testify on behalf of our 1.5 million members in the U.S. Greenpeace has three priorities in this reauthorization: Overfishing, bycatch, and ITQs. I'm going to focus today on the first two, but I'd like to remind you of our position on ITQs.

Greenpeace opposes any new ITQs programs. And while we understand that your attempt with the language in S. 39 is to put some conservative guidelines on ITQs, what we really see happening with that is what it does, without enumerating any other limiting access limitation schemes, you are raising a big red flag to the country and you are saying go this direction in terms of fishery management, go toward ITQs. And we really don't think that is the way to go. We would rather see you remove those guidelines rather than direct the country to head in that direction, even with a moratorium of up to a year.

On overfishing, you have heard a lot of people both in Seattle and today talk about how everything is fine here in the North Pacific. And while certainly it is managed more conservatively than New England, it's not good enough. Like to just remember that the chairman of the New England Fisheries Management Council testifying in front of Chairman Young, he said that everything was actually fine in New England and that they didn't need any changes in the Magnuson Act. And this is a guy without even a fishery left to manage.

Just to remind us all about the real status of the North Pacific, there is just a short list I'll read. Stellar sea lions in the western gulf and Bering Sea are in a 50 to 80 percent decline in the last 15 years. They are facing the endangered species list. Northern fur seal pupping in the Pribilof Islands, 30 percent decline. Harbor seals in the Bering Sea, they are at 15 percent of their 1970's population. These are all peak predators that are an indication of what's happening with the ecosystem in the North Pacific. Bristol Bay red king crab season closed in 1994. Kodiak Island tanner crab season closed in 1995. The Shelikof Straits pollock fishery has been in decline since the 1980's.

Clearly everything is not fine here. We do have some suggestions for language to strengthen the overfishing provision in your bill. I just want to read the most important sentence, what I think is the most important sentence. It's all outlined in our testimony. It's similar to what you heard earlier, and this is dealing with the definition of optimum yield. We would have it be described on the basis of sustainable yield, not maximum sustainable yield from such a fishery and lowered by any relevant economic, social or ecological criteria.

Senator STEVENS. Would you put any restraint on the ocean mammals?

Mr. MUNSON. I'm not sure what you mean.

Senator STEVENS. If you are going to put an increasing restraint on the fisheries, I think you have to look at the problem of the ocean mammals and their part of the process of harvesting fish.

Mr. MUNSON. With all due respect, sir, throughout history, large populations of ocean marine mammals have coexisted with large populations of fish. The balance has been thrown off by our overfishing of certain fish stocks and certain juvenile fish stocks. That's what we believe. It's never been a problem in the past. It was only when we started heavy overfishing that marine mammal population began to decline.

Senator STEVENS. Do you not think some of the mammals that you mentioned are becoming endangered because of the increased numbers of killer whales and predators of their own?

Mr. MUNSON. Actually, if I could just briefly, you know, remind us all, we know so little about what goes on out there,

I could not tell you the exact reason why any particular species is endangered or not. But that is the whole reason that we support precautionary management of the fishery. So, I can't say for sure what it is, but I don't think that's a reason for us to be overfishing or fishing on juvenile stocks.

On bycatch, we would really like to sincerely thank you for your strong pro-conservation language on bycatch, and we need it. I gave a video to your staff of a number of Alaska fishermen who could not be here today, but they would testify on the threat that bycatch is to their fishery. It's only 12 minutes, so if you could give it a look, that would be great.

We have two main concerns in the bycatch section of S. 39. On page 71 and 72, there are priorities given for what bycatch to reduce first. Economic discards, regulatory discards are given priority, and then processing waste, then other bycatch. In other words, noncommercially important species of bycatch. The translation of this in the real world means that nothing is going to be done on reducing other forms of bycatch because it's the last priority. That bycatch, although it's not commercially valuable today, may be commercially valuable in the future, and at the very least is a very important part of the overall health of the ecosystem and ultimately sustainability of the fishery.

We have a specific suggestion on how to do deal with that in the bill, and that's simply to remove the processing of the waste out of that priority. Economic discards, regulatory discards, other bycatch, it's all bycatch. Processing waste is something different. So if you put that into a separate section and make all other things equal, we will have incentive to reduce all of them.

Along that same line, we also have a problem with full utilization. We think if bycatch was reduced completely and that was already done, that full utilization would be a good idea; but to have it in the bill at the same time to reduce a lot of bycatch, what that says is if you deal with the fish, once they are already on board and dead and grind them up into fish meal, that's OK. That's not really the way we think it should go. We would much rather see programs that target pre-harvest behavior rather than programs

that deal with the dead fish once they're on the deck. Thank you for this opportunity to testify.

Senator STEVENS. Thank you very much.

[The prepared statement of Mr. Munson follows:]



STATEMENT OF GREENPEACE
AT THE HEARING ON S. 39,
A BILL TO REAUTHORIZE
THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976
BEFORE THE UNITED STATES SENATE
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

MARCH 25, 1995
ANCHORAGE, ALASKA

DELIVERED BY
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On behalf of Greenpeace and our 1.5 million supporters in the United States, I would like to thank you for the opportunity to present our organization's views regarding the reauthorization of the Magnuson Fishery Conservation and Management Act of 1976 (Magnuson Act). My name is Fred Munson and I am the Ocean Ecology campaigner for Greenpeace's Alaska region. In this capacity, I have been working with the fishing and conservation communities throughout Alaska, seeking to develop sustainable systems of fisheries management.

As an organization, we are pleased to see that the Magnuson Act reauthorization is a top priority for this committee and urge you not only to continue on your expedited schedule, but also to make the necessary legislative changes so that further overfishing is prevented, overfished stocks are rebuilt, bycatch is reduced and privatization through Individual Transferable Quotas (ITQs) is not authorized.

Greenpeace has worked with members of this subcommittee for many years in the battle to ban large-scale high seas driftnets that were being used by fishing fleets from Japan, Taiwan, South Korea, France and Italy. It was the continual passage of progressively restrictive legislation, by this committee, that put the United States in a position of leadership in the fight to ban this indiscriminate gear. The commitment of this body toward ending the use of driftnets successfully culminated in the passage of the United Nations resolution calling for the current moratorium on their use on the high seas.

We are pleased to report that two years after the moratorium was put in place, the North Pacific seems to be free of the large-scale driftnet fleet that once numbered more than 550 boats and used 20,000 kilometers of fishing net every day. The news from the Mediterranean, however, is not so positive.

The 600 Italian boats using large-scale high seas driftnets continued to fish in 1993-1994. Dismissing the law passed by this body, the Administration refused to certify Italy as a driftnetting country. Despite U.S. inaction, there was a glimmer of hope in late 1994, as the Italian government, responding to pressure from other European governments, began a program to buy back these driftnet boats. We are hopeful that this program can serve to rid the high seas of the last significant driftnet fleet.

GREENPEACE'S FISHERIES CAMPAIGN

By 1986, it became clear, that as an organization, Greenpeace needed to become involved in fisheries management on a broader scale. We recognized, at that time, the tremendous potential to work with sectors of the industry that shared our common goal of sustaining fisheries for future generations. We believed that continued overfishing (the catching of more fish than can

naturally be replaced) and increasing bycatch levels (the catch of non-target species) were two of the biggest obstacles to sustainable fisheries management. Therefore, prevention of overfishing, the rebuilding of overfished fish stocks, and the reduction of bycatch, became our top priorities.

To achieve those goals, the organization began working to reform the New Zealand fisheries policy, the Common Fisheries Policy in the European Community and the Magnuson Act during its reauthorization of 1989-1990. Additionally, we undertook work at the United Nations, International Convention for the Conservation of Atlantic Tuna (ICCAT) and the Inter-American Tropical Tuna Commission (IATTC) to address fisheries in international fora as well. Currently, we are working within the framework of the United Nations Conference on Highly Migratory Species and Straddling Stocks.

In 1992, after unsuccessfully attempting to amend the Magnuson Act in 1990, Greenpeace helped form the Marine Fish Conservation Network. This unprecedented network of 80 environmental and commercial, recreational and sport fishing groups united around a common agenda for changing U.S. fisheries management.

In 1994, the Network drafted a comprehensive package of amendments that were embodied in H.R. 4404 introduced by Congressman Wayne Gilchrest (R-MD). This package, which included amendments on overfishing, bycatch, habitat protection, fishery management council reform, protection of large pelagics and enhancement of enforcement and monitoring, was co-sponsored by 90 members of the House (45 Republicans and 45 Democrats). We encourage the Senate committee to continue to look at these amendments, and urge you to incorporate these changes into the final committee bill.

For Greenpeace, our priorities remain to: prevent overfishing, rebuild depleted fish populations and reduce bycatch. We also urge the committee to remove language which would legislatively authorize Individual Transferable Quotas (ITQs).

THE NEED FOR A CONSERVATION-ORIENTED ACT

Since the passage of the Magnuson Act in 1976, U.S. fisheries have experienced a major transformation. Nineteen years ago, the fisheries along U.S. shores were being exploited primarily by foreign fleets. Today, the "Americanization" of U.S. fisheries - a primary objective of the Magnuson Act - has been achieved.

However, the success of "Americanization" and the development of the U.S. commercial fleet has brought new challenges. Instead of competing with foreign fishing fleets plying off the coasts, U.S. fishermen are now competing with each other. The familiar cry of overfishing and concerns about excess capacity and destructive and wasteful fishing, are now being said by U.S.

fishermen about U.S. fishermen.

As the Magnuson Act allowed for the rapid economic development of the U.S. fishing industry, conservation issues were put to the wayside. The result is clear. The problems facing our national marine fisheries are more severe today than during the tumultuous years prior to the Magnuson Act, and the status of fisheries in this country has worsened. In 1972, it was determined that 39 stocks were over-utilized. Today, the National Marine Fisheries Service (NMFS) believes that 64 of 153, or roughly 43%, of the known managed fish stocks are over-utilized. An additional 25% of the known stocks are considered to be fully-utilized.

Now that most major fish stocks in the United States are either fully- or over-exploited, policies that once promoted the growth of the U.S. fishing industry must be replaced by policies to contain the capacity of modern fishing technology and conserve fishery resources. Consideration must be given to the effects of fishery removals on the future viability of the fisheries and of the marine ecosystem as a whole.

As we have recently witnessed in New England, there are both strong economic, as well as environmental arguments for taking this approach. If not apparent before, New England has demonstrated that the health and survival of the fishing industry and fishing communities depend on the long-term sustainability of fish stocks.

We remain concerned that unless dramatic improvements are made in the conservation aspects of the Act, that no region in the United States will be safe from the threat of overfishing or the tendency to over-exploit the marine environment. We point out that "Americanization" did not alter the behavior of fishermen or the National Marine Fisheries Service to better conserve the resource. And, while the regions of the North Pacific and the North Atlantic are incomparable with respect to status of the fish stocks, we remind the committee that there is currently little in the Act to prevent a groundfish collapse from occurring in the waters off Alaska.

We are seeing signs that fishery management in Alaskan waters is already succumbing to the economic pressures from industry to overharvest certain stocks.

For example, in the just completed pollock "A" season in the Bering Sea, the fleet overharvested their quota by over 75,705 metric tons. There were also overages in the Aleutian Islands pollock roe fishery. It is interesting to note that the ex-vessel price of pollock this year is valued at a recent record high of \$.11/pound, and it should also be noted that the roe fishery is the most economically lucrative fishery for pollock. This overharvest of 7% during the pollock roe season shows little concern for the future viability of the pollock stocks. We contend that the economic pressure to overharvest fish stocks is

perhaps one of the greatest threats to the sustainability of the North Pacific fisheries and ecosystem.

RESOLVING THE BYCATCH PROBLEM

Bycatch is the general term used to describe the catch of unwanted fish and other marine species taken during fishing operations. Typically bycatch is discarded overboard dead or dying. Due largely to unselective fishing practices, vast quantities of fish are caught and wasted each year. The reason fish are wasted is because they are the wrong sex, the wrong size, or the wrong species for the target fishery. The level of bycatch is different from fishery to fishery, from gear type to gear type and even from vessel to vessel. In most fisheries, bycatch is unwanted and discarded due to regulation or because of low economic value. It is important to understand, however, that one vessel's bycatch may be another vessel's target catch.

In Alaska, the halibut fishery is one example where the bycatch of one sector of the industry is having a deleterious effect on another sector. Currently, the Alaskan sport fishing sector lands only about 10% of the total halibut catch. This fishery has little waste and provides access for the American public who own the resource. The charter boat "industry", which provides access to fishing grounds for sports fishermen who don't own their own boats, accounts for less than half of the sports catch of halibut (less than 5% of the total halibut catch.) However, when we look at the bigger picture we realize that a fleet of less than 60 factory trawlers discards as bycatch almost 4 times the amount of halibut as the entire charter boat fleet catches.

Because of dwindling stocks of halibut, the small but growing charter boat industry, one which provides an important draw for the tourists who are an integral part of the whole Alaskan economy, is faced with a proposal to cap its allowable take of halibut. This cap proposal was initiated by the commercial longline fleet in order to allay fears of losing halibut allocation to the growing charter boat industry.

Everyone, including the charter boat operators, support conservative management of the halibut stocks. However, they do not agree that their sportsman's catch of halibut should be limited so that the trawlers may continue to be allowed to throw it overboard dead. Clearly this is an example of the waste from a dirty fishery limiting a very clean fishery.

Many of our nation's fisheries are allowed to continue irrespective of the wasteful manner in which they are prosecuted. For instance, in 1993, in the groundfish fisheries of the North Pacific, over 740 million pounds of fish were discarded. Approximately 76% of this figure was contributed by the factory trawler sector alone. In our view, bycatch is one of the single greatest threats to the long-term viability of our fish

populations. Yet the Magnuson Act is silent on bycatch.

Conservation and management measures should focus on preventing bycatch. We, therefore, urge Congress to amend the law not only to define bycatch, but to include a new national standard to reduce bycatch in all fisheries, and tighten requirements under fishery management plans (FMPs) to ensure that bycatch reduction programs are established, and the goal of reducing bycatch is achieved. Furthermore, so as to address bycatch comprehensively, the definition of bycatch in S. 39 needs to be broadened to include seabirds, and reference marine species, the taking and retention of which is prohibited by other statutes.

Since all FMPs are judged against the national standards, the elevation of bycatch to a national standard would send a clear message from Congress to the councils that all bycatch must be reduced if the United States is to have truly sustainable fisheries. Greenpeace urges the committee to incorporate the following national standard into S. 39:

"(9) Conservation and management measures shall reduce bycatch to the lowest level practicable and avoid unnecessary waste of fish."

The bycatch reduction program proposed in S. 39 prioritizes reductions in economic discards, processing waste, regulatory discards and lastly, other bycatch. This prioritization scheme will result in little or no action being taken to reduce other forms of bycatch (i.e. species not managed under an FMP, seabirds, and marine mammals) which play an integral role in sustaining the marine ecosystem. Presently, there is little or no data regarding the impacts which current removals of other bycatch would have on commercially valuable fish stocks or the ecosystem of which they are a part.

In addition, Greenpeace believes that processing waste should be deleted from the list of priorities. Economic and regulatory discards and other bycatch are clearly bycatch; processing waste is not. In fact, Greenpeace believes that the inclusion of processing waste will wrongly sanction full retention and full utilization as a solution to the bycatch problem.

We strongly caution against the implementation of programs such as full utilization as a method to reduce bycatch. Full utilization will not alter fishing practices. In effect, all that full utilization will achieve is the creation of markets for low value fish products. Instead, greater consideration should be given to programs which seek to avoid the catch of unwanted fish. Efforts must be made in the area of gear selectivity in order to improve the types of fishing gear used, as well as fishing methods.

One such approach would be to develop a harvest priority system which would provide incentives to promote clean fishing. For

example, fishermen would agree collectively on a bycatch rate. Those who fish cleanly would be rewarded with an extra fishing season, or perhaps an extra allotment of fish. Those fishermen who did not fish cleanly would be penalized by not receiving this additional opportunity to fish. The intended goal is to provide a system whereby fishermen design a better way to fish, improving the selectivity of gear or method to catch the target species and avoid the non-target species.

Another critical element in the fight to reduce bycatch is to improve the information we have about our fisheries. We agree with the language in S. 39 that speaks to the need to assess the levels of bycatch and specify the effects on the fishery and associated stocks of fish. We urge the committee to direct NMFS to analyze the wealth of data already collected in the various regions of the country. As you know, the North Pacific boasts the most comprehensive data collection program, carried out by certified biologists (observers). These data are available and should be analyzed in order to move forward with a bycatch reduction plan. Moreover, NMFS must be directed to develop and implement similar data collection and analysis schemes in other regions.

THE NEED TO PREVENT OVERFISHING

One of the primary goals of the Magnuson Act, as originally authorized, was to halt the overfishing of U.S. fish stocks. As noted above, the law, to date, has largely failed in this regard. In fact, as written, the law does not prevent overfishing.

In S.39, we commend your efforts at redefining National Standard 5 to "consider" rather than "promote" efficiency. We believe that the term "efficiency" in the Act has been misused to justify indiscriminate types of fishing which focus only on short-term economic return. Clearly, a sustainable fishery must have the long-term viability of the resource as its primary goal. The modification in S. 39 is a small first step toward placing the Act's conservation mandate at least on par with its responsibility for economic development.

Greenpeace also supports the addition of a new national standard which takes into account the importance of fisheries to fishery-dependent communities. We believe that communities have a very significant stake in maintaining viable marine resources over the long-term. We support the consideration of communities when developing FMPs. In addition, Congress should direct the Councils and NMFS to solicit and consider input from a broader spectrum of affected groups in the development and implementation of fishery management systems.

A critical problem affecting conservation of fish resources is that fish stocks are currently managed to provide "optimum yield." Optimum yield is defined with an emphasis on economic

benefits to the nation which often results in catch levels being set higher than Maximum Sustainable Yield (MSY). MSY is dependent on fisheries science being sound. Fisheries science is far from that. Our methods of counting fish, estimating natural mortality rates, and our knowledge of their life cycles are still very limited. Due to these kinds of limitations, the level of catch that would result in the overfishing of fish stocks is an estimate at best. Therefore, we believe that the definition of optimum yield should be changed to allow for a greater conservation buffer in the face of scientific uncertainty.

Moreover, the concept of MSY assumes that each fish stock behaves independent of other fish stocks and other species in the marine ecosystem. Recently, scientists have begun to focus on the importance of better understanding marine ecosystem dynamics in order to more effectively conserve fish stocks. Greenpeace believes that efforts should be made to move away from single-species fisheries management and instead focus on a more holistic ecosystem approach.

Finally, the yield of a fishery must be defined in terms of long-term sustainability. Since marine ecosystems are dynamic and fish populations are subject to natural fluctuations and environmental variability, fisheries management must err on the side of conservation when determining levels of fishery removals.

Greenpeace supports language in the Magnuson Act which would define optimum yield as follows:

"The term optimum, with respect to yield from a fishery, means the amount of fish--

A) which would provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

B) which is prescribed as such on the basis of the sustainable yield from such a fishery, as lowered by any relevant economic, social or ecological factor;

C) provides for rebuilding of depleted and overfished fishery resources to a level consistent with providing sustainable yield."

Given the limitations of fisheries science, the sustainable yield levels determined for a given stock must be the ceiling beyond which further exploitation is prohibited. The luxury of developing fishing fleets and expanding catch levels irrespective of the ecological limits of the fish stocks and the marine ecosystem, is a practice we can no longer afford.

LIMITING ACCESS IN OUR NATIONAL FISHERIES

The majority of fisheries managed in federal waters are conducted under what is termed "open access" systems. Under open access, any vessel may participate in any fishery as long as the vessel has a valid fishing permit. In concept, open access was completely compatible with the desire to "Americanize" U.S. fisheries and develop a globally-competitive fishing fleet. However, as there is no limit to the number of participants in a fishery, open access has resulted in overcapitalized fisheries and competition between vessels, racing to catch as much fish as possible. This system has also exacerbated overfishing and increased bycatch and waste.

Presently, the debate over open versus limited access is focussed on a highly controversial management scheme known as Individual Transferable Quotas (ITQs). Under an ITQ system, each vessel owner would be permanently granted a percentage share of the fishery's overall annual quota. Quota shares would be based on the vessel's catch history for a given time period, and once allocated, could be bought, sold or otherwise traded. The only way for new participants to enter would be through the purchase or rental of existing quota shares.

In order to understand the current pressure that is being exerted to legislate ITQs during this current Magnuson Act reauthorization, it is important to look at the history that brought us to this point. In the mid-1980s, a joint industry-government task force was convened to develop a plan for the future of groundfish in the North Pacific. Their report, issued in 1988, recommended among other things, that entry in the fishery be limited. However, with numerous new vessels under construction, the North Pacific Fishery Management Council was unwilling to recommend cut-off dates for entry, and no sector or individual was willing to limit its own participation.

As a result, between 1986-1992, the number of 200-400 foot factory trawlers increased from 12 to over 60. Many of these vessels came on-line after the report was issued. These boats were built on the basis of a ten month fishing season, but in 1995 will fish barely two months. This part of the fishing industry, the main proponents of ITQs, is failing financially. Therefore, having failed to convince the North Pacific Council to bail them out through an ITQ program for North Pacific groundfish, the factory trawlers have set their sights on Congress.

While Greenpeace recognizes that there may be a need to limit access in certain fisheries in order to improve conservation and management, ITQs would not achieve this goal. On their own, ITQs would not prevent overfishing. In New Zealand, the Orange Roughy stock has been seriously depleted since the implementation of an ITQ program in 1983. While ITQs may reduce the number of participants in a fishery, they do nothing to reduce fishing

effort. In fact, "capital stuffing" is a common problem with ITQ schemes.

Additionally, ITQs would not address the environmental impacts of wasteful fishing practices, specifically the problems of bycatch and discards. Indeed, ITQs would provide a greater incentive to discard fish which are not the right size, sex or quality desirable for maximum profitability, further exacerbating the bycatch problem.

Due to the transferability of ITQs, fishery resources would be concentrated in the hands of large corporations which can afford to buy up quota shares. This process would force individual fishermen out of business, and threaten community-linked fishing operations.

This can be seen even in the most recent, carefully designed ITQ systems, such as the North Pacific halibut and sablefish ITQ. In this ITQ system, there are various blocking provisions, ownership requirements, vessel classes and caps that were supposed to prevent ownership and consolidation of quota shares into the hands of large, non-fishing corporations.

However, this ITQ system still didn't prevent Caterpillar Financial Services Inc., a non-fishing entity from gaining ownership of a significant amount of ITQ shares. They simply purchased them at a federal auction of ITQ shares that were repossessed by the Internal Revenue Service. This shows that even in the most meticulously crafted ITQ programs, large corporations will find loopholes that will allow them to buy up, control, and profit from ITQs.

It is important to note that there is absolutely no guarantee that any future ITQ program will have most, or any of the safeguards against corporate control and consolidation that the recent halibut and sablefish ITQ program contains.

Moreover, in most cases, ITQs would be granted only to vessel owners. As a result, many long-standing captains and crew members would not be granted a quota share, and may no longer be able to participate in the fishery.

Under ITQs, monitoring and enforcement would become far more complicated and costly. As you know, there has been considerable controversy regarding the inadequacy of the enforcement regime established for the North Pacific Halibut-Sablefish ITQ program. You are likely also aware that it is generally accepted that ITQ enforcement regimes would cost two to three times more than present fishery management systems.

Finally, ITQs would fundamentally change the nature of fishery resources. ITQs would take what is presently a resource belonging to all U.S. citizens and transform it into private property, belonging to a few, select individuals or corporations.

Once the nation's fisheries are privatized, fishing will no longer be a privilege--the fish will become private property and fishing a property right. In doing so, the public would be severely limited in its ability to participate in or affect fisheries conservation and management decisions.

Given the heavy ecological, social and economic costs associated with ITQ programs, Greenpeace opposes this form of fishery management, and we strongly urge the Congress to forbid the development and implementation of any new ITQ systems.

While we understand that the intent of S. 39's ITQ language is to provide strict guidelines for the development and execution of such programs, we are extremely concerned that S. 39's approach will serve only as a catalyst for ITQ implementation. Whether intended or not, by singling out ITQs for the development of guidelines, the result will be the widespread use of ITQs over other limited access mechanisms which may not have the adverse social, ecological or economic consequences of ITQs.

At a minimum, the committee should strike all language relating to ITQs from its bill. If ITQs are to be employed in U.S. fisheries, their effectiveness should be debated in regional fishery management councils where the discussion can be fishery specific, regionally-focussed, and allow all affected parties in that region the opportunity to participate.

CONCLUSION

In 1975, when the U.S. fishing industry came to Congress asking for an end to overfishing by foreign industrial fishing fleets off the coasts of New England, Congress rose to the challenge with the passage of the Magnuson Fishery Conservation and Management Act of 1976 which did, among other things, end foreign overfishing. In 1995, with the closure of Georges Bank in New England, the Red King Crab Fishery in Alaska and declining catches around our coasts, U.S. fisheries are once again in a state of crisis. If the U.S. fishing industry is to survive, Congress must enact the comprehensive reforms that will change the Magnuson Act from its current role of development of US fisheries to one of long-term sustainability.

Senator STEVENS. Now we will move on to Robert Wrum.

Mr. WURM. Wurm.

Senator STEVENS. I read it backwards.

**STATEMENT OF ROBERT WURM, PRESIDENT, KODIAK
LONGLINE VESSEL OWNERS' ASSOCIATION, KODIAK, ALASKA**

Mr. WURM. First of all, Senator Stevens, I appreciate the opportunity to testify before you here in Alaska. For the record, my name is, Robert Wurm, and I'm the President of the Kodiak Longliners Vessel Owners' Association. It's a group of Kodiak fixed gear vessels, vessel owners, representing hook and line, pot catcher and catcher/processing vessels participating in the groundfish and crab fisheries in the Gulf of Alaska and the Bering Sea.

My testimony today will focus on a few of the areas we feel are important in the reauthorization process of the Magnuson Act. We believe a primary concern in this reauthorization is the definition and determination of general requirements for the ITQ systems, and we acknowledge the need for and support development of such standards. Specific language in the bill will require that any management plans, including existing ITQ programs, be amended to be consistent with this Act.

You mentioned, Senator Stevens, in your introduction of this Act the halibut/sablefish plan in Alaska already includes provisions to meet most of these requirements. We believe this requirement vulnerably exposes the halibut and sablefish IFQ plan to revisitation. The 10 year ordeal leading to the current implementation of this plan has taken an incredible economic and emotional toll on our community, as well as every Alaskan coastal community. We are doubtful that our community can survive or recuperate from another onslaught such as this.

Our members, in cooperation with other industry participants, have suggested insertion of language that would protect the halibut and sablefish IFQ plans while allowing a provisional exception for fee and lien registry systems that may be established. Without this protective language, the halibut and sablefish plans will also be susceptible to damage from provisions for new entrants into the fishery.

The North Pacific Fishery Management Council is now considering final action on a license limitation system for the groundfish and crab fisheries at their April meeting. Many of our members support a moratorium on development or implementation of ITQ systems for crab and groundfish fisheries in Alaska for a period of 3 to 5 years. This will allow the halibut and sablefish programs to undergo an acid test, if you will, prior to the development of ITQ provisions in management plans for these other fisheries. We believe that this plan will greatly resolve the overcapitalization problems currently being experienced in those fisheries and that it is not necessary at this time to go forward with an ITQ plan in those fisheries.

We strongly support the establishment of a national lien registry system. Many fishermen have attempted to obtain financing for the purchase of quota shares only to find lenders reluctant to loan more than 20 percent of the purchase price of quota shares. This is due primarily to the fact that the UCC filing system appears to

be an extremely inaccurate method of determining whether a judgment or lien would exist on quota shares, thereby reducing the enthusiasm of potential lenders. This scenario is inhibiting many entry level fishermen and small vessel owners from participating in the fishery. NOAA general counsel has advised the North Pacific Fishery Management Council that a lien registry must have Congressional authorization in order to be legally executable. The lien registry system will assist entry level fishermen and small vessel owners seeking to obtain financing for the purchase of quota shares. We strongly support a method for providing new entrants access to fisheries.

We believe the allocated provision in the bill suggested for new entrants will decimate the halibut and sablefish plans. In the development of both plans, entry level opportunities were considered and provided for in three ways: By one, allowing an ample period to qualify for allocation of IFQs; two, establishing IFQ crew member status and criteria to define eligibility of quota share ownership; and three, restricting quota share ownership through the block amendment which protects from consolidation, insuring quota share will endure in attainable amounts for entry level fishermen. By attempting to provide for new entrants with a portion of the annual harvest, the bill will reduce the harvestable amount available to all the fishermen in the fisheries. Further dilution of the quota share pool in this manner will actually decrease existing economic possibilities for new entrants into the halibut or sablefish fisheries as provided for under current plans.

Consider also the cumbersome task of defining the term entry level or new entrant or the difficult and political assignment of determining eligibility of such a status, how long that status will be maintained, and what successive qualifying status can be achieved. While we strongly support the concept that future ITQ programs should include provisions for new entrant access to fisheries, we cannot support the retroactive measures for the halibut and sablefish programs which the bill proposes.

The members of the KLVOA support the CDQ program as it exists in the Bering Sea and the Aleutian islands. The distinctive geographic and economic characteristics of the communities in these areas create a unique and severe environment for development. Likewise, the resources available for economic development are not found in the abundance here as elsewhere in the State. In light of these singular circumstances, the North Pacific Fishery Management Council intended the CDQ program to provide economic development opportunities to these specific rural communities.

We do not oppose the requirement that the Council take into account the importance of the harvest of fishery resources to fishery dependent communities; however, the definition of fishery dependent communities is so vague that it can apply to almost any coastal community. Neither does it clarify how conservation and management measures shall take into account the importance of the harvest of fishery resources to fishery dependent communities. The nebulous nature of this definition will lend weight to the potential misappropriation of CDQs.

We would like to have statutory authorization in Magnuson restricted to the Bering Sea and Aleutian Islands area to protect the

intent of the CDQ program from abuse. Expansion of the CDQ program into other coastal areas in Alaska was not the intent of the Council's actions and, if not restrained, will ultimately be detrimental to the development of any fishery management plans in Alaska. It would be a shameful waste of the Council's time to be consumed by proposals seeking to expand the CDQ program in the Gulf of Alaska.

The issue of bycatch and waste has been a major problem facing North Pacific fisheries management, and we support adopting provisions in the bill which would control, reduce and minimize bycatch and reduce waste. Along with other industry representatives, we have suggested alternative provisions for fixed gear vessels to estimate bycatch for sampling and extrapolation in order to protect these fisheries from increased bycatch mortality.

On the Council membership, we support the current make up the North Pacific Fishery Management Council. We would prefer the use of a conflict of interest model similar to the one which the Alaska Board of Fisheries operates under requiring disclosure of financial or other conflict with the issue under discussion, but still allowing the Council members to vote on every issue.

And a couple other comments I'd like to make, Senator, and it's on the IFQ program. I'd like to bring to your attention that although there are problems that have been brought to your attention on the current IFQ program that's ongoing, that we are seeing prices for halibut, ex-vessel prices, upwards of 3.30 a pound, which we have never seen anything close to that before in the 15 years that I have been fishing that fishery. Ex-vessel prices like that result in higher raw fish tax to the communities, and I see opportunities for fishermen to get into these fisheries. When we are talking about—I want to think that Dick Powell brought up that quota shares were going for five times the ex-vessel prices that we are seeing at the docks. And in actuality, at 3.30 a pound for halibut, it's about two and a half times the ex-vessel price, which is a real opportunity in terms of new entrants to feasibly get into that fishery. We are seeing some good prices. We are seeing boats not fishing during stormy weather.

And one other comment that I heard that I've seen mentioned in some of the posters is that all of the loss of employment—and I guess my comment on that, Senator, is that employment to me is permanent employment for permanent residents in the Alaskan coastal communities to make a difference. One-day halibut openings and 10 day black cod seasons where you have 300 to 400 people in each plant trying to handle an onslaught of fish doesn't equate into employment. It equates into dollars being taken out of these communities and spent elsewhere by transient labor. And I would submit that we will see stabilizing employment in my community, and I would assume in other fishing communities as well.

Senator STEVENS. Thank you very much.

[The prepared statement of Mr. Wurm follows:]

STATEMENT OF MR. ROBERT J. WURM

**PRESIDENT
KODIAK LONGLINE VESSEL OWNERS' ASSOCIATION**

**BEFORE THE SENATE COMMITTEE ON
COMMERCE, SCIENCE, AND TRANSPORTATION**

**ON THE REAUTHORIZATION OF THE
MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT**

**March 25, 1995
Anchorage, Alaska**

For the record, my name is Robert J. Wurm and I am president of the Kodiak Longline Vessel Owners' Association (KLVOA). The KLVOA was formed in 1987 by a group of Kodiak fixed gear vessel owners and now represents hook-and-line and pot catcher and catcher/processing vessels participating in the groundfish and crab fisheries in the Gulf of Alaska and the Bering Sea. We are represented at North Pacific Fishery Management Council meetings and the I am a member of the Council's Advisory Panel. We have a seat on the Conference Board to the International Pacific Halibut Commission and are represented at Alaska Board of Fisheries meetings, as well as other federal and state meetings which impact our industry. We are involved in many issues which affect members of the group and instruct our director to spend a large portion of her time on concerns we have with conservation of the resource. Our director, Linda Kozak, is president of the Fisheries Conservation Action Group which consists of 15 catching and processing groups in Alaska, Washington and California. This coalition speaks regularly before the North Pacific Fishery Management Council on bycatch and conservation issues.

My testimony today will focus on a few of the areas we feel are important in the reauthorization process of the Magnuson Act.

1. INDIVIDUAL TRANSFERABLE QUOTAS

We believe a primary concern in this current reauthorization is the definition and determination of general requirements for individual transferable quota (ITQ) systems. Although we are concerned about specific provisions, due to the implication of devastating consequences for the on-going halibut and sablefish programs in Alaska, we acknowledge the need for and support development of such standards.

a. HALIBUT AND SABLEFISH PROGRAMS

Specific language in Section 303, subsection (f)(3) will require that any management plans including existing ITQ programs "be amended... to be consistent with this subsection and any other applicable provisions of this Act".

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As Senator Stevens mentioned in his introduction of this Act "the halibut/sablefish plan in Alaska already includes provisions to meet most of these requirements". We believe this requirement vulnerably exposes the halibut and sablefish individual fishing quota (IFQ) plan to a revisitation. The 10 year ordeal leading from germination of this plan in 1985 to its current implementation has taken an incredible economic and emotional toll in our community as well as every Alaskan coastal community. We are doubtful that our community could survive or recuperate from another onslaught such as this.

Our members, in cooperation with other industry participants, have suggested insertion of language that will protect the halibut and sablefish IFQ plans from being amended in this brutal manner while allowing a provisional exception for fee and lien registry systems that may be established. Without this protective language, the halibut and sablefish plans will also be susceptible to damage from provisions for new entrants into the fishery.

b. OTHER GROUND FISH AND CRAB

Many of our members support a moratorium on development or implementation of ITQ systems for the crab and groundfish fisheries in Alaska for a period of three to five years. This will allow the halibut and sablefish programs to undergo an acid test prior to development of ITQ provisions in management plans for these other fisheries.

As you may be aware, the North Pacific Fishery Management Council is considering final action on a license limitation system for the groundfish and crab fisheries at their April 1995 meeting. We believe that this plan will greatly resolve the over capitalization problems currently being experienced in

those fisheries and that it is not necessary at this time to rapidly develop an ITQ plan.

c. LIEN REGISTRY SYSTEM

We strongly support the establishment of a national lien registry system as described in the proposed amendment to Section 303 subsection (f)(2)(A)(v). Many fishermen have attempted to gain financing for the purchase of quota shares only to find commercial banks and credit associations, the State of Alaska, and Alaska Commercial Fishing & Agriculture Bank very reluctant to loan more than 20% of the purchase price of quota share. This is due to the fact that the UCC filing system appears to be an extremely inaccurate method of determining whether a judgement or lien exists on quota shares, thereby reducing the enthusiasm of potential lenders. The current lending scenario for limited entry salmon permits typically allows the lender to provide 80% of the purchase price. However lenders seem to be willing to finance an average of only 20% of the value of quota share.

In this current lending environment many small boat fishermen in Alaska simply do not have the additional cash or collateral to finance quota share purchases. This situation is inhibiting many entry level fishermen and small vessel owners from participating in the fishery. NOAA General Counsel has advised the North Pacific Fishery Council that establishment of this policy without congressional authorization will circumvent the UCC filing system.

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2. ENTRY LEVEL ALLOCATION

The lien registry system will assist entry level fishermen and small vessel owners who are seeking to acquire quota share but do not have the available resources to do so without financing. We strongly support a method for providing new entrants access to fisheries.

We believe the language prescribed in Section 303, subsection (f)(2)(B) will decimate the halibut and sablefish plans. In the development of both plans entry-level opportunities were considered and provided for in three ways, by: (1) allowing an ample period prior to establishment for individuals to enter and establish a history in the sablefish fishery, thus qualifying for allocation of IFQ's; (2) establishing IFQ crewmember status and criteria to define eligibility of quota share ownership, allowing new entrants to become eligible to own quota share; (3) restricting ownership of quota share through the block amendment, which protects from consolidation, ensuring quota share will endure in attainable amounts for entry level fishermen. The amount of blocked quota share in the halibut fishery accounts for nearly 80% of all permits issued and approximately 57% of those permits issued in the sablefish fishery. This adequately provides for entry into these fisheries.

As with any profession, fishing requires a commitment of time and energy to become familiar with the necessary tools, procedures and practices. After a certain skill and performance level are attained, an individual must make a financial commitment to acquire capital if there is an intention to further the business venture. These presumptions hold true for almost any type of business or profession, across the board. However, the bill allows new entrants to circumvent the acquisition of capital through investment, because there will be a source of harvest privileges allocated for them. The suggestion that any ITQ program should allow for new

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entrants as described in the bill, contradicts the tenets of free enterprise and fails to satisfy the requirements for fair and equitable allocation of fishing privileges.

The bill attempts to provide for new entrants with "a portion of the annual harvest". That "portion" will reduce the harvestable amount available to all participants in the fishery, thereby rendering more of the small blocks of quota share economically unharvestable. It appears that typical quota share allocations may currently represent only an approximate 70% of an individual's average historical landings - an amount significantly reduced from those originally suggested by the economic analysis. Further dilution of the quota share pool in this manner will actually decrease the existing economic possibilities for new entrants to the halibut or sablefish fisheries as provided in the current plans.

Additionally a review of Senator Kerry's comments, at the introduction of the bill, regarding sustainable fisheries demonstrates that any disaster relief buy-out programs require "a fishery management plan is in place that limits access to the fishery..." It is obvious then that to "provide a portion of the annual harvest for entry-level fishermen" will seemingly render the halibut and sablefish IFQ plans ineligible for disaster relief should that situation arise in future. Given that consideration, support of a federal buy-out program (apparently industry subsidized by a minimum of 50%) will be in direct conflict with the suggested allocative provisions for new entrants in the fisheries.

Consider also the cumbersome task of defining the terms entry level or new entrant. Perhaps the difficult and political assignment of determining eligibility of such a status, how long that status will be maintained, and what successive qualifying status can be achieved, should give pause for thought.

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While we strongly support the concept that future ITQ programs should include provisions for new entrant access to fisheries, we cannot support the retroactive measures for the halibut and sablefish programs which the bill proposes.

3. COMMUNITY DEVELOPMENT QUOTAS

The members of the KLVOA support the community development quota (CDQ) program as it exists in the Bering Sea and Aleutian Islands. The distinctive geographic and economic characteristics of communities in these areas create a unique and severe environment for development. Even in Alaska, with so many remote communities throughout the state, these communities are considered isolated in an extreme sense. Likewise, the resources available for economic development are not found in the abundance here as elsewhere in the state. In light of these singular circumstances the North Pacific Fishery Management Council intended the CDQ program to provide economic development opportunities to these specific rural communities.

Although it seems obvious that a Council would "take into account the importance of the harvest of fishery resources to fishery dependent communities" in any recommendations under fishery management plans, we do not oppose such a requirement. However, the definition for fishery dependent community is so vague that it can apply to almost any coastal community. This definition does not serve to clarify how "conservation and management measures shall take into account the importance of the harvest of fishery resources to fishery dependent communities." The nebulous nature of this definition will lead weight to the potential misappropriation of CDQ's.

We would like to have statutory authorization in Magnuson restricted to the Bering Sea and Aleutian Islands area to protect the intent of the CDQ program from

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abuse. There is a potential for other groups or communities to propose expansion of CDQ programs into other coastal areas in Alaska. This type of expansion was not the intent of Council's action and, if not restrained, will ultimately be detrimental to the development of any fishery management plans in Alaska. It will be a shameful waste to allow the Council's time to be consumed by proposals seeking to expand the CDQ program into the Gulf of Alaska.

3. REDUCTION OF WASTE/ FULL RETENTION AND UTILIZATION

The issue of bycatch and waste has been a major problem facing North Pacific fisheries management. We support adopting the provisions in the bill which will control, reduce and minimize bycatch and reduce waste. We believe the use of conservation and management measures such as fees, harvest preference or other incentives as well as the consideration for minimized processing waste and optimum utilization as described in the bill will prove an effective means of reducing bycatch and waste.

Included in the Reduction of Waste subsection of the bill is a requirement for measures which will "ensure total catch measurement". The requirement further specifies that these measures "ensure the accurate enumeration of target species, economic discards, and regulatory discards". This is entirely appropriate for high bycatch mortality fisheries. For participants in fixed-gear fisheries these measures imply practices which will negate their current conservation oriented fishing practices.

The reduction of overall bycatch mortality is the overall goal of bycatch reduction. The main cause of mortality for bycatch is "deck time" - the amount of time the fish spends out of the water. In fixed-gear fisheries bycatch is released quickly and carefully. We believe the suggestion that bycatch be brought aboard a

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fixed-gear vessel only to be weighed defeats the purpose of conservation oriented fishing and substantially increase total bycatch mortality. Along with other industry representatives, we have suggested alternative provisions for fixed-gear vessels to estimate bycatch by sampling and extrapolation in order to protect these fisheries from increased bycatch mortality.

4. COUNCIL MEMBERSHIP

We support the current make up of the North Pacific Fishery Management Council. By utilizing experienced, knowledgeable individuals in the Council system, industry participants affected by Council decision are typically assured such determinations will be reasonable and responsible. Generally, an individual would acquire such knowledge and experience through involvement in the fishing industry. The probability that a Council member possessing these qualities may eventually encounter a Council decision affecting his or her financial interest is fairly high. We believe that to prohibit a member's vote will not prove advantageous to the Council system.

Rather than prohibiting the vote of such a Council member, we would like to suggest use of a conflict of interest model similar to one under which the Alaska Board of Fisheries operates. This will require disclosure of financial or other conflict with the issue under discussion, and still allow the Council member to vote on every issue.

SUMMARY OF TESTIMONY

A primary focus of this reauthorization process should be to define and determine general requirements for ITQ systems without damaging the halibut and

Magnuson Reauthorization Testimony - March 25, 1995
Robert J. Wurm, KLVOA President
Page 9

sablefish plans. We have suggested insertion of language that will protect these plans but not exclude them from any fee and lien registry systems that may be established.

Many of our members support a moratorium on development or implementation of ITQ systems for the crab and groundfish fisheries in Alaska for a period of three to five years. This will allow for observation of the halibut and sablefish plans, which will prove beneficial in the development of ITQ systems for crab and groundfish.

We support the concept that future ITQ programs should include provisions for new entrant access to fisheries. We strongly support establishment of a lien registry and the manner in which it provides for entry level fishermen. We cannot support the retroactive measures suggested in the bill which will prove injurious to the halibut and sablefish programs.

The members of the KLVOA support the community development quota (CDQ) program as it exists in the Bering Sea and Aleutian Islands. We would like to have statutory authorization in Magnuson restricted to this area to protect the intent of the CDQ program.

We support the provisions in the bill which will control, reduce and minimize bycatch and reduce waste. However we suggest alternative methods for bycatch estimation on fixed-gear vessels in order to protect these fisheries from increased bycatch mortality.

We support the current make up of the North Pacific Fishery Management Council. We would like to suggest modification of the manner in which conflict of interest is addressed in the bill to require disclosure of interests, but still permit the interested Council member to vote.

Senator STEVENS. I have Paul Seaton, Alliance against IFQs.

**STATEMENT OF PAUL SEATON, ALLIANCE AGAINST IFQs,
HOMER, ALASKA**

Mr. SEATON. Thank you for the opportunity to testify for the Alliance Against IFQs. The Alliance is an all volunteer group of fishermen from across Alaska and the United States. The Alliance was formed in 1991 when it became obvious that the North Pacific Fishery Management Council was going to ignore the thousands of comments and testimony from fishermen and communities against the halibut and sablefish IFQ plan. As it's shown in the ad in Friday's Daily News, other groups are also concerned and angry about IFQs. I will concentrate in my oral testimony on IFQs in the Council process. Covered in our written testimony are bycatch, fishery dependent communities, and CDQs.

The Councils are the most unique feature of the Magnuson Act, a great idea to have the affected people take an intimate involvement in their own regulation. It worked here because the Council accepted its charge for management and conservation. Our entire Congressional delegation has resolutely supported the Council process, yet it found it necessary to write 16 separate and joint letters of concern on IFQs. There was a specific IFQ plan in the works, and Senator Stevens, you were careful not to destroy the Council process.

We are now at a very different crossroads.

Reauthorization is specifically for setting national and regional public policies for fisheries management. Setting these policies is the responsibility of Congress, not a function of the Councils or of NMFS. Action at this time is appropriate and is not interference. We ask that you carefully listen to the people, look at the destructive forces of IFQs, and then eliminate IFQs from our public policy.

Recently the Council process has been the subject of much controversy. We have seen conflict of interest investigation, attempts to change policy by adding more Council members, thousands of letters to Congress, and our Council is so burdened that it is not even accepting proposals for needed changes in many fisheries. These are all directly the result and caused by IFQs.

The problem is that the Council process was never designed to deal with property distribution. There are none of the checks and balances or reasonable distancing of the distributors from the rewards of the distribution.

Successive reauthorizations have changed the Councils from an advisory body to the Secretary into a body that has exclusive authority to design limited access plans. The Secretary has been denied the authority to propose or modify any limited access plan. The Council is the only agency in the United States with exemption from all conflict of interest laws.

Normally this works OK since there has been a diversity of users struggling against each other. However, IFQ plans are based upon past catches. This means the conflict between the users no longer applies because history has set the program. Involved members are given a freer hand to design the IFQ plan for their fishery. Examples of vote trading, deals and special provisions abound.

Remember, this plan cannot be modified by the Secretary. The devil is in the details. And the IFQ plan distributed \$800 million of value.

There is some confusion as to the property nature of IFQs. The IFQ plan, and S .39, say quota shares do not create property rights, yet shares can be bought and sold, inherited, auctioned or used for collateral. The declaration of no property rights attempts to eliminate a takings claim under the Fifth Amendment of the Constitution. Judge Singleton found that IFQs are property of a nature not subject to a taking claim. They can be modified or eliminated at any time without compensation, and everyone knows it.

Perhaps the clearest way to see the inappropriateness of the Council's creating IFQs is to ask what kind of a body would you design for distributing public resource property. Would you set up a committee controlled by industry members? Would you exempt them from conflict of interest laws? Would you make their detailed plan not modifiable by any elected or appointed official? Would you limit judicial review to arbitrary and capricious standards which means that any expressed reason for a particular decisionmaker is judicially OK? I'm sure you would not do any of these. But that is where we are, and that's where we have arrived with the Councils doing IFQs.

The most effective single action that Congress can take to alleviate the tarnish on the Council process is to eliminate the authority to create IFQs. This one action would free the Council to deal with the multitude of specific pressing fishery matters. There is no specific authority for IFQs in the Magnuson Act. This entire foray into shares is based on report language describing limited access. You can either specifically amend the Act eliminating IFQs or just clarify your report language that limited access does not include the authority to create IFQs. Specific language is provided in our written testimony in appendix 3.

If you decide not to lift this burden from the Council, we have also provided specific recommendation for a 5-year moratorium for IFQ guidelines and for an auction system.

In the remaining moments, I'd like to share with you a few of the details of the halibut IFQ plan. It required the creation of an entire new administrative division of NMFS. It required more than doubling the Alaska enforcement section, and these officers describe the plan as the most restrictive U.S. fishery regulation. What does history's most costly fisheries management plan accomplish? IFQs will result in the harvest of exactly the same amount of fish while destroying thousands of jobs and depressing coastal communities. This is a perfect example of a regulation to which the Contract with America should apply.

Have we seen an increase in stewardship for the resource with the advent of IFQs? No. In the last year we have seen legalization of crucifers, industry recommended halibut harvest levels above the 30 percent biological maximum rate, and we have seen exemption of IFQ sablefish fishery from the halibut prohibited species catch. Halibut and sablefish IFQs only went into effect March 15, yet they are already tearing at the fabric of other Alaskan fisheries. Three quarters of the small boat directed rockfish fishery in Southeast Alaska has been canceled and reserved for IFQ holders.

A proposal is being floated to take 45 percent of the Pacific cod from pot and longline fishermen and reserve it for IFQ fishermen, and at least two processors have not renewed contracts with long time excellent salmon tenders so they can offer these contracts to vessels who have IFQs.

I thank you for this opportunity, and I would be happy to answer any questions. And once again, please help the Councils out and eliminate the authority to create IFQs.

Senator STEVENS. Thank you very much.

[The prepared statement of Mr. Seaton follows:]

TESTIMONY OF PAUL K. SEATON
ALLIANCE AGAINST IFQS

HEARING ON THE REAUTHORIZATION OF THE
MAGNUSON FISHERY CONSERVATION
AND MANAGEMENT ACT

UNITED STATES SENATE
SUBCOMMITTEE ON OCEANS AND FISHERIES

ANCHORAGE, ALASKA
MARCH 25, 1995

===== ALLIANCE AGAINST IFQs =====

PO Box 237, Seldovia, AK 99663

**TESTIMONY OF PAUL K. SEATON TO THE U.S. SENATE
SUBCOMMITTEE ON OCEANS AND FISHERIES
MAGNUSON ACT FIELD HEARING
ANCHORAGE, ALASKA ON MARCH 25, 1995**

The Alliance Against IFQs is an aggregate of hundreds of fishermen mainly from across the State of Alaska. It is an informal volunteer group whose function is to stop the detrimental halibut and sablefish Individual Fishing Quota (IFQ) Plan. The Alliance formed in 1991 when it became obvious that the North Pacific Fisheries Management Council (NPFMC or Council) was going to ignore the thousands of comments and testimony of Alaskans and coastal communities against the halibut IFQ plan. Although our primary goal is rescision of IFQs, several other topics are related and our comments cover improvements in the councils, bycatch, fishery dependent communities and Community Development Quotas (CDQ).

INDIVIDUAL FISHING QUOTAS

Individual fishing quotas give to an individual or corporation the right to harvest a definite quantity of fish, expressed as a percentage of the total allowable catch. Privatization of the resource in this manner removes the right of public access to a common property, converting common property to private property. IFQs are distinct from Limited Entry in that a specified amount of fish is assigned rather than qualified access to a competitive fishery. IFQs anticipate a contraction in the participants and relies solely on some people's desire to accumulate quota shares and other peoples economic hardship to spur them to sell. The halibut and sablefish final rule anticipated eliminating about 13,000 fishermen and 90% of the vessels from their historic occupation. The goal of this plan was "an economically efficient fishery [which] would contain 288 to 376 vessels with 1504 to 1976 fishermen."(EIS 5-48) "These are in comparison to estimates of 3796 vessels and 14,721 fishermen without an IFQ program." (FEIS 2-10, see Appendix #2)

There was broad opposition to IFQs during consideration of the halibut and sablefish plan. Resolutions came from almost every Alaskan coastal community, several native villages and organizations, chambers of commerce, and even the State House of Representatives. Some resolutions called for a socioeconomic impact study which was never done. Appendix 1 includes samples of the 47 IFQ resolutions to give you some understanding of the breadth of the testimony and opposition. Included also is a compilation of the testimony showing that 91 to 99% of Alaskans commenting at various stages between October 1991 and June 1992 opposed the IFQ plan. Also included are some of 16 letters of concern from Senator Stevens, Senator Murkowski, and Representative Don Young.

The Alaska Congressional Delegation was in an awkward situation when these letters were written. They clearly saw the pitfalls and inequities of the plan but had always supported the regional fishery management council process. Although their concerns were ignored by the Council, they did not interfere with the council process.

We are now at a different crossroads. Reauthorization of the Magnuson Act is specifically for setting national and regional public policies for fisheries management in the United States. Setting these policies is the responsibility of Congress with input from the citizens, not a function of the Councils or NMFS. We ask that you carefully listen to the concerns and will of the people, be attentive to the destructive force of IFQs on the Council process, the resource and coastal communities and then eliminate IFQs from US public policy within this authorization of the Magnuson Act.

Why, with overwhelming Alaskan opposition, did such a plan proceed? The answer is quite simply BIG MONEY! The plan created halibut and sablefish quota shares given out free predominately to vessel owners. This new property has a market value of about \$800,000,000. That's right. These once common property fish were given as harvest rights to individuals and corporations and are openly salable for about \$8 per harvest pound or 800 million dollars.

There is some confusion as to the property nature of IFQs. The IFQ plan and SB-39 clearly state that the quota shares do not create property rights, yet shares can be bought and sold, used for collateral, inherited, auctioned, are subject to a Uniform

Commercial Code filing and seizable by the IRS or a lending institution. A point in law is that property is defined by its nature and use among the citizens. Clearly IFQs are property. The declarations of "no property rights" attempt to confirm that this type property was not subject to a 'takings' claim under the Fifth Amendment to the US Constitution. The final rule plainly states that IFQs "represent only a harvesting privilege that may be revoked or amended" at any time without compensation, and "future regulatory changes that could result in diminution or even negation of QS and IFQ market value". US District Court Judge Singleton in December 1994 gave judicial confirmation that IFQ are property not subject to a takings claim.

Some people have inaccurately described the IFQ plan as the free market. This IFQ plan is described by every knowledgeable person as the most complicated, administratively complex, enforcement intensive, and expensive fishery management plan in the world. It required the creation of an entire new administrative division of NMFS, and the addition of 19 new officers which more than doubled the enforcement division. Enforcement officers describe the IFQ plan as the most restrictive regulation of any US fishery. As evidence of the complex design, consider that the final rule required 38 pages in the federal register, the IFQ "Block Amendment" required 5 pages and the omnibus regulation package proposed rule another 5 pages.

What does history's most costly management plan accomplish? IFQs will result in harvest of exactly the same amount of fish as would be harvested without IFQs since the NPFMC uses a biologically set Total Allowable Catch. IFQs should simply be called fishermen management.

This is the perfect example of the kind of regulation to which the moratorium and retroactive dismissal of regulations in the Contract with America should apply.

Halibut and sablefish IFQs only went into effect on March 15th. and they are already tearing at the fabric of other Alaskan fisheries. 1) Three quarters of the small boat, longline, directed fishery for rockfish in Southeast has been canceled and reserved for the IFQ holders(Appendix 2); 2) A proposal is being floated by Council IFQ proponents to take 45% of the Pacific cod from the directed pot and longline fishery and 'reserve' it for the IFQ holders; 3) At least two processors have not renewed contracts with long term excellent salmon tenders so they can give those

contracts to vessels who have IFQs to secure those deliveries.

The Councils were formed by Congress to incorporate fishing industry expertise into the body regulating the industry. Over the years successive amendments to the Magnuson Act have changed the Council from an advisory body for the Secretary of Commerce into a body which has the exclusive authority to propose and design any 'limited access' Fishery Management Plan(FMP). The Secretary has been statutorily denied the authority to propose or modify any limited access FMP. The Secretary can only accept or reject these plans. Although he could theoretically reject part of a plan, he could not reject significant provisions without turning his attempt into an unauthorized modification of the FMP.

The council is the only 'agency' in the United States that has been given blanket and complete exemption from all federal conflict of interest statutes. The purpose was to allow council members to use their expertise in regulating their industry. Conflict between the diversity of industry user groups was substituted for conflict of Interest statutes. However, this was done when the Councils were structured as advisory bodies to the Secretary, a relation that has changed for limited access proposals with subsequent reauthorizations of the Act as noted above.

Judicial Review of administrative regulations is generally limited to a standard called 'arbitrary and capricious'. That standard literally means that judicial review only looks to see if the agency proposed any reason for its action. This is so the Court does not substitute its judgment for the expertise of the agency on the presumption that the agency is a non-interested party. The Courts consider the Secretary, vested with ultimate authority to approve an FMP, to be the agency. In reality, his non-interested status is irrelevant since he no longer has the authority to modify 'limited access' plans. We are left with a legal standard inappropriately applied to this unique Council system of legally interested parties.

Normally this has not been a general problem at the NPFMC since there has been a diversity of industry user groups struggling against each other. However, Individual Fishing Quota plans are based upon patterns of past and current use of the fisheries. This means that conflict between different segments of the industry no longer functions in place of conflict of interest statutes because the portion of the

fishery under consideration is not accessible to the other users. Those fewer involved industry representatives are given a much freer hand to design the IFQ plan for their fishery. [For example, a trawl representative might well trade his vote on certain design features to the hook and line council members in exchange for the promise to allow him to design features of a future trawl IFQ system.] The 'devil is in the details' as to the distribution of the great wealth IFQs represent, the persons advantaged by initial allocation or restrictions on transfers, and special allowances. Remember, the plan coming out of the council is not modifiable by the Secretary, is only reviewed by the court to see if any reason was proposed for the action, and council members are legally free to design the plan to specifically advantage themselves and friends. Obviously this structure makes the council an inappropriate body to formulate property distribution.

Almost all of the controversy and negative feelings toward the NPFMC arise from their participation in IFQ property distribution. Conflict of interest inquiries did not absolve the members but rather found no legal problem because members are statutorily exempt. Public animosity and distrust remain. Probably half of the Council's and staff's time is wasted on IFQs. Hundreds of thousands if not millions of dollars have been spent on lobbyists and campaign donations to try to obtain IFQs. The most effective single action Congress could take to alleviate the tarnish on the council process would be to eliminate their authority to create IFQs. This one action alone would stimulate actual fishery conservation and management as the Council would be freed to deal with the multitude of pressing matters. The NPFMC is so consumed with IFQ fights that it did not accept any new public proposals in 1994.

How difficult would it be to delete IFQs from the authority of the Council? Currently there is no specific authority for IFQs. This entire foray into shares is based on report language (S.Rep#416-1975) describing limited access. Thus Congress could either specifically amend the Act at this reauthorization or clarify in report language that it does not intend the limited access provisions to include authority to create IFQs. (Specific legislative language is provided in appendix 3.)

If for some reason you decide not to set that national policy, we request you at least place a 5 year moratorium on the development of any further IFQ programs. We

do not want to be the Nation's gulnea pig and staging arena for this large corporate welfare scam. The following four lessons have already been learned.

1. Private financing of IFQ systems allows for transfer of ownership of the resource to the financing company through defaults, auction, and bankruptcies. Foreign companies can accumulate ownership of the US fisheries through these "operations of law". How strange that IFQs under the Magnuson Act will provide the mechanism for reversing the original goal of the Act - Americanization of our fisheries. This same problem was identified by NMFS in the only other US IFQ plan. Even the most careful crafting of the halibut/sablefish plan has not prevented this flow of ownership control. The deals are working now!

2. The claim 'fishermen will show stewardship if they own the resource' was demonstrated to be false in this first year of IFQs.

a. At the NPFMC, fishermen worked to get the bycatch cap of halibut repealed for the IFQ sablefish fishery allowing unlimited discards of halibut in the sablefish fishery.

b. Fishermen suggested thornyhead rockfish be re-categorized because prosecuting the sablefish fishery in the manner they anticipate under IFQs may drive the population below the overfishing threshold. Combining them in an aggregate with species with larger populations would allow the catch of thornyheads to lower levels without the overfished classification.

c. At the IPHC advisory Conference Board in January 1995, fishermen recommended legalizing crucifiers - a mechanism that rips the hook out of unwanted fish by breaking the jaw and lets them drop over the side. Crucifiers have been banned for years for conservation reasons. Crucifiers were also officially renamed automatic hook strippers.

d. Fishermen recommended increasing the halibut quota for the IFQ fishery above the biological recommendation by 12% in Canada and 6% in Southeast Alaska. These increases resulted in setting quotas above the 30% maximum biological exploitation rate.

3. Conservation from less lost fishing gear was touted as a benefit of IFQs. In this first week we have found that fishermen are fishing when they anticipate the market will be the highest. Fishing in storms has become an accepted practice for

some in Canada as the market is better with fewer fishermen making deliveries immediately after bad weather. A number of US fishermen did this also. Some had to abandon fishing gear when the winds got too strong. The loss will be to conservation since these fishermen will recover their gear and strip off dead fish without loss of their quota share.

4. Safety was touted as a reason for IFQs. In the first week of the fishery: a vessel and four longline crewmen were lost in Canada; a 38 foot vessel grounded in Lower Cook Inlet and the crew was rescued the next day; a vessel was lost in Southeast Alaska with one crewman drowned. This is a far higher loss rate per 'vessel day at sea' than occurred even during the old derbies. This same occurrence of higher vessel loss and death rate under IFQs was found by NMFS in their official investigation of the Surf Clam IFQ fishery.

OPTIONS OTHER THAN REMOVAL OF IFQ AUTHORITY

1. Congress could choose an IFQ moratorium with federal guidelines if these 'lessons learned' are not enough for you to remove this destructive type of plan. Guidelines are troubling within the current council/legal system. The Alliance Against IFQs filed suit in Federal District Court challenging a number of provisions and procedures of the plan. Judge Singleton denied the Alliance request for summary judgment in December. The Judge found that he was obliged to rule on alleged violations of the Magnuson Act under the arbitrary and capricious standard. This led to some bizarre findings. For example, the Council had decided to allocate shares only to vessel owners or lessees. The Magnuson Act and the Halibut Act both establish specific criteria for limited access fishery management. One requirement is - if it becomes necessary to allocate fishing privileges among fishermen, such allocation shall be fair and equitable to 'all such fishermen.' The judge determined that although fishermen would include owners, captains and crews, the Secretary had reasoned that it would be administratively difficult to identify the captains and crews. Since he had a reason for his action, it was therefore found not to be arbitrary and capricious. It is self-evident the guideline was not followed. Since the captains and crew were not included, the allocation was not among "all such fishermen." The current judicial review standard allows guideline or National

Standard violation even on such a feeble reason such as administrative convenience. If congressional guidelines are to have any meaning, the standard for judicial review must be changed. It has been suggested that "preponderance of the evidence" would be more appropriate. Whatever the specific judicial standard, it is imperative that it be changed if Congress really wishes its guidelines to have effect.

The Alliance strongly requests that the halibut and sablefish IFQ plan (if in existence) be made to conform to any congressional IFQ guidelines. Alaskans should not be abandoned to a plan constructed on unacceptable premises after guidelines are adopted. The plan clearly states and the Federal Judge concurred that the expectation of everyone must be that the plan can be modified or canceled without compensation.

2. Congress could consider annual IFQ auctions. The auction bid should be based on 'the percentage of exvessel value the fisherman would return to the government'. This is similar to the bids oil companies give to the state of Alaska. This method would reward efficiency of harvest vs. expenses and would not give advantage to those with the deepest pockets because the percentage would be paid upon harvest. Details can easily be included to allow first right of refusal to a certain quantity for local community access, require bycatch bids based on bycatch rate of operation or gear type, quantity caps to help maintain a diverse fleet, and harvester vessel bids to prevent subleases.

CONFLICT OF INTEREST

Conflict of interest charges have plagued Council decisions and voting Council members. As explained above, removal of authority to create IFQs would remove most of this controversy at the NPFMC. An example from the Alaska halibut and sablefish IFQ plan is enlightening. The December 1991 final IFQ vote of 7 to 4 contained six 'yes' votes from members who had the following 'interest' in their vote, fully legal because of the total exemption from conflict of interest laws.

1) Bob Alverson - represented longliners. He is executive director of Fishing Vessel Owner's Assoc. whose members receive ownership of a large portion of these shares.

2) Joe Blum - Washington State seat - who upon leaving the Council

immediately became council lobbyist for American Factory Trawlers Assoc.

3) Larry Cotter - consultant - who upon leaving the Council formed the largest brokerage devoted to the transfer and sales of IFQs.

4) Ron Hegge - represented longliners. He is owner of large freezer longliners and received a large share of IFQs.

5) Wally Pereyra - represented the factory trawlers. He was a multi vessel owner. He said he wanted this plan so it would allow him to get trawl IFQs for his factory trawl fleet.

6) Clem Tillion - Alaska State seat - family members receive ownership of large IFQ shares.

We question provisions of conflict of interest changes that would only limit a council member's final vote on the FMP. Again, 'devil is in the details'. For instance, those representing vessel owner interests voted IFQ allocation almost exclusively to vessel owners during the plan design stage. The freezer longliner campaigned for and got special provision for freezer shares to be freely and perpetually leasable. This problem would be somewhat solved or at least identifiable if regulations like the Alaska Open Meetings Law applied. Back room discussions, trades and deals between council members undermine the public's trust of the Council process.

BYCATCH REDUCTION

The Alliance members have always been concerned about bycatch and destructive fishing practices. One of the Alliance proposals prior to IFQs was to switch the sablefish harvest to pots. That would have effectively eliminated halibut bycatch. It would have eliminated the interaction with killer whales which results in high marine mammal mortalities. Unfortunately, sablefish IFQs were issued before the bycatch was cleaned up and we may now be stuck with an institutionalized bycatch in that fishery. SB-39 allows good progress toward bycatch reduction and we suggest the following additions.

1). No IFQs, or other systems which institutionalize practices, should be issued before bycatch is reduced to an acceptable level.

2). Incentive programs should reward catch reduction of prohibited species,

economic discards, and bycatch above consideration for processing waste.

FISHERY DEPENDENT COMMUNITIES AND COMMUNITY DEVELOPMENT QUOTAS (CDQ)

The Alliance strongly supports the SB-39 idea of consideration for coastal communities access to the resources at their doorstep. Many techniques can be used by the Council to assure this access. One is allocation of a portion of the TAC to low volume, low bycatch gear types. Low volume gear allocation such as the 2% allocation of Bering Sea Pacific cod to the jig fishery assures a long season. We are pleased that the language does not require a bureaucratic structure for fish that can be harvested by individual local fishermen.

The Alliance challenged CDQs in the lawsuit as being discriminatory. Judge Singleton found that the Secretary had authority under "Indian Law" to create this program. He further found that Secretary did not need to rely on Indian Law but had authority to create this type of program based solely on economic hardship and social disruption within coastal communities. Under this interpretation of the law, we do not oppose CDQs. We urge that the Magnuson Act contain a specific requirement for CDQs if the Council removes community access by issuing IFQs. We would object to language restricting CDQs to the Bering Sea. We would especially object if the authorization would apply to a fishery management plan in the Gulf of Alaska but direct the benefits to the Bering Sea Communities.

We propose specific legislative language for Section 303(b) in Appendix 3.

Thank you for the opportunity to testify on these fisheries issue of importance to Alaska and the Nation. If you desire clarification please contact me.



Paul K. Seaton
58360 Bruce Drive
Homer, Alaska 99603
Ph. & Fax (907) 235-6342

Dear Sirs and Madams,

The following is a partial list of the representatives of the people in coastal communities that have passed resolutions either opposing the North Pacific Fisheries Management Council's Individual Fishing Quota (IFQ) plan or calling for a detailed socioeconomic impact study before such a plan is considered. Most are based on the anticipated major detriment to employment and local economies. Many recognize problems with the fishery management but call for use of other management tools before resorting to giving the resource to select private individuals.

City of Homer, Homer, Alaska
 Seldovia City Council, Seldovia, Alaska
 Seward City Council, Seward, Alaska
 City of Kodiak, Kodiak, Alaska
 Cordova City Council, Cordova, Alaska
 Anchorage Municipal Assembly, Anchorage, Alaska
 Sitka City Assembly, Sitka, Alaska
 Whittier City Council, Whittier, Alaska
 Old Harbor, Alaska
 Sand Point, Alaska
 Valdez City Council, Valdez, Alaska
 Unalaska City Council, Unalaska, Alaska
 Yakutat City Council, Yakutat, Alaska
 Pelican City Council, Pelican, Alaska
 City of Hoonah, Hoonah, Alaska
 Sitka Borough
 Kodiak Island Borough
 Kenai Peninsula Borough
 Aleutians East Borough
 City of False Pass

The following is a partial list of the Native Associations and Native Corporations that have opposed IFQs or requested detailed Socioeconomic analysis before these IFQ plans are adopted.

Sealaska Corporation
 Seldovia Native Corporation
 Seldovia Village Tribe

Ounalaska Native Corporation
 Wrangell Cooperative Association
 Tlinget and Haida Native Association
 Alaska Native Brotherhood
 Alaska Native Sisterhood
 Afognak Native Corporation
 Bay View, Inc., (a Native Village Corporation for Ivanoff Bay)
 Huna Traditional Tribal Council

The following is a partial list of other governmental and non-governmental forums that have passed resolutions opposing the IFQ plans or calling for more studies prior to IFQ adoption.

1992 Alaska State House of Representatives - unanimous vote
 Alaska Municipal League - unanimous vote
 Alaska State Chamber of Commerce
 Southwest Alaska Municipal Conference (Aleutian Islands and Alaska Peninsula communities)
 Seward Chamber of Commerce
 Sitka Chamber of Commerce
 Sitka Fish and Game Advisory Board
 Adak Commercial Fishermen's Association
 Tenakee Springs Fish and Game Advisory Board
 Rural Alaska Community Action Program, Inc.
 Haines Chamber of Commerce
 Kodiak Chamber of Commerce
 North Pacific Fisheries Protection Association
 Southcentral Alaska Longline Enterprises
 Kodiak Longline Vessel Owners Association
 United Fishermens Marketing Association

If you need a copy of any of the resolutions, you may contact that body or contact the NPFMC in Anchorage as all were submitted as public testimony, or I can furnish you a copy.

Paul K. Seaton
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 Homer, Alaska 99603
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Synopsis of **TABULATION OF IFQ COMMENTS** adapted from a comment submitted to NMFS January 4, 1993 by Jere T. Murray, Ph.D., PO Box 237, Seldovia, Alaska 99663

The Council has repeatedly sought the opinions of the fishing community and other affected individuals on the problems this plan purports to address and/or the plan itself.

The Council and National Marine Fisheries Service has failed to and refused to tabulate the comments received on this plan. In the absence of responsible action on the part of these public servants, I have tabulated those subsets of those comments.

During October and November of 1991 written comments were received at NPFMC offices in Anchorage. These were presented to the Council and the public during the December Council meeting in Anchorage as Agenda C-2, Supplemental.

The positions were grouped as supports/neutral and opposed/concerned. Of the total 815 commenters, 83% or 679 were Alaskans. Of this, 638 or 94% were in the opposed/concerned category.

At the April NPFMC meeting the collection of comments were titled "CORRESPONDENCE ON SABLEFISH AND HALIBUT IFQ MANAGEMENT, JANUARY 1 TO APRIL 16, 1992. These were tabulated as opposed = clearly opposed, or Not Opposed = not clearly opposed. Of the total 3693 commenters 3663 or 99% were Alaskans. Of these Alaskans, 3341 or 91.2 % were opposed.

Between January 1, 1992 and June 23, 1992 the Office of the Governor of the State of Alaska received comments on the IFQ issue. A Freedom of Information Act request yielded 3925 comments. There were 3791 Alaskans of which 3726 or 98.3% were opposed to the IFQ plan.

HOUSE JOINT RESOLUTION NO. 61

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES DAVIDSON, Navarre, Jacko, Mackle

Introduced: 1/14/92

Referred: Resources, Labor & Commerce

A. RESOLUTION

1 Opposing Individual Fishery Quota management systems for the Alaskan halibut and
2 sablefish fisheries and other Alaskan fisheries.

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

4 WHEREAS the Alaskan commercial fishing industry merges an established system of biological
5 management of fishery resources, a social foundation for Alaskan coastal communities, and unique and
6 productive livelihoods for many thousands of Alaskans; and

7 WHEREAS the Alaskan halibut and sablefish resources are generally in a biologically healthy
8 condition under the current open access management system; and

9 WHEREAS the North Pacific Fishery Management Council (NPFMC) has identified problems
10 in the halibut and sablefish fisheries without developing a comprehensive option based on the flexible
11 management actions available under the open access management system that may address those
12 problems, such as gear restrictions, tank inspections, flexible time frames for fishery openings to
13 accommodate weather, et cetera; and

14 WHEREAS the NPFMC is seeking to implement an Individual Fishery Quota (IFQ), or share
15 quota, management system in the Alaskan halibut and sablefish fisheries; and

16 WHEREAS an IFQ management system will initially allocate shares consisting of a percentage

1 of the annual total allowable catch of a fishery resource to individual fishermen; and

2 WHEREAS implementation of an IFQ management system will instantly create permanent
3 exclusive, and salable access rights to the halibut and sablefish fishery resources of the North Pacific
4 Ocean; and

5 WHEREAS the value of quota shares as salable property will make an IFQ management system
6 irreversible; and

7 WHEREAS an IFQ management system will, through attrition, eventually concentrate ownership
8 of the right to harvest the fishery resource into the hands of those with the greatest wealth and financial
9 advantages; and

10 WHEREAS the implementation of IFQ management systems will create a privileged class of
11 fishermen based on their fortuitous involvement in the fishing industry during a particular period of time
12 and will seriously inhibit those fishermen who wish to enter those fisheries in the future; and

13 WHEREAS an IFQ management system will seriously inhibit the ability of fishermen to
14 diversify among fisheries as resource and market conditions fluctuate and will therefore hinder the ability
15 of fishermen to operate stable and successful fishing businesses; and

16 WHEREAS the NPFMC has not given adequate consideration to or realistically estimated the
17 practical enforcement costs, strategies, or funding sources required to ensure effective at-sea and
18 shoreside fishery conservation measures to prevent illegal fishing, highgrading, false reporting, black
19 marketing, et cetera of fish caught under an IFQ management system; and

20 WHEREAS the NPFMC has not given sufficient consideration to the economic and social effects
21 that IFQ management systems will have on Alaskans and Alaskan coastal communities; and

22 WHEREAS testimony given to the NPFMC on IFQ management systems by individual
23 fishermen, industry, municipalities, and organizations overwhelmingly opposes such management
24 systems; and

25 WHEREAS an open access management system, while not perfect, has provided for proven,
26 effective, and cost-efficient administration and enforcement of resource conservation efforts, while
27 allowing fishermen and the fishing industry the flexibility to diversify among existing fisheries and to
28 develop new fisheries as conditions and markets change; and

29 WHEREAS implementation of IFQ management systems in any Alaskan fishery will result in
30 serious, compound, negative effects for individual fishermen, the Alaskan commercial fishing industry,
31 Alaskan coastal communities with a fishing-based economy, and the overall economy of the state;

32 BE IT RESOLVED that the Alaska State Legislature respectfully requests the Secretary of

1 Commerce to direct the North Pacific Fishery Management Council to conduct extensive socio-economic
2 impact studies and seriously consider the results of those studies before initiation of any Individual
3 Fishery Quota management system for any Alaskan fishery; and be it

4 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests the North Pacific
5 Fishery Management Council to aggressively seek and to carefully consider public comment from all
6 segments of the commercial fishing industry in order to develop a comprehensive management plan for
7 the Alaskan halibut and sablefish fisheries utilizing the flexible management tools available under the
8 current open access management system; and be it

9 **FURTHER RESOLVED** that the Alaska State Legislature opposes the use of state agency
10 resources, state operated facilities, state funds, or other forms of cooperation to implement an Individual
11 Fishery Quota management system; and be it

12 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests the Secretary
13 of Commerce, the Administrator of the National Oceanic and Atmospheric Administration, and the
14 Director of the Office of Management and Budget to disapprove any Individual Fishery Quota
15 management system that the North Pacific Fishery Management Council recommends for the Alaskan
16 halibut and sablefish fisheries, or any other Alaskan fishery.

17 **COPIES** of this resolution shall be sent to the Honorable Barbara Franklin, Secretary of the U.S.
18 Department of Commerce; the Honorable John A. Knauss, Administrator, National Oceanic and
19 Atmospheric Administration; the Honorable Richard G. Darman, Director of the Office of Management
20 and Budget; the Honorable Richard Lauber, Chair of the North Pacific Fishery Management Council;
21 and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the
22 Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.



City

of
Pelica

APR 15 1992

BOX 737

PELICAN, ALASKA 99831

PHONE 735-2202

FAX 735-2262

RESOLUTION 1992-4

A RESOLUTION OF THE PELICAN CITY COUNCIL URGING THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL TO COMPLETE AN INDEPENDENT SOCIO-ECONOMIC IMPACT STUDY AND SHARE THE ANALYSIS WITH THE AFFECTED COMMUNITIES FOR THEIR CONSIDERATION AND COMMENT BEFORE IMPLEMENTATION OF ANY INDIVIDUAL FISHERIES QUOTA (IFQ) PROGRAM.

WHEREAS, the North Pacific Fisheries Management Council (NPFMC) has not assessed the potential economic impacts such a program would have on the State of Alaska or on local communities which rely on the fishing industry as a major local employer; and

WHEREAS, the City of Pelican relies on the flow of commercial fishing dollars for its economic vitality and health; and

WHEREAS, the proposed IFQ program for the halibut and sablefish fisheries anticipates a one half (1/2) to two thirds (2/3) reduction in the participating fishing vessel fleets.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pelican, Alaska, respectfully requests the NPFMC to rescind its vote to implement the IFQ program until the economic impact of Alaskan coastal communities and hardships created for Alaskan fishermen by the proposed IFQ program or any IFQ system can be analyzed.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the NPFMC, Secretary of Commerce Barbara Franklin, Senators Stevens and Murkowski, Representative Young, Governor Walter J. Hickel, Representative Grussendorf, and Senator Eliason.

PASSED AND APPROVED by the Pelican City Council this 6th day of April, 1992.

Allen Stewart, Mayor

ATTEST:

Sheri A. Paddock, City Clerk

RESOLUTION 91-27

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA REQUESTING THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL AND ALL OTHERS INVOLVED DO NOT APPROVE THE INDIVIDUAL TRANSFERABLE QUOTA (ITQ) PROGRAM AND THE PRIMARY PORT PROGRAM FOR THE SABLEFISH AND HALIBUT FISHERIES UNTIL AN ECONOMIC IMPACT ANALYSIS OF THE PROGRAMS ON THE COASTAL COMMUNITIES OF ALASKA IS COMPLETED AND SHARED WITH THE AFFECTED COMMUNITIES FOR THEIR CONSIDERATION AND COMMENT.

WHEREAS, the proposed Individual Transferable Quota program for the halibut and sablefish fisheries could mean a one half (1/2) to two thirds (2/3) reduction in the participating fishing vessel fleets; and

WHEREAS, in addition to the loss of jobs directly associated with the reduced number of vessels, the structure of the allocation of shares could result in the utilization of many fewer deckhands from the community on boats that continue in the fishery; and

WHEREAS, the halibut fishery represents a significant portion of many deckhand's disposable income; and

WHEREAS, the structure of the ITQ program may lead to a continuous shift in the ownership of the fishery resource to individuals outside the Seldovia community; and

WHEREAS, the City of Seldovia heavily relies on the flow of commercial fishing dollars for its economic vitality and health; and

WHEREAS, loss of vessels from the Seldovia Harbor would negatively impact the City's revenue; and

WHEREAS, continuous near shore halibut fishing close to Seldovia and Homer may result in diminished local stocks and gear conflicts with negative impact on the local sport charter fleet; and

WHEREAS, the City of Seldovia is not designated as a "primary" delivery port which will influence deliveries of halibut and black cod to be made to other "primary" ports thus reducing fish landings and fish tax for Seldovia;

NOW, THEREFORE, BE IT RESOLVED THAT: the City Council of the City of Seldovia, Alaska requests that the North Pacific Fisheries Management Council and all others involved in these programs not to approve the Individual Transferable Quota Share Program and Primary Port Program for the sablefish and halibut fisheries until an economic impact analysis of these programs on the coastal communities of Alaska is completed and shared with the affected communities for their consideration and comments and;

CITY OF WHITTIER, ALASKA
RESOLUTION 264-92

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA SUPPORTING TRADITIONAL MANAGEMENT METHODS IN SABLE FISH, HALIBUT AND OTHER FISHERIES, AND URGING THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL TO REVIEW, ANALYZE AND IMPLEMENT TRADITIONAL MANAGEMENT METHODS.

WHEREAS, The North Pacific Fishery Management Council is developing detailed options for implementing a sable fish and halibut individual fishing quota (IFQ) system and is preparing plan amendments which would impose a moratorium on entry into the ground fish, crab and halibut fisheries; and

WHEREAS, There have been a number of traditional management proposals submitted to the north pacific fishery management council which would potentially eliminate those problems addressed by an IFQ system.

WHEREAS, the NPFM Council under the proposed IFQ system is moving to reduce delivery ports of sable fish and halibut, and eventually all ground fish and crab fisheries, to ten primary designated ports, thereby severely impacting small rural Alaskan coastal communities; and

WHEREAS, the ability to participate in multiple fisheries, to fully diversify and adapt to changing economic and resource conditions are vital characteristics of the Alaskan fishing industry.

WHEREAS, IFQ programs under consideration provide for much of the resource to be allocated to non-resident users, excluding disproportionate numbers of Alaskan fisherman and preclude participation by the growing Alaska longline fishing fleet.

NOW, THEREFORE, THE WHITTIER CITY COUNCIL RESOLVES; THAT it urges the NPFMC to implement traditional methods of management in the sable fish, halibut and other fisheries; and

BE IT FURTHER RESOLVED; that in the event the proposed management plan is passed we respectfully request the U.S. Secretary of Commerce, Robert Masbacher to oppose the IFQ system.

PASSED AND APPROVED by the Whittier City Council this 18th day of November, 1991.

ATTEST:

Tina Lorrekovich
Tina Lorrekovich, City Clerk

Scott Walker
Scott Walker, Mayor
Vice Mayor, Walker

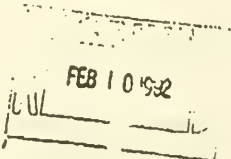


**KODIAK
CHAMBER
OF COMMERCE**

P.O. Box 1485, Kodiak, Alaska 99615

(907) 486-5557

FAX: (907) 486-0055



February 4, 1992

Richard Lauber, Chairman
North Pacific Fisheries Management Council
P.O. Box 103136
Anchorage, AK 99510

Dear Mr. Lauber:

Enclosed please find a resolution passed and approved by the Board of Directors of the Kodiak Chamber of Commerce on February 3, 1992.

This resolution outlines our continued opposition to the present individual fisheries quota plan being promulgated by the North Pacific Fisheries Management Council.

The Board of Directors firmly believe that before a plan to change the existing system of fisheries management is implemented, an in-depth socio-economic analysis must be conducted and reviewed by the Council.

We firmly believe that the proposed plan has the potential to negatively impact the economies of all coastal communities in Alaska.

Your attention and consideration of this request is sincerely appreciated.

Yours in economic prosperity,

Alan Schmitt
Vice-President

Bay View Incorporated
4651 Cascade Circle
Anchorage, Alaska 99509

March 31, 1992

APR 15 1992

Honorable Walter J. Hickel, Governor
State of Alaska
Governor's Office
3601 C. Street, Suite 758
Anchorage, Alaska

Dear Governor Hickel:

Bay View Incorporated is a Village Corporation for the Village of Ivanoff Bay. I am writing to you to let you know that our shareholders do not support the individual fishing quota, because it may mean fisheries opportunities, which we are just now being able to enter, may be foreclosed. The IFQ appears to us to favor outside interests, and not Alaska residents who, for many years, were not able to participate in the ground fisheries, due to a lack of markets, foreign/American (Seattle) joint venture fisheries, and factory trawlers.

You have always supported Alaska first, and the concept that the "owners state". We need protection from the implementation of an IFQ which may in the future work against our smaller fishing fleet, all Alaska owned, in this state. Please help us.

Very truly yours,

BAY VIEW INCORPORATED

By: Nick Shangin
Nick Shangin
President

(ltr-58)
cc: Alaska Board of Fisheries
North Pacific Management Council

Rural Alaska Community Action Program, Inc.

January 10, 1992

Honorable Walter J. Hickel
Governor of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

A. J. Jansen

JAN 21 1992

Dear Governor Hickel:

We are very concerned about recent actions by the North Pacific Fisheries Management Council to implement an Individual Fisherman's Quota (IFQ) plan for halibut and sablefish fisheries.

We fear such a plan will greatly decrease the numbers of vessels allowed in this fishery and thereby eliminate many small family-based rural operators. We cannot afford to risk such a significant loss of jobs. Additional concerns are that once this plan is implemented, most halibut and sablefish will be directly transported to Seattle for processing.

We believe that before any such plan should be implemented, a comprehensive socioeconomic impact study be completed, and are respectfully requesting that you direct the Alaska delegation to the North Pacific Fisheries Management Council to rescind its vote and initiate such a study.

Thank you for carefully considering this request.

Sincerely,

Jeanine Kennedy
Jeanine Kennedy
Executive Director

cc: North Pacific Fisheries Management Council

Kick Lanker, Pres.

City of False Pass

P.O. Box 60 • False Pass, Alaska 99583-2350
 Telephone (907) 548-2318 • Fax (907) 848-2214



*Mayor:
 Borge Laker
 3.15.93 confirm
 opposition*

MAR 17 1992

March 11, 1992

Honorable Walter Hickel
 Governor, State of Alaska
 P.O. Box 110001
 Juneau, Alaska 99811

Dear Governor Hickel:

We, the residents of False Pass, strongly oppose the Individual Fishing Quota (IFQ) for the halibut and sable fisheries in Alaska.

We appeal to the North Pacific Council, Governor Hickel, and our Congressional Delegation to oppose this Plan. If this plan is implemented, the problems that result may be impossible to rectify.

We, the residents of False Pass, Alaska, heraby submit this Petition in opposition to this proposed IFQ Plan:

Thank you so much for considering our request.

The Residents of False Pass

Enclosure: Petition

RESOLUTION 91-12-03
OF THE BOARD OF DIRECTORS
OF
OUNALASHKA CORPORATION

A Resolution of the Ounalashka Corporation, a village Corporation located at Unalaska, urges the North Pacific Fisheries Management Council and all other authorities to rescind its vote to implement the IFQ Program approving the Individual Transferable Quota Share Program for the Sable fish and Halibut Fisheries until an economic impact analysis of the program on the City of Unalaska and other communities of Alaska is completed and shared with the affected communities for their consideration and comment.

Whereas, a number of traditional management proposals have been submitted to the North Pacific Fisheries Management Council which would potentially eliminate the problems that an Individual Fishery Quota (IFQ) would address; and

Whereas, the Council's role and responsibility is to analyze all proposals on a given issue before implementing major changes to a fishery; and

Whereas, analysis and implementation of traditional management proposals to address the problems have not even been reviewed prior to the proposed implementation of an IFQ System; and

Whereas, an IFQ System is going to take years to implement while the fisheries need extensive traditional management changes, not short-term improved management; and

Whereas, the ability to participate in multiple fisheries and adapt to changing economic and resource conditions are vital characteristics of the Alaska fishing industry; and

Whereas, IFQ Systems under consideration provide much of the resource to be allocated to non-resident users, excluding disproportionate numbers of Alaska fishermen, of which over 100 abide in Unalaska, and preclude participation by the growing Alaska longline fishing fleet; and

Whereas, IFQ Systems will deny the opportunity for residents of the Municipality of Unalaska and other Alaskan communities to fully diversify and maximize their fisheries creating financial hardships and creating economic impacts; and

Whereas, IFQ Systems could accommodate offshore processors which will minimize the raw fish tax to Alaskan communities and the State.

OUNALASHKA CORPORATION
RESOLUTION 91-12-03
PAGE 2

NOW, THEREFORE, the Ounalashka Corporation resolves:

Section 1: That the Alaska State Legislature and the Governor intercede on behalf of Alaska fishermen to prevent any negative economic impact or hardship on them and affected Alaska communities as a result of the IFQ System.


Section 2: That the North Pacific Fishery Management Council rescind its vote to implement the IFQ Program, carefully scrutinize this proposal including its impact on Alaska fishermen and communities, and implement traditional management methods prior to any further discussion on an IFQ System.

Section 3: That copies of this resolution be sent to Governor Walter J. Hickel, the North Pacific Fishery Management Council, State Senator Zharoff and Representative Jacko, U.S. Senators Stevens and Murkowski, and Representative Young.

PASSED AND APPROVED by the Ounalashka Corporation this 12th day of December, 1991.


Katherine M. Grimnes, President

ATTEST:


Nena H. Mathe, Corporate Secretary

The following discussion of issues, costs and benefits of possible adoption of an IFQ program are based on a qualitative assessment of social impacts. As noted previously, it has not been possible to conduct a social impact study and this assessment is based on a survey of available literature.

5.3.1 Assessment of impacts

The discussion of impacts is organized by issue so that the reader can refer to the discussion of economic impacts in Sections 4.1 and 7.

5.3.1.1 Provision of a harvest share

- a. The allocation of a QS to an individual is the allocation of a fishing privilege and not the allocation of a piece of real property. Further, the yearly poundage represented by the ratio of the QS to the TAC will fluctuate as the stock biomass changes. Currently, the biomass appears to be decreasing and thus the annual poundage of the IFQ will also decrease until the stock recovers and TAC is increased.
- b. The Council proposes to allocate QS and IFQ to vessel owners and qualified bareboat charterers who landed halibut in designated years. In so doing the Council will recognize the capital investment and risk taken by these individuals and/or companies. Crew and hired skippers have also invested time and labor as co-venturers paid through the vessel share system, but these investments are not recognized in the allocation of harvest shares proposed.
- c. Since the IFQ is proportionate to historic catches, and these have been declining over time (see Table 5.1), an individual vessel owner will not see any immediate increase in catches and will forgo the opportunity of "striking it rich" through fishing skill or luck, for the opportunity to expand fishing operations through the purchase of additional QS or IFQs. However, the vessel owner is assured of the opportunity to take the full poundage of an IFQ during the season, and not be subject to the need to take unnecessary risks in bad weather or in fishing practices in order to maximize harvests during an opening. Further, mechanical or other vessel problems can be resolved without missing the opportunity to fish for halibut, as was the case with, for example, engine failure at the beginning of an opening. A significant social and cultural impact of the introduction of an IFQ program is the switch from a "hunting and fishing" culture to a "farming" culture. For many the attraction and satisfactions of fishing as a life-style will fade with the introduction of quotas and the lessening of feelings of competitiveness and independence.
- d. The initial allocation of QS and IFQs will fix the maximum social parameters of the fishery. Access to the fishery, unless the Council and Secretary change the IFQ program through an FMP amendment, will be by purchase or lease of QS and IFQ or through inheritance in years after implementation of the program. Since many of the initial allocations will be small, it is predicted that the number of vessels and fishermen will decrease as unprofitable QS and IFQs are sold or transferred. The economic model suggests that an economically efficient fishery would contain 288 to 376 vessels with 1,504 to 1,976 fishermen. This economically efficient fleet would be similar in numbers to that operating in the halibut fishery in 1978 (Langdon and Miller, 1984b), but with increased fishing power due to improved technologies. Since much of the rural Alaskan fishery operates within a mixed cash-subsistence economy, with different criteria of efficiency, availability of QS and IFQs to the present operators of the fleet of skiffs and medium-sized vessels will permit continuance of traditional fishing, but will not encourage economic growth in rural communities.

EIS (July 91) This "Economically Efficient Fishery" is the Goal of the IFQ plan and represents a 90% reduction in the size of the fleet and fishermen.

←

Final Environmental Impact Statement for the
Halibut + sablefish IFQ plan by NPFMC APPENDIX 2 - 2

As noted above, a range of numbers of vessels or fishermen could be associated with these estimates of vessel and fisherman days. If each vessel is fully employed in the halibut fishery, there would be 72 to 94 halibut vessels and 376 to 494 halibut fishermen. However, if on average, each vessel spends only 50 days per year in the halibut fishery instead of 200 days, there would be 288 to 376 halibut vessels and 1,504 to 1,976 halibut fishermen. These are in comparison to estimates of 3,796 vessels and 14,721 fishermen without an IFQ program. The redistribution of catch and effort to the most profitable vessel class for each area reduces the required numbers of vessel and fisherman days because landings per vessel day or fisherman day are higher for the most profitable vessel class than for most other vessel classes.

The sablefish model estimated that, at the extreme, an IFQ program in 1989 would have: (1) reduced the number of sablefish vessels from 580 to 47; (2) reduced the number of sablefish fishermen from 2,925 to 256; (3) decreased the number of fishermen days from 83,251 to 58,252; and (4) increased fishermen income per day from \$213 to \$315. As noted above, these estimated reductions in vessels and fishermen are based on the assumption that the vessels and fishermen in the sablefish fishery will be fully employed in that fishery. Therefore, they greatly overstate the actual reductions that will occur with an IFQ program if the sablefish fishery remains one of several fisheries in which most sablefish vessels and fishermen participate. The estimated percentage reduction in fisherman days may provide a better estimate of the expected reduction in fisherman employment.

There are two reasons why the model may under estimate the effect of an IFQ program on employment opportunities in the halibut fishery. First, no adjustment is made in the number of crew members for a vessel class. Currently, there may be additional crewmen, who are only justified by the need to fish more rapidly. Second, a larger percentage of the halibut quota will be taken as bycatch in other hook and line fisheries. The former would result in a decrease in harvesting cost that is not captured by the cost model and, therefore, not included in the cost savings listed above. An estimate of the latter saving is presented in Section 2.2.21.

Each year the halibut fishery provides very brief employment opportunities for a large number of fishing vessels and a larger number of fishermen. It provides longer employment opportunities for a very small number of vessels and fishermen. With an IFQ program, the halibut and sablefish fisheries will tend to provide longer employment opportunities but for fewer vessels and fishermen.

Some have suggested that IFQs would also reduce employment opportunities by increasing the use of automated gear. It is not clear that this would occur. With IFQs there would be a much lower premium on gear handling speed and a higher premium on product quality. These changes would tend to decrease the advantages of automated gear and increase labor intensive activities, such as bleeding, heading and gutting, and icing.

This change will obviously benefit some and impose costs on others. The magnitude of the cost will on average be relatively small due to the large number of fishermen and vessel owners who receive a small part of their annual income from the halibut fishery. It is difficult to determine whether the cost of eliminating a brief employment opportunity for a large number of people is offset by the benefit of providing a smaller number of people a longer employment opportunity. The same holds true for the sablefish fishery, except that, for most vessels and fishermen, the current employment opportunity is much shorter in the halibut fishery.

In considering the employment effects of an IFQ program, it should be remembered, that many fishermen take a break from other fishing or non-fishing activities to participate in the halibut fishery. Therefore, their alternative to participation in the halibut fishery is not unemployment. For others,

x

With IFQ's 1,500 to 1,976 fishermen
Without IFQ's 14,721 fishermen

COMMERCIAL FISHERIES NEWS RELEASE

ALASKA DEPARTMENT OF FISH & GAME

STATE OF ALASKA
Department of Fish and Game
Carl L. Rosler, Commissioner

Sitka Area Office
304 Lake Street, Rm 103
Sitka, Alaska 99835

Jeffery P. Koenings
Director

Contact: Tory O'Connell
(907) 747-6688

FOR IMMEDIATE RELEASE

December 28, 1994

1995 DEMERSAL SHELF ROCKFISH OPENINGS ANNOUNCED

Sitka The Alaska Department of Fish and Game announced today that the EYKT, CSEO, and SSEO sections of the Southeast Outside Subdistrict will open to directed fishing for Demersal Shelf Rockfish (DSR) at 12:00 noon, Sunday January 1, 1995. Demersal shelf rockfish is a seven species assemblage including the following species:

Canary rockfish	<i>Sebastes pinniger</i>
China rockfish	<i>Sebastes nebulosus</i>
Copper rockfish	<i>Sebastes caurinus</i>
Quillback rockfish	<i>Sebastes mallger</i>
Rosethorn rockfish	<i>Sebastes helvomaculatus</i>
Tiger rockfish	<i>Sebastes nigrocinctus</i>
Yelloweye rockfish	<i>Sebastes ruberrimus</i>

The North Pacific Fishery Management Council removed redbanded rockfish from the DSR assemblage at their September meeting. Redbanded are now part of the "other rockfish" category. The 1995 TAC for DSR in the Southeast Outside Subdistrict is 580 mt. Given the reduction in TAC and the uncertainty regarding DSR bycatch in the new halibut IFQ fishery, ADF&G is releasing 150 mt of DSR for harvest by the directed fishery. Of this amount, 50 mt is allocated to the EYKT section. The NSEO section will not open to directed fishing because new survey data indicates that there is not sufficient resource available.

The directed fishery harvest guidelines in the SSEI and NSEI sections have been reduced to 25 mt in each section. Harvest rates will be closely monitored and closures announced when needed. There is a 12,000 pound trip limit in any 5-day period in EYKT and a 6,000 pound trip limit in the other sections. Logbook pages corresponding to each trip must be turned in with the fish ticket at the time of delivery.

ROBERT C. BYRD, WEST VIRGINIA, CHAIRMAN

CAROL E. BOWLYE, HAWAII
 HERBERT F. HOLIFIELD, SOUTH CAROLINA
 J. BENNETT JOHNSON, LOUISIANA
 GUYBERT B. BURGESS, NORTH CAROLINA
 PATRICK J. LEAHY, VERMONT
 JIM BASSFUL, TENNESSEE
 EDWARD BONDURSKI, ARIZONA
 DALE BUMPERS, ARKANSAS
 FRANK R. LAUTNER, NEW JERSEY
 TOM HARTZ, IOWA
 BARBARA A. BENTLEY, MARYLAND
 HARRY REID, NEVADA
 BRUCE ADAMS, WASHINGTON
 WYDIE BOWLES, JR., GEORGIA
 J. ROBERT KERRY, MASSACHUSETTS

MARK O. MATTHEI, OREGON
 TED STEVENS, ALASKA
 JACK BAKER, TEXAS
 THOM COCHRAN, MISSISSIPPI
 ROBERT W. CLAYTON, JR., WISCONSIN
 ALFONSO M. TRAMER, NEW YORK
 WARREN RUSSAK, NEW HAMPSHIRE
 JERIN SPECTER, PENNSYLVANIA
 FRED V. DOMINICK, NEW MEXICO
 DON NICOLELLO, CALIFORNIA
 PHIL GRAMM, TEXAS
 CHRISTOPHER S. BOND, MISSOURI
 BLAKE BENTON, WASHINGTON

JAMES H. DUNN, STAFF DIRECTOR
 J. RUTH KIRKBY, SENIORITY STAFF DIRECTOR

United States Senate
 COMMITTEE ON APPROPRIATIONS
 WASHINGTON, DC 20510-8028

December 4, 1991

Richard B. Lauber
 Chairman
 North Pacific Fishery Management Council
 P.O. Box 103136
 Anchorage, AK 99510

Dear Rick:

I'm informed that the Council plans to take final action at its current meeting on a proposal to implement Individual Fishing Quotas (IFQs) for sablefish and halibut. I continue to hear from Alaska fishermen who are concerned about the impact of the proposal on them and the communities who depend on income from these fisheries. Some have gone so far as to ask me to oppose IFQs altogether. I understand that Congressman Young has also written you regarding the IFQ proposal.

Last June I wrote to you to express a number of concerns about the IFQ concept. It is still not clear from the Council's November 22 decision document what this proposal will cost and how it will be funded. It appears that the proposal could cost at least \$4 million annually. If these funds are to come from the already tight National Marine Fisheries Service budget, other important fishery programs, such as stock assessment and high seas fishery enforcement, may suffer.

The Council's decision document has only been available to the public for 12 days, so many fishermen have not yet had time to assess the impact the IFQ proposal will have on them or their communities. Given the time and effort that the Council has spent developing the IFQ concept and the importance of this decision, I urge you and other members of the Council to allow more time for public comment on, and further review of, the IFQ proposal's impact before taking final action. Thanks for your consideration of my views.

With best wishes,

Cordially,


 TED STEVENS

ROBERT C. BYRD VICE CHAIRMAN

CAROL E. MOULTON MAINE
 ERNEST F. HOLLINGS SOUTH CAROLINA
 J. BERNETT JOHNSTON LOUISIANA
 QUINCY W. BURDICK NORTH DAKOTA
 PATRICK J. LEAHY VERMONT
 JIM EASTER TENNESSEE
 CENNIS GONCALVES ARIZONA
 DALE BUMPERS ARKANSAS
 FRANK R. LAUFERSBERG NEW JERSEY
 TOM HARKIN IOWA
 BARBARA M. WINKEL MARYLAND
 HARRY REID NEVADA
 BROCK ADAMS WASHINGTON
 WYCHE CROWLER JR. GEORGIA
 J. ROBERT KERREY NEBRASKA

MADE O. WATFIELD OREGON
 TED STEVENS ALASKA
 JAKE GARN UPARK
 TRAC COCHRAN MISSISSIPPI
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United States Senate
 COMMITTEE ON APPROPRIATIONS
 WASHINGTON, DC 20510-6025

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 DEC 29 1992

December 21, 1992

Richard B. Lauber
 Chairman
 North Pacific Fishery Management Council
 P.O. Box 103136
 Anchorage, Alaska 99510

Dear Rick:

I remain concerned about the potential impacts on fishermen of the Council's proposed Individual Fishing Quota (IFQ) management plan for sablefish and halibut. Fishermen who do not own vessels or who only receive a very small IFQ under the plan will be particularly hard hit if the Council's proposal is approved by the Secretary.

In light of this, I would like to urge the Council to consider further modifications to the proposed IFQ plan, such as the Sitka Block proposal and the 1,000 pound minimum allocation, which would increase the chance that small boat fishermen and fishermen who do not receive an initial allocation may continue to participate in these fisheries. Should the Secretary approve the proposed IFQ plan, quick action by the Council at the January meeting could allow these two amendments to be incorporated into the IFQ plan prior to its proposed implementation for the 1994 fishing season.

While the inclusion of these two amendments will not resolve all of the outstanding concerns that I have with the Council's IFQ proposal, it would help to alleviate some of the major inequities found in the present plan.

With best wishes,

Cordially,

Ted Stevens
 TED STEVENS

DECEMBER 1991

FRANK H. MURKOWSKI
ALASKA

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 ENERGY AND NATURAL RESOURCES
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APPENDIX 2 - 6

United States Senate

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November 25, 1991

Rick Lauber
 Chairman
 North Pacific Fishery Management Council
 411 Fourth St., Suite 2D
 P.O. Box 103136
 Anchorage, AK 99510

Dear Rick:

The North Pacific Fishery Management Council is one of the success stories in the business of fisheries management. Its decisions have, almost without exception, been equitable, well-planned and significantly beneficial to the industry as a whole. The broad expertise in the industry represented on the Council is one of the most valuable of all our fishery resources.

I have always felt that it is best for those on the political side of fisheries issues to leave decisions in the Council's hands, and have strongly defended the Council's actions in many past cases.

I have no intention of altering that course now. At the same time, I feel that it is important to bring a recent phenomenon to your attention.

I have for some time been receiving an extraordinary volume of correspondence from Alaskans and others concerned about the Council's plans to impose an Individual Fishery Quota plan. Many of these writers have indicated they do not believe their views have been given adequate consideration.

The letters I've received express a wide variety of concerns. I have been particularly struck by three that seem to be shared by most writers:

First, that the Council's current implementation plan would cause significant social and economic disruption in coastal communities through the loss of perhaps thousands of crew berths, with the possibility that there would be subsequent disruptions including a loss of tax revenues, increased unemployment, etc., perhaps culminating in a significant population loss.

Rick Lauber
November 25, 1991

Page 2

Second, that there is a distinct possibility that it will lead many participants to land fish in fresh markets outside Alaska, rather than to land their catches in Alaska ports. This, too, would create a disruption of the economic fabric, if it proved true.

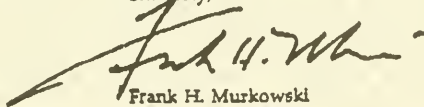
Third, that the costs of implementing the IFQ program would prove prohibitively high, and that it will be very difficult to ensure comprehensive enforcement.

A variety of other issues have also been raised, ranging from concern that it will be very difficult for any non-shareholder to move into shareholder status, to worry about the economic impact on service businesses. I'm sure you have heard all these expressed many times before.

I cannot evaluate all these charges; that is the Council's job alone. I can speak with some knowledge only on the issue of funding. Candidly, this issue concerns me, because the budgetary environment would be extremely difficult if a significant increase were needed to cover implementation, administration and enforcement. Unless a system which could pay for itself were devised -- and that might require legislative changes -- the additional cost would in all likelihood have to be taken from existing programs.

Again, I want to emphasize that the purpose of this letter is solely to apprise you of some of the correspondence I have recently been receiving on this subject, and not in any way to urge the Council toward a specific action. Indeed, I trust that the Council -- in its normal exemplary fashion -- already will have examined all these factors in great detail, and is completely confident that its record will provide all the support necessary for whatever action the Council chooses to take.

Sincerely,



Frank H. Murkowski
United States Senator

APPENDIX 2 - 8

H-46

DON YOUNG
CONGRESSMAN FOR ALL ALASKA

WASHINGTON OFFICE
2331 RAYBURN BUILDING
TELEPHONE 202-225-5785

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Congress of the United States

House of Representatives

Washington, D.C. 20515

November 22, 1991

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Mr. Richard Lauber
Chairman
North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, AK 99510

Dear Rick:

It is my understanding that the Council plans to consider management measures dealing with individual fishery quotas (IFQs) at the December meeting. I know that the Council has worked long and hard on this issue and I am sure that any proposal which is sent forward will attempt to meet the requirements of law.

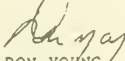
As I have indicated in earlier correspondence to you and the Council, I have no wish to interfere in your deliberations. However, before sending any management plan forward to the Secretary of Commerce, I hope that the Council will consider two things in particular.

First, the Council should consider the cost of implementing and enforcing any management plan involving IFQs. I have asked my staff to obtain as much information as possible on this subject and I will attempt to forward it to you prior to the Council meeting. It is my hope that this information will help the Council in making its decision. However, the Council should be aware that if new funds are needed to implement or enforce this management plan, it is most likely that the funds will come from other National Marine Fisheries Service programs. Thus, the Council may have to judge whether research programs, management efforts, or even Council funding should be reduced to offset the cost of implementing and enforcing an IFQ plan. The only other alternative is to change the law to require the fishing industry to pay for the plan. While I recognize that this alternative will most likely be proposed by the National Marine Fisheries Service, I think it is unlikely that the Congress will agree to such a sweeping change in the law.

The second issue that the Council should consider is the effect of the IFQ program on those involved in the fisheries who are not vessel owners. For example, crew members on longline vessels who support the concept of IFQs have expressed strong reservations about the current Council proposal. Obviously, this problem can be addressed in a number of ways, including by making IFQs nontransferable and by requiring that the holder of an IFQ be present on board the vessel while the vessel is engaged in the fishery. I am sure there are many other options that the Council has and will consider. Regardless of what decision the Council makes, there will likely be both legal and political challenges to the Council's decision and efforts to minimize these challenges would be helpful.

Again, I want to compliment you and the members of the Council for the efforts you have made in dealing with difficult fisheries management issues. I look forward to working with you in the future.

Sincerely,



DON YOUNG
Congressman for all Alaska

DY:rm

Legislative language to amend the Magnuson Act to repeal the rule and regulations which created the halibut/sablefish IFQ program in the North Pacific by inserting specific repeal and prohibition language in the national standards. Also included is language which would establish a more accurate and effective definition of "limited access" and "fisherman" in the Magnuson act which would, if applied retroactively, effectively repeal critical and negative elements of the existing programs. The definition language and the national standards language may be mutually exclusive since elimination of IFQs and similar proposals from the definition of limited access would obviate the need to establish national standards to manage and limit IFQs.

-
1. Sec. 301 (a) (4) is amended by striking, in (B), the word "and" after the word and symbol "conservation;", by adding, in (C), after the word "privileges", the symbol ";", and by striking the period and by adding after the symbol ";", the following: "(D) non-transferable, except such privileges shall be transferable back to the United States through the original issuing agency; (E) valid only for a specific term of not more than five years; and (F) to the extent that such privileges are determined by the issuing agency to be of value because of their exclusive nature, or for any other reason, issued only upon receipt by the United States of fair value for such fishing privileges."
 2. Sec. 303 is amended by adding at the end the following: "(10) comply with all provisions of Sec. 301 (a)(4), provided that in the case of a fishery management plan approved by the Secretary after January 1, 1993 and prior to January 1, 1996, such fishery management plan shall be amended to comply with all provisions of Sec. 301 (a)(4) prior to January 1, 1997."
 3. Sec. 3 is amended by adding at the end new subsections as follows: "(34) The term "fisherman" means any individual who engages at sea in fishing as defined hereinbefore in paragraph (10) (A), (B), and (C)."
 "(35) The term "limited access" means a system that restricts the number of participants in a fishery. "limited access" does not mean a system that transfers amounts or shares of public resources to persons as property or exclusive privilege."
 4. Sec. 303 (b)(1)(A) is amended by inserting after the word "any", and before the words "fishing vessel", the words "fisherman or".
-

MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT
 AMENDMENT AUTHORIZING NPFMC TO INCLUDE
 PROVISION IN MANAGEMENT PLANS
 ESTABLISHING AN ALASKA
 COMMUNITY DEVELOPMENT QUOTA PROGRAM

Section 303(b), 16 USC 1853(b), of the Magnuson Fishery Conservation and Management Act, as amended, is amended by:

- 1) at the end of paragraph (9) strike "and";
- 2) at the end of paragraph (10) strike "." and
 In lieu thereof add: "; and"; and
- 3) add a new paragraph (11) to read as follows:
 "(11) (A) with respect to a fishery management plan prepared by the North Pacific Fishery Management Council, establish an Alaska community development quota program and allocate a percentage of the total allowable catch of such fishery to Alaska communities participating in the program:
 (B) to be eligible to participate in the Alaska community development quota program, a community must -
 (i) be located within fifty nautical miles from the baseline from which the breadth of the territorial sea is measured along the Chuckchi Sea, the Bering Sea, or the Gulf of Alaska or on an island of the Bering Sea.
 (ii) not have previously developed harvesting or processing capability sufficient to support substantial fisheries, except if the community can show that the benefit it will derive from participating in the program is the only way for the community to realize a return from previous investments; and
 (iii) the residents of the community must conduct more than one-half of their current commercial or subsistence fishing effort in the waters around the community."

EXPLANATION

The above language amends the section of the MFCMA which describes the optional provisions of fishery management plans. The purpose of the amendment is to explicitly authorize the NPFMC to write, and the Secretary to approve and implement, FMPs which create Alaska community development quota programs on the whole coast of Alaska in addition to those the NPFMC and the Secretary presently are implementing on the Western Alaska coast.

Federal District Court Judge James Singleton recently ruled that the Secretary of Commerce need not rely on identifiable Indian or Alaskan Native community status to accomplish allocations such as the CDQ program. Report language should clarify that the authorization of Congress is in concurrence with the court in allowing NPFMC flexibility to develop such plans.

Senator STEVENS. I think we will take a couple minutes off to allow the court reporter to change her system, maybe get a little rest. [Recess]

Senator STEVENS. It's 3:30. We have got about an hour and 45 minutes left. I hope you will keep your comments to the minimum that you think is proper.

Mr. STORRS.

STATEMENT OF ROBERT STORRS, UNALASKA, ALASKA

Mr. STORRS. And for the benefit of the dear court reporter, she asked that I talk slowly. She said her hands were getting tired.

I'd like to thank you folks for the invitation to testify today. For the record, my name is Bob Storrs. I'm a commercial fisherman and also serve as the Vice President of the Unalaska Native Fishermen's Association. UNFA is an organization of commercial and subsistence fishermen and sea mammal users living in Unalaska and the Aleutian Islands.

Approximately one half of our membership is Native American, predominantly Aleut. And we are all proud members of the ragtag fleet that was earlier referred to.

Our group didn't enter into this fray out of a sense of niceness and altruism. We had no choice. Several years ago we were told that as of the first of May of that year, we wouldn't be allowed to catch another fish or another cod fish either by hook or by pot while that same year industry threw away over 11,000 tons of cod. That was quite a wake up call. This year many of our members are sitting on the beach because our Bristol Bay king crab season was completely shut down, while the yellowfin and rock sole fisheries destroyed many thousands of crab, a far more valuable economic species.

We are experiencing severe declines in sea lions, harbor and fur seals and many bird species, while thousands of tons of immature pollock are being discarded. Halibut quotas are being cut while millions of pounds are being discarded as bycatch in other fisheries. We had our wake up call, and the alarm is still ringing.

You can see why we are concerned about the fisheries in our area. Our community, like others in the Aleutian Islands, has a history of dependence on the sea that stretches back for over 7,000 years. Wasteful industrial fishing practices and a rush to claim ownership of the marine resources by large corporate interests threaten to bring this tradition to an end. That would be devastating to the communities and the culture of our area, and we look to you folks and to this excellent piece of legislation to insure that that doesn't happen.

To that end, we believe that wherever possible in Senate 39, language should be included dictating that economic concerns take a back seat to conservation.

The first and most fundamental step in that direction would be a redefinition of the term optimum yield and maximum sustained yield in the most conservative terms possible. To call it a redefinition is actually a bit of a euphemism, as there is no solid definition of these terms common to all areas of the country. There are some good observations and even some concrete proposals out there from the National Academy of Sciences, Alaska Marine Conservation

Council and some other groups. Whatever happens, we pray that you won't employ whatever definition they used in New England.

The Unalaska Native Fishermen's Association also believes very strongly in the idea of providing positive incentives to fishermen who operate in a clean and selective manner. Mechanisms such as the harvest priority concept should be provided to work within gear types or, when necessary, allocation decisions should be made between gear types. Out here, we have noticed a reluctance on the part of the National Marine Fisheries Service bureaucracy to deal with such concepts. This intransigence must be overcome with a clear message from Congress.

We have—as far as the harvest preference idea, we have, in fact, an example of how this can work in a relationship between some of the CDQ groups that are industry partners. A good example of this is the Aleutian Pribilof Island group, APICDA. They demanded a clean fishing partner, and they really got one in the vessel Starbound. It's known throughout the fleet for its low levels of bycatch. This concept does work.

We recently heard that the NOAA general counsel has released an opinion that harvest priority type programs won't work because of the appeals problems. This should be verified by outside counsel. And if it is truly the case, a far greater emphasis should be placed on decisions between gear types.

For example, a very large percentage of the bycatch problem in the Bering Sea is the result of the yellowfin and rock sole fisheries. If the National Marine Fisheries is so sure that we can't reward the cleanest of those fishermen—and there are some. Some of those guys are very clean—then the whole fishery should be scrapped.

At UNFA we also believe that fishermen will solve these problems when given the incentive to do so. If not, we are not afraid of the management Council making decisions between gear types. Any attempt to limit the Council's power in this area should not be permitted.

In line with this, we are firmly opposed to the issuance of any form of exclusive fishing rights such as ITQs to folks who have built their track record on a decade of filthy fishing. It is infuriating to us that both our marine resources and the coastal communities that depend on them suffer from mistakes made in board rooms thousands of miles away. It will be a travesty for our nation at this point to give away our common resource so that some corporate interests can bail themselves out of their self-induced problems of overcapitalization. Our small boats and our local families did not bring about this problem. It should not fall upon our shoulders to suffer for it.

We are very gratified by provisions in Senate 39 establishing the parameters for any eventual limitation of access with specific provisions for entry level and small boat fishermen. In most of the current access limiting proposals, industry, with a big eye, has been allowed to select a slice of history that would determine eligibility for future participation in fisheries. This slice was, of course, a time of 10 cent cod fish and massive industrial trawling. 7,000 years of local participation would therefore be ignored in order to satisfy immediate corporate concerns. This is an affront to the residents of coastal Alaska. Many of the elders in my town remember

jigging cod from dories to deliver to one of the 17 salteries in the Aleutians. All this was long before Taiyo Fisheries, Tyson Seafoods or a trawl of any type had been seen on the Bering Sea.

A example of how this slice of history can—one slice of history can determine what happens forever happened in our area in the state's limited entry program for salmon. I'm offering this as an example. Although every Aleut family in Unalaska and Akutan participated in the salmon fishery, there were no buyers in our communities during the magic years for qualification. Hence, although the area M management area extends for 1,000 miles, there are no locally owned permits in the western 800 miles of the area. We cannot allow this same type of thing to happen again with any future groundfish allocation plans.

To this end, we believe the bill should prohibit the imposition of any form of access limitation until first the fisheries are cleaned up, thereby rewarding only the responsible stewards of the public resource, and second, strictures are enacted providing for entry level fishermen in fisheries where appropriate with a particular eye toward promoting cleaner gear types such as jigging and pot fishing. These provisions are, in fact, already influencing a dialog between some members of the North Pacific Council and a few Western Alaska communities. This thing can work. In a recent teleconference between some folks in Sand Point, Homer, King Cove and a couple other places, we managed to agree on a formula exempting vessels under 35 feet from any CRP structure as well as vessels of any size using five jigging machines or less. Comprehensive rationalization, which you are probably aware, is basically a form of limitation.

Bearing in mind that vessels 60 feet and under take only 6 percent of the groundfish, this becomes a solution that may be palatable to our Council. We will find out in April. It was driven in part by the prospect of this legislation being passed. We understand that there is a fear that this provision may cause a revisitation of the halibut and sablefish IFQ process. We believe that this could, in fact, be beneficial, and a legislative solution perhaps involving an allotment to the State of Alaska for its in-shore management could make a flawed system a bit more fair.

An example on a smaller scale of how we had to employ such a thing was with our local rockfish. We wanted to be able to jig for these rockfish, but the whole TAC was set aside as bycatch for other fisheries. Now we approached the North Pacific Management Council, Unalaska Native Fishermen Association; we approached the North Pacific Management Council with a proposal to give us a little quota of these rockfish so that we could work on them. But they were so—while they were sympathetic, they were so overwhelmed with work on, among other things, developing some sort of access limitation that would require a history of participation in the rock fishery, that they weren't able to allow us to participate in the rock fishery to qualify for the thing that they would be enacting. A terrible catch-22 for us.

What we did was we went to the State and explained this to them, and they were able to open the fishery for us within State waters. We see this as a potential model for something that we could do on another scale. I'll leave that to you folks.

However, if for some reason it's not possible to deal with this problem with halibut and sablefish, we don't want these ITQ guidelines to be scrapped. They should be retained for application for any future access limitation plans. UNFA is also very heartened by the bill's recognition of the role that coastal communities should hold in the formulation of fisheries policy. We feel that the definition of a fisheries dependent community in terms of social as well as economic needs precludes limiting application solely toward addressing CDQ or on-shore processor concerns. A fishery dependent community is just that, a community.

We of the Unalaska Native Fishermen's Association appreciate this opportunity to speak with you, and we ask you to remember that long after we are gone, our children and grandchildren will still be living by the shore and hopefully still feeding our families from the sea. Thank you.

Senator STEVENS. Thank you very much.

[The prepared statement of Mr. Storrs follows:]

**TESTIMONY TO THE U.S. SENATE SUBCOMMITTEE ON OCEANS AND
FISHERIES OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION**

Magnuson Act Reauthorization

by

**Bob Storrs, Vice President
UNALASKA NATIVE FISHERMAN ASSOCIATION
581-3474 PHONE 581-3644 FAX**

PO BOX 591 UNALASKA, ALASKA 99685

**MARCH 25, 1995
ANCHORAGE**

I'd like to thank you folks for the invitation to testify today. For the record, my name is Bob Storrs. I am a commercial fisherman and also serve as the Vice-President of the Unalaska Native Fisherman's Association. UNFA is an organization of commercial and subsistence fishermen and sea mammal users living in Unalaska in the Aleutian Islands. Approximately one-half of our membership is Native American, predominantly Aleut.

Our group didn't enter into this fray out of a sense of niceness and altruism. We had no choice. Several years ago we were told that as of the 1st of May we wouldn't be allowed to catch another fish - even by hook or pot - while industry threw away over 11,000 tons of cod! That was quite a wake-up call. This year many of our members are sitting on the beach because our Bristol Bay king crab season was completely shut down - while the yellowfin and rock sole fisheries destroy many thousands of crab - a far more economically valuable species.

We are experiencing severe declines in sea lions, harbor and fur seals, and many seabird species while thousands of tons of immature pollock are being discarded. Halibut quotas are being cut while millions of pounds are being discarded as bycatch in other fisheries. We had our wake-up call and the alarm is still ringing.

You can see why we are concerned about the fisheries in our area. Our community, like others in the Aleutian Islands, has a history of dependence on the sea that stretches back for over 7,000 years. Wasteful industrial fishing practices and a rush to claim ownership of the marine resources by large corporate interests threaten to bring this tradition to an end. That would be devastating to the communities and culture of our area. We look to you folks and to this excellent piece of legislation to ensure that it doesn't happen.

To that end, we believe that wherever possible in S. 39, language should be included dictating that economic concerns take a back seat to conservation.

The first and most fundamental step in this direction would be a re-definition of the terms "Optimum Yield" and "Maximum Sustained Yield" in the most conservative terms possible. To call it a "re-definition" is actually a bit of a euphemism, as there is no solid definition of these terms common to all areas of the country. There are some good observations and even concrete proposals out there from the National Academy of Sciences, the Alaska Marine Conservation Council, and other groups. Whatever happens, we pray that you won't employ whatever definition they used in New England.

The Unalaska Native Fisherman's Association also believes very strongly in the idea of providing positive incentives to fishermen who operate in a clean and selective manner.

Mechanisms such as the Harvest Priority concept should be provided to work within gear types or - when necessary allocation decisions should be made between gear types. Out here, we've noticed a reluctance on the part of the National Marine Fisheries Service bureaucracy to deal with such concepts. This intransigence must be overcome with a clear message from Congress.

We've recently heard that NOAA General Council has released an opinion that Harvest Priority - type programs wouldn't work because of appeals problems. This should be verified by outside counsel and - if it is truly the case - far greater emphasis should be placed on decisions between gear types. Example - A very large percentage of the bycatch problem in the Bering Sea is the result of the yellowfin and rock sole fisheries. If NMFS is so sure that we can't reward the cleanest of those fisherman then the whole industry could be scrapped. At UNFA we believe that fishermen will solve these problems when given the incentive to do so - if not, we're not afraid of the Management Council making decisions between gear types. Any attempt to limit the Councils' power in that area should not be permitted.

In line with this, we are firmly opposed to the issuance of any form of exclusive fishing rights (such as ITQ's) to folks who have built their track record on a decade of filthy fishing. It is infuriating to us that both our marine resources and the coastal communities that depend on them should suffer for mistakes made in board rooms thousands of miles away. It would be a travesty for our nation at this point to give away our common resource so that some corporate interests can bail themselves of their self-induced problems of over-capitalization. Our small boats and our local families did not bring about this problem. It should not fall on our shoulders to suffer for it.

We are very gratified by provisions in S. 39 establishing the parameters of any eventual limitation of access, with specific provisions for entry level and small boat fishermen. In most of the current access - limiting proposals, industry (with a big "I") has been allowed to select the slice of history that would determine eligibility for future participation in the fisheries. This slice was, of course, the time of 10 cents codfish and massive industrial trawling. Seven thousand years of local participation would therefore be ignored in order to satisfy immediate corporate concerns. This is an affront to the residents of coastal Alaska. Many of the elders from our jigged cod from dories to deliver to one of the 17 salteries in the Aleutians...All this was long before Taiyo Fisheries, Tyson Seafoods, or a trawl of any flavor had been seen on the Bering Sea.

To that end we believe this bill should prohibit the imposition of any form of access limitation until:

-The fisheries are cleaned up thereby rewarding only responsible stewards of the public resource.

-Structures are enacted providing for entry level local fisherman - in fisheries where appropriate- with a particular eye toward promoting cleaner gear types such as jigging or pot fishing.

These provisions are, in fact, already influencing a dialogue between some members of the NPFMC and a few Western Alaska communities. In a recent teleconference between some folks in Sand Point, Homer, Unalaska and Anchorage we managed to agree on a formula exempting vessels under 35' from any CRP structure as well as vessels of any size using five jigging machines or less.

Bearing in mind that vessels 60 feet and under take only 6% of the groundfish, this becomes a solution that may be palatable to our Council... It was driven, in part, by the prospect of this legislation being enacted.

We understand that there's a fear that this provision may cause a revisitation of the halibut and sablefish IFQ process. We believe that this could in fact be beneficial and a legislative solution perhaps involving an allotment to the State of Alaska for its inshore management could make a flawed system a bit more fair.

However, if it's not possible to deal with this problem for halibut and sablefish, we don't want these guidelines to be scrapped. They should be retained for application towards any future access limitation.

UNFA is also heartened by the bill's recognition of the role that coastal communities should hold in the formulation of fisheries policy. We feel that the definition of a "Fisheries Dependent Community" in terms of social as well as economic needs precludes limiting application of the concept solely towards addressing CDQ or onshore processor concerns. A fishery dependent community is just that--a community.

We of the Unalaska Native Fisherman's Association appreciate this opportunity to speak with you and we ask you to remember that long after we're gone our children and grandchildren will still be here living by the shore-- hopefully still feeding our families from the sea.

K. Storr

Senator STEVENS. Now we are going to turn to the last panel, which is Bart Eaton of Trident Seafoods, John Iani, Vice President of UniSea, Arni Thomson, Executive Director, Alaska Crab Coalition, Ronald Rogness, Seafood Sourcing Director, and Ed Wolfe, Vice President Corporate Affairs of Oceantrawl Inc.

STATEMENT OF BART EATON, TRIDENT SEAFOODS CORPORATION, SEATTLE, WASHINGTON

Mr. EATON. Senator Stevens, my name is Bart Eaton. I'm representing Trident Seafoods. I'm also a stockholder in Trident Seafoods. Appreciate the opportunity to be able to pay my respects to you for all the efforts that you have done in the past and the present, and there is going to be a lot of work in the future, as we can see from what we are hearing today. We have submitted written testimony to your committee and will be submitting more, and look forward to the opportunity to work with you as MFCMA work its way through.

It seems fitting for me personally—this is like a bear coming by and putting his whack back on the tree letting everybody know I'm still here. It was March 12th in 1975 when I testified before Don Young's committee, Merchant Marine Fisheries in 1975 before the 200 mile was passed, and I was all tweaked out about the foreign boats out in the Bering Sea there. We were dodging them and they were dodging us, and we were getting all upset about throwing big crab over and they could take small crab. And we came back there, and you showed us the courtesy then and we worked through a lot of problems then.

And I would never dream that we would be in a situation that we are now with some of the testimony I've heard. The testimony of Matt Shadle from the Great Alaska Fish Company, boy, everything he was saying, I could see that could have been me if I had been about 15 years later. And it just seems overwhelming that within a short 20 years we have moved from everybody—almost everybody in the United States telling the American fisherman you can't do this, you can't do that, you can't catch crab, you can't catch black cod, you can't catch pollock, you can't make surimi on the shore, you can't do all these things; the Americans backed up against the beach again fighting among themselves. And personally this is the most disheartening part of this whole process that I have been through.

That being said, I think the problem at hand, because we are a shore based company, we appreciate that at least having consideration for shore based consideration investment in-shore based plants if ITQs are seen as the way of the future, that we appreciate that. We have been building and investing in vessels and shore based plants in Alaska for about 25 years, investing, investing and investing. And we just feel if there is going to be ITQs, that shore based investment should be recognized.

Many times that investment comes before the vessel investment for the market. Many times we were told you can't get rid of the foreigners till you make more investment, can't get rid of the joint ventures till you make more investment; you can't do this, you can't do that till you make more investment. A lot of those same people are down here telling us we got too much investment. And

I'm wondering where all this thing started and what are the original causes and are we really going to grope for the original causes. But we do appreciate that that, we hope, will wind up in the final so at least it will be given consideration.

The second thing I'd like to talk about is I think we would like to see some analyzing of foreign ownership of ITQs, if there is ITQs. We think it could be a problem. The North Pacific Management Council had begun to analyze the propriety of giving away U.S. resources to foreign companies. The Council had begun consideration of two separate limitations on foreign ownership of ITQs: First, whether the Council should limit purchases of ITQs by foreign controlled companies, and second, whether the Council should limit the allocations of ITQs to foreign controlled companies.

Two legal opinions were delivered to the Council, and they kind of undermined this question. The department's opinions held that current law does not allow restriction of the amount of ITQs foreign owned corporations can purchase, nor does it allow any limitation on the amount of share quotas that are allocated to foreign owned companies. We believe the issue of whether the U.S. Government should give its natural resources away to foreign owned companies through allocations is one that should be thoroughly analyzed and would support amending the Magnuson Act to allow consideration of this issue.

I have been in New Zealand 3 times, talked with a lot of people down there, and as I understand it, there is a like a 25 percent maximum. In Japan, Norway you even mention it, and they roll their eyes at you like they can't even conceive of that being a possibility. So we feel, like I've always said, if there is going to be a fight, might as well sell the tickets up front because I think there will be on this issue.

And I think it's a very important issue, all of this ITQ, that we understand the relationship or the goals that we are trying to seek in the public policies that we're undertaking because the industry, the way it is in existence right now today, it didn't happen by accident. It grew in reaction and goaded vote by vote, amendment by amendment, process by process the industry trying to analyze where is management going, trying to stay ahead of it, because while most of us are in here fighting among ourselves, we're really fighting on a world market for most of the fish. We should be working together to fight the rest of the world, but we're wasting most of our time fighting among ourselves. We feel this is—

Because there's going to be so many unintended consequences, as we have already seen; there is always unattended consequences of every fishery decision. And I'm one that believes you have to take responsibility for your intended consequences when they come out right, but you have to take responsibility for the unattend ones, too. We feel this is a very important issue.

One more thing that we are going to submit more documentation or more testimony on is we are in a position now where I feel there might be something needed by Congress for what I would call a pioneer preference. Very disconcerting and I have been very uncomfortable—we are entering into now an era of moratorium for crab and bottom fish. And it seems that with a moratorium there is individuals that have been in—the pioneers that have been in

this fishery for years because they didn't get the imperial bureaucratic number, they are going to be pushed out.

And I'll use one name, and I'm only using it because I talked to him and he said yeah, go ahead. Oscar Dyson has got the Peggy Jo. I fished on it for years. The way the moratorium is, because he went into bottom fish and didn't fish crab for whatever years it was, that boat can't fish crab now. It's outside the moratorium. And I'm having a very hard time understanding that. Whether it's legal or bureaucratic reasons or what, I don't think it's right, that we should have some kind of a pioneer preference. Now, I'm not talking about somebody that comes back from the dead or they sunk their boat or they quit the industry. I'm talking about pioneers still in the industry. They may not be on that species, but they are still—their boat and their ownership is still in existence.

And it may be something that Congress has to guarantee that because the way the Council has changed is sometimes you get younger members, and a lot of the politicians that live in the now world kind of don't really have a historical memory that sometimes I think we need on some of these issues.

But, those are the main issues we wanted to bring up here. We appreciate you coming to Alaska, and we certainly look forward to working with you in the future. Appreciate everything. Thank you.

Senator STEVENS. Thank you very much.

[The prepared statement of Trident Seafoods Corporation follows:]

Testimony
of
Trident Seafoods Corporation

March 25, 1995

Subcommittee on Oceans and Fisheries
of the
Senate Committee on Commerce, Science and Transportation

Mr. Chairman:

Thank you for the opportunity to speak before the Committee today. For the record, I want to especially express Trident's gratitude to Senator Stevens. His efforts in helping enact the Magnuson Fishery Conservation and Management Act in 1976 are well known. But we would like to remind everyone that in 1971, five years before the Magnuson Act passed, it was Senator Stevens who introduced the first bill in Congress calling for the United States to extend its jurisdiction over fishery resources to 200 miles.¹

Trident Seafoods Corporation

We like to believe Trident is the type of company Congress envisioned when the Magnuson Act was adopted. Trident was founded in 1973 by its president, Chuck Bundrant—a fisherman who built a vessel focusing on the harvesting and processing of crab. But Chuck expanded Trident's focus into processing salmon, herring, halibut, sablefish, pollock, Pacific cod, and virtually every other groundfish species off Alaska. In 1976 Chuck acquired land on the remote Aleutian Island of Akutan. He thought the location was promising due to its proximity to the fishery resources and Trident started to build a shorebased processing plant at the site.

Trident became the leader in "Americanizing" the fishery resources of the North Pacific. We purchased the very first Baader fish fillet machine ever used in Alaska. In the early 1980's, when foreign fishing fleets were still being given billions of pounds of U.S. fishery resources off Alaska, and joint ventures were only beginning, Trident built the first major U.S. groundfish processing facility in Alaska at Akutan. The Akutan plant was expanded again in 1987 into a major pollock processing facility with the capability to make surimi, blocks, individually quick frozen and shatter pack fillets, as well as meal and fish oil. Trident also developed the deep-skinned pollock block product, now popular with many

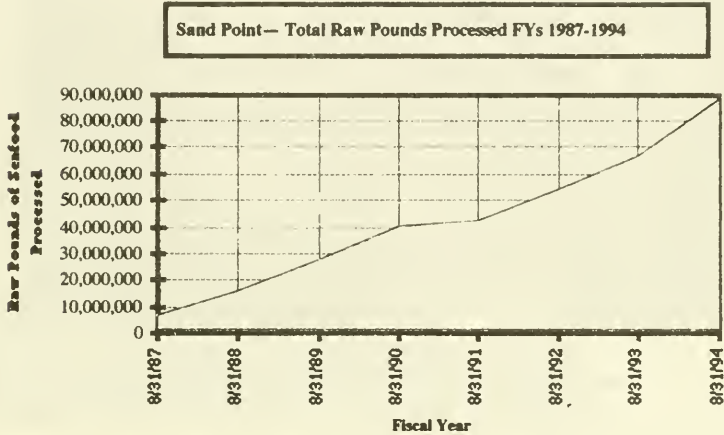


convenience restaurants. Trident's Akutan facility now processes over 200,000,000 pounds of fish annually.

The company has a similar experience in Sand Point, Alaska. In 1986, when Trident purchased the plant, it processed less than six million pounds of raw fish each year, mostly salmon. While foreign fishing vessels had direct allocations to fish for Pacific cod right off our dock, and before local fishermen had even geared their vessels to harvest groundfish, we invested millions of dollars to develop the



capacity to process cod at the plant. Soon after cod processing was underway, Trident invested millions more into Sand Point to process pollock, harvested primarily by the local fishing fleet. In seven years, the original salmon plant has been expanded to also become a major Pacific cod, pollock, halibut and sablefish processing operation and Trident has increased the volume of fish processed in the Sand Point community ten fold, to approximately 90,000,000 pounds of fish annually. The plant takes deliveries of groundfish from more than thirty-five vessels owned and operated by Alaska residents.



With good fortune and dedicated employees we have grown to be a full service market for our fishermen as well as a source of consistently high quality seafood products for our customers. Trident now operates shorebased processing plants and inshore processing vessels throughout Alaska and the Pacific Northwest, employing over 3,300 individuals. In Trident's entire twenty-two year history, the corporation has never declared a dividend for its shareholders. Virtually everything the company earned has been reinvested back into the industry. While we do have substantial investment in fishing vessels, the vast majority of Trident's investments were made in Alaska onshore primary and value added processing.

Individual Transferable Quotas

The North Pacific Fishery Management Council is currently considering whether to adopt an Individual Transferable Quota ("ITQ") management system for all of the groundfish and crab resources off Alaska. There is no more important issue facing Trident's survival than making sure that, if an ITQ system is implemented, investors in processing capacity are allocated quota shares on an equal basis with investors in harvesting capacity. Allocations of ITQs are an allocation of the entire wealth of the fishery to those who receive the quota shares. In addition, because so much of the existing harvesting and processing capacity will be forced to leave the fishery if it is privatized, the value of current investments would be reduced to nearly zero.²

Halibut and sablefish off Alaska were recently placed under an ITQ management system and quota



Sand Point

shares are now being sold. Approximately \$700,000,000 worth of halibut and sablefish quota shares were allocated for investments made in harvesting vessels. Exactly \$0 was allocated for investments made in processing plants. If allocations of groundfish ITQs are given to investors in harvesting capacity only, the entire wealth of the fishery, and the value of the investments Trident has made in its Alaska



St. Paul

North Naknek



processing operations, will be taken from us and given primarily to the foreign-owned companies who operate the foreign-rebuilt factory trawler fleet. *It would be as if Trident were being punished for choosing to invest its earnings in Alaska instead of a factory trawler built in a foreign-shipyard.* For this reason, we strongly support S. 39's clarification that the "holder of individual transferable quota" includes United States fish processors, as well as those who have invested in fishing vessels.

One of the primary reasons for passage of the Magnuson Act was to stop foreign factory trawlers from taking the fishery resources right off our shores. Yet, foreign investment in the factory trawler fleet

massively overcapitalized the North Pacific groundfish fisheries in the late 1980s. "Grandfather" provisions of the Anti-Reflagging Act encouraged a flood of foreign-rebuilt vessels to enter the groundfish fisheries.³ Many of these vessels were built with large foreign-government subsidies to promote their shipyards. One foreign bank alone is reported to have



South Naknek



Ketchikan

invested over \$300,000,000 in foreign-rebuilt factory trawlers operating off Alaska. That bank has recently asked its clients to pledge the value of any future ITQs to secure its investments.⁴

The bottom line is that primary recipients of ITQs for groundfish off Alaska will likely be the foreign-owned companies. The North Pacific Fishery Management Council had begun to analyze the propriety of giving away U.S. fishery resources to these companies. The Council began consideration of two separate limitations on foreign ownership of ITQs. First, whether the Council should limit purchases of ITQs by foreign-controlled companies. Second, whether the Council should limit the allocations of ITQs to foreign-controlled companies. Two legal opinions delivered from the Department of Commerce, however, undermined analysis of these questions. The Department's opinions held that current law does not allow restriction then amount of ITQs a foreign-owned corporations can purchase, nor does it allow any limitations on the amount of quota shares that are allocated to foreign-owned companies. We believe that the issue of whether the United States government should give its natural resources away to foreign-owned companies through allocations of ITQs is one that should be thoroughly analyzed and would support amending the Magnuson Act to allow consideration of this issue.

Trident supports S. 39's provision which places a moratorium on the adoption of ITQ systems until the Secretary of Commerce promulgates ITQ guidelines. The issue of ITQ allocations is extremely complicated and contentious. (In general, an industry participant's degree of support for the adoption of ITQ management is directly proportional to the number of quota shares they expect to receive.) Because of the difficult economic and social issues associated with adoption of an ITQ system, it just makes sense that the government should carefully consider the entire ramifications of the program, and promulgate guidelines to assist the councils, before new ITQ systems are adopted. We would suggest, however, that the guidelines should not be legally binding, but provide advice to the councils as they consider these complex plans.

Finally, with respect to ITQs, There are many Alaskan crab fishermen who are also supporting placing a statutory moratorium on adoption of any ITQ system for North Pacific crab species until there is time to review the progress of ITQs management systems on sablefish and halibut. We support this moratorium proposal. Crab are not managed with a fixed quota as are like groundfish. Guideline harvest levels for crab are established and the harvest level is adjusted in-season. In addition, unlike the major groundfish species, crab abundance fluctuates wildly. When a particular species of crab is at its peak or valley of abundance, it could distort the value of ITQ quota shares. In general, it would seem that there may be problems with an ITQ management system for crab and a three to five year moratorium on ITQs for crab stocks would be advisable.

Council Process

S. 39 provides that a council member may not vote on an issue if the decision would cause "a significant and predictable effect" on the member's financial interest. Council recusal guidelines may be important to eliminate the appearance of a conflict of interest, but it is also important that the council process include individuals who have invested in the harvesting and processing of our fishery resources. Under the standards outlined in S. 39, how could any fishermen vote on an ITQ system, for example, where his vessel received a significant amount of quota. We are concerned that if the recusal standards are too broad, only trade association representatives and government officials will be effective participants on regional councils.

We support the concept in S. 39 authorizing councils to establish negotiating panels, including nominating a facilitator for the panel. The listing of the considerations that a council must follow when selecting the panel should assure that all identifiable interests are represented. Negotiating panels have been successful in the council process and we believe that this approach will be effective in reducing the allegations of conflict of interests on the councils.

We are also pleased to see that S. 39 eliminated a proposal found in last session's Magnuson Act reauthorization bill that required a two-third majority vote on all regional council actions that result in "significant reallocations of fishing privileges among industry participants." Virtually every management measure voted on by a council has significant allocative impact on the industry. Some of the recent management measures debated by the North Pacific Council which have the potential for significant reallocation include the following: Trawl mesh size regulations, the definition of bottom trawls, bycatch caps, the prohibition against pollock roe stripping, observer requirements, marine mammal rookeries, no trawl zones to protect crab stocks, the debate over prohibiting night trawling to reduce halibut bycatch, the quarterly release of the pollock quota to spread out fishing effort, exclusive area registration, the vessel moratorium, license limitation proposals, and of course, ITQ allocations. All of these issues were hotly debated because of their allocation implications. Requiring a two-thirds majority on these allocative issues would only paralyze the council process. Trident opposes such efforts.

Reduction of Waste and Discards

Although the percentage of waste and discards in the North Pacific is relatively low, the fishing industry in the North Pacific discarded over 500 million pounds of groundfish in 1993. Of that total, over 200

million pounds of pollock were discarded. Trident believes that this practice must stop.

S. 39 proposes to require the North Pacific Council to adopt fishery management plans which reduce bycatch and phase-in total weight measurement, full retention and full utilization of fish harvested off Alaska. The bill requires the Council to amend its fishery management plans by a date certain to accomplish these goals. We support these measures. S. 39 will give direction and standards for the industry, while still allowing the council process to write fishery management plans to encompass these principles for the industry off Alaska.

Again, thank you for inviting us to testify. I would be please to answer any questions you may have.

¹ S. 46, 92nd Cong. 1st Sess. 117 CONG. REC. 351-352 (Jan. 25, 1971). Senator Stevens proposed the contiguous fishery jurisdiction of the United States be the (1) a distance of 200 nautical miles from U.S. shores or, (2) any area less than 550 meters in depth, whichever is a greater distance from shore. In addition, in the North Pacific ocean off Alaska, the outward boundary of the contiguous fishery zone would have extended to the international date line.

² "In an overcapitalized fishery where there is more harvesting and processing capacity than is necessary and where the capital is specific to that industry, those who do not receive quota can suffer decreases in the value of their capital. To ensure an equitable allocation, all segments of the industry, including processors, should have an equal opportunity to obtain quota." Testimony of Dr. Lee Anderson, Director of the Marine Policy Program, College of Marine Studies, University of Delaware, before the Subcommittee on Fisheries Management of the Committee on Merchant Marine and Fisheries, Feb. 9, 1994, p. 40.

³ A GAO report investigating the Act's impacts stated, "[t]he Anti-Reflagging Act's American control provision have had little impact on ensuring that U.S. fishery operations are controlled by U.S. citizens. This is a result of the Coast Guard's interpretation allowing the grandfather exemption to remain with a vessel even if the vessel is subsequently sold to a foreign-owned company. Consequently, should the Congress desire another result, it may wish to consider changes to the existing legislation." (United States General Accounting Office, Report to the Honorable Bob Packwood, U.S. Senate, Oct. 1990).

⁴ See, Anchorage Daily News, May 1, 1994, at C-1. "As of September [1993] more than 80 percent of Christiania's North Pacific fishing loans were in technical default, according to the bank's financial statements.... Christiania has used blunt tactics to press for quotas. It has told borrowers that they won't get refinancing unless they pledge a security interest in 'any individual fishing quota or similar fishing right or privilege...that may hereafter be awarded,' according to one bank document."

Senator STEVENS. Next is John Iani, Vice President of UniSea.

**STATEMENT OF JOHN IANI, VICE PRESIDENT, UNISEA, INC.,
REDMOND, WASHINGTON**

Mr. IANI. Thank you, Senator Stevens. UniSea is pleased to be able to comment on the reauthorization of the Magnuson Act, and we welcome the opportunity to appear before your committee, Senator.

As you know, Unisea is one of the largest seafood processing companies operating in the Pacific Northwest and Alaska. We've got major plants in Dutch Harbor, St. Paul and Bristol Bay and also plants in Bellingham and Redmond, Washington. We have processed virtually every commercial species harvested out of the ocean in the North Pacific and either export the processed product directly from our plants in Alaska or send them down to Washington State for added value and inject them into the worldwide and U.S. markets.

Unisea and the Magnuson Act have grown up together,

Senator Stevens, and without your foresight and without this committee's hard work, UniSea would not be where it is today. We would not be able to employ up to 2,000 people at peak periods, and able to offer over 100 independent catcher boats good and solid markets on a year-in, year-out basis. We are particularly proud of the fact that we have been extremely successful, Senator Stevens, in developing and perfecting the production of high quality surimi in a shore based location in the Aleutians.

As Bart said, for years and years and years, we were told by virtually everybody that the surimi could never be produced in Alaska. We're here to tell you that it is being produced and it is being produced very, very well. Without the amendments to the Magnuson Act granted by this committee, we would not have the opportunity to provide the amount of work and the amount of market and the amount of product that we are currently doing now. We are very, very supportive of the Magnuson Act framework for managing our nation's fisheries, and we believe that the regional Council system is far superior to centralized management in Washington, D.C. The Council system provides members of the seafood industry an opportunity to address their concerns to a panel which is knowledgeable and located near the industry itself, and this, of course, was your intent. So we would support retaining the active seafood industry members on the regional Council for just that reason.

Turning to S. 39, Senator Stevens, I'd like to address some of the more pressing concerns that we at UniSea see. We are generally supportive of the proposed changes in the bill and are pleased that the committee has responded to some of the most urgent concerns facing future fishery management in the North Pacific. But we believe the most important issue facing the groundfish fishery in the North Pacific is the accurate assessment of catch, bycatch and discards. This issue is seminal because the data that it provides gives the basic information upon which all management decisions are based.

The current level of discards, both regulatory and economic, in the North Pacific is extremely troubling. And our industry is plac-

ing itself in very grave danger with the public because of the unacceptable levels of waste occurring. We are pleased that S. 39 has begun to address this problem by setting a date certain for tangible amendments to fishery management plans requiring reduction of bycatch and discards. We at UniSea have done some things, without the Councils asking us to, regarding full utilization and retention. We are now currently using all by-caught pollock from both the cod and yellowfin sole fishery and we are producing surimi with it.

We found markets for bycatch and other types of flat fish from the directed yellowfin sole fishery. And in this past "A" season, we used bycatch cod from the directed pollock fishery to make salt cod for export to Portugal and Spain. We also packed prohibited salmon which were by-caught and we donated them to food bank programs in the Lower 48.

So we have done things. It can be done. And all it takes is a little guidance from this committee and Congress to force the industry to clean up its act.

One of the most important concerns is the way that the groundfish fisheries are counted. Currently, the majority of groundfish is harvested and processed by off-shore processors. Those processors do not weigh their catch, bycatch and discards as we do on-shore. Rather than supplying accurate weights like we are forced to do, the off-shore industry estimates these levels by applying arbitrary and inaccurate recovery rates. The ironic thing is that many of the recovery rates are established by the off-shore industry itself.

There is no question that the rates are inaccurate, and as a result, we are certain that the current estimates of total catch, bycatch and discards are also inaccurate. In our plant and all others operating on-shore in Alaska, we are required to retain and accurately weigh all the fish harvested and delivered for processing. We are certain about the levels of catch, bycatch and discards. And we believe that fishery management must require that level of certainty from all processors.

We believe that the committee should require the National Marine Fisheries Service to immediately require weighing devices on all fish harvested prior to processing. The technology is present. It can be done. Again, we just need a little guidance from the committee.

Turning to ITQs, UniSea is concerned that the ITQs are being touted as the panacea and the answer to all problems facing the seafood industry. I believe, Senator, you have heard some testimony today that indicates they may not be. Like any proposed ideal solution, ITQs should be carefully considered and contemplated.

What's being discussed here is a huge allocation of a public resource to private industry. This allocation will result in significant and permanent consequences. And it's the initial allocation that counts. The recipients of the first round of quota shares will have a huge financial windfall and will upend the current playing field. We are supportive of the committee's amendment which recognizes that we as processors also have invested substantially in the fishery and should be considered as a group to receive the initial allocation of ITQ shares.

UniSea has invested over \$130 million in the Aleutians in processing technology and capacity in order to develop products and markets for fishery resources and also to provide markets for the independent catcher boats who helped pioneer the development of the on-shore groundfish fishery. If ITQs are granted and UniSea and other processors do not receive an equitable share for their investment, the value of the capital they have placed in Alaska goes immediately to zero. We don't believe Congress and this committee intended that to happen when it amended the Magnuson Act to encourage and foster investment in processing on-shore in Alaska.

Senator Stevens, I was born and raised and grew up in Kodiak and now have the opportunity to return the benefits that I received growing up with this industry. And I do not want to see the shore side processing industry go away and become an off-shore industry, which is what I believe will happen if the ITQs are granted without some forethought in recognizing on-shore investment and participation.

So in summary, Senator Stevens, UniSea is pleased and proud to be a part of the North Pacific seafood industry. We applaud your committee's work on the reauthorization of the Act, and we look forward to working with Congress to insure that our industry continues to thrive.

Thank you for the opportunity, and I'd be pleased to answer any questions.

Senator STEVENS. Thank you very much.

[The prepared statement of Mr. Iani follows:]



STATEMENT OF UNISEA, INC.

BEFORE THE U. S. SENATE COMMITTEE

ON COMMERCE, SCIENCE AND TRANSPORTATION

SUBCOMMITTEE ON OCEANS AND FISHERIES

REAUTHORIZATION OF THE MAGNUSON

FISHERY CONSERVATION AND MANAGEMENT ACT

MARCH 25, 1995

ANCHORAGE, ALASKA

Mr. Chairman, my name is John Iani. I am a Vice President of UniSea, Inc. With me is Pete Maloney, UniSea's Production Director and a member of the North Pacific Fishery Management Council's Advisory Panel. We are pleased to be able to comment on the reauthorization of the Magnuson Act and welcome the opportunity to appear before this Committee.

UniSea is one of the largest seafood processing companies operating in the Pacific Northwest and Alaska. We operate major processing plants in Dutch Harbor, St. Paul and Bristol Bay, Alaska and Bellingham and Redmond Washington. We process virtually every commercial species harvested in the North Pacific Ocean and either export the processed product directly from our processing facilities in Alaska or add value to the product at our facilities in Washington. Following reprocessing in Washington state, our products are then sold world wide and into markets all across the United States.

UniSea and the Magnuson Act have grown up together. UniSea was formed in 1974 and has realized its potential due in large part to this Committee's and Congress' foresight in crafting the Magnuson Act and the amendments thereto. Without the Act, the U.S. processing sector, which we are proud to be a part of, would not have been able to grow. The Magnuson Act paved the road to new opportunities in harvesting and processing the vast resources available in the North Pacific. Congress' role in the growth of the U. S. seafood industry, and in particular UniSea's, is greatly

appreciated. UniSea is particularly proud of the fact that we have been extremely successful in developing and perfecting the production of surimi in a shorebased location. For many years, we were told quality surimi could never be produced on shore in Alaska.

Without Congress' amendments to the Magnuson Act granting processor preferences, we would not have had the opportunity to prove, with good old American ingenuity, that we could produce high quality surimi on shore.

UniSea is extremely supportive of the Magnuson Act and its framework for managing our nation's fishery resources. We believe the regional council system is far superior to centralized management in Washington, D.C. The council system provides members of the seafood industry an opportunity to address their concerns before a panel which is extremely knowledgeable about their industry. This, of course, was Congress' intent. We support retaining active seafood industry members on the regional councils for just that reason. We believe the fact that the councils are advisory and that the National Marine Fisheries Service and the Secretary of Commerce promulgate fishery regulations provides a natural check and balance system that ensures fairness in fishery management.

Turning to the current reauthorization, we would like to address UniSea's most pressing concerns to continue to protect the fishery resources in the North Pacific. We are generally supportive of the proposed changes in S.39 and are pleased that this Committee has responded to the most urgent concerns facing future fishery management. We believe the most important issue facing the groundfish fishery in the North Pacific is the accurate assessment of targeted catch, by-catch, and discards of harvested resources. This issue is seminal because that data provides the necessary information on which all management decisions are based. The current level of discards, both regulatory and economic, in the North Pacific is very troubling. Our industry is placing itself in grave danger with the public because of the unacceptable levels of waste occurring in the present fishery. We are pleased that S.39 begins to address this problem by setting a date certain for tangible amendments to fishery management plans requiring the reduction of bycatch and discards.

However, there are other concerns that need to be addressed. The most important is the manner in which these levels of bycatch and discards are estimated. In the current fishery, the large majority of groundfish is harvested and processed by offshore processors. These processors do not weigh their catch, bycatch, and discards as we do onshore. Rather than supplying accurate weights, the offshore industry estimates these levels by applying

arbitrary and inaccurate recovery rates. Many of the recovery rates are established by the offshore industry itself. There is no question that these rates are inaccurate. As a result, we are certain that the current estimates of total catch, bycatch, and discards are also inaccurate. Continuing this inaccurate estimation will lead to devastating consequences.

In our plant, and all others operating on shore, we are required to retain and accurately weigh all fish harvested and delivered for processing. We are certain about the levels of catch, bycatch and discards. We believe that fishery management must require that level of certainty from all processors. We believe this Committee should require the National Marine Fisheries Service to immediately require accurate weighing of all fish harvested in the North Pacific prior to processing. We support S.39's requirements for full retention and utilization. If we in industry do not heed this Committee's concerns about the reduction and elimination of waste and bycatch, we are jeopardizing our future.

Individual Transferable Quotas ("ITQ's") are being touted as the answer to all the problems facing the seafood industry in the North Pacific. Like any proposed "ideal solution," ITQ's should be carefully considered and contemplated. What is being discussed with ITQ's is a huge allocation of a public resource to private industry. This allocation will result in significant and permanent consequences. The initial allocation will provide the quota-share

recipients with a huge financial windfall and will upend the current playing field. We applaud the Committee's amendment which recognizes that processors need to be considered as a group entitled to receive the initial allocation of ITQ shares.

If ITQ's are granted, processors must receive shares or the capital that we have invested will immediately become worthless. UniSea has invested 130 million dollars in processing technology and capacity in order to develop products and markets for the fishery resources in the North Pacific. Additionally, UniSea's substantial investment provided much needed markets for the independent catcher boats who also helped pioneer the development of the onshore groundfish industry. If ITQ's are granted, and UniSea does not receive an equitable share for its investment, the value of our capital investment goes to zero. We don't believe that Congress and this Committee intended that to happen when it passed and amended the Magnuson Act to encourage and foster our investment in processing the resources of the North Pacific. We support the cautious approach contemplated in S.39 by requiring the Secretary to establish guidelines prior to the implementation of any ITQ program. We believe the process of establishing equitable guidelines can work to ferret out some of the basic problems with any ITQ plan.

We applaud the Committee's proposed solution to the perceived conflict of interest problem facing Council members. The council system was damaged by a deliberate campaign to impugn the process

by alleging that individual Council members were voting on management measures to promote their own financial self-interest. A careful examination of the votes in the North Pacific Council demonstrates the fallacy of these allegations. The North Pacific Council has consistently and regularly voted to protect the resource even when the biologists have stated that the Council could set the catch at much higher levels. We are concerned over the potential problems raised by the use of a designated official on the Council. We understand the purpose of such an official, but are worried that the Council will not be able to make decisions in a timely manner. We respectfully request that the Committee consider the possible delay in fishery management decisions that could be caused by inserting a "designated official" into the already overloaded decision making matrix. If such an arbitrator is to be used, his or her decision on a conflict must be immediate at the time of the vote in question and not be bogged down with a complicated appellate procedure.

In summary, Mr. Chairman, UniSea is pleased and proud to be a part of the North Pacific seafood industry. We applaud the Committee's work on the reauthorization of the Act, and we look forward to working with Congress to ensure that our industry continues to thrive. Thank you for the opportunity to testify and we would be pleased to answer any questions.

Senator STEVENS. Our next witness is Arni Thomson, Executive Director, Alaska Crab Coalition.

**STATEMENT OF ARNI THOMSON, EXECUTIVE DIRECTOR,
ALASKA CRAB COALITION, SEATTLE, WASHINGTON**

Mr. THOMSON. Thank you, Senator, for the opportunity to testify here this afternoon in Anchorage, Alaska before the Senate Subcommittee on Oceans and Fisheries.

My name, for the record, is Arni Thomson. I'm Executive director of the Alaska Crab Coalition. On behalf of the members of the ACC, I wish to commend you for your leadership in supporting and helping with final implementation of several Council decisions I can think of over the years, including observer programs, fisheries bycatch issues, waste reduction issues over the years, and most recently with the introduction of Senate Bill No. 39.

The Alaska Crab Coalition, which was formed in 1986, represents the owners of 60 Bering Sea crab vessels that operate in Federal waters in the Bering Sea Aleutian Islands off the coast of Alaska. The ACC also represents 11 fish processing companies and 49 other associate companies that provide services to the fleet. As it has done since 1988, the ACC seeks amendment of the Act to require minimization of waste, including the bycatch of nontarget species and the discard of target species. The ACC also supports amendment of the national standards to provide conservation is the principal objective of fisheries management.

It is recommended that the Act be amended to address more effectively the need to avoid and reduce excess fishing capacity. Since the 1992 United Nations Conference on Environment and Development, scientists have universally recognized that harvesting overcapacity is a threat to resource sustainability. Excess harvesting capacity in the Federal fisheries off the coast of Alaska poses a very severe challenge to the sustainability of target and nontarget resources alike.

The ACC, along with other major industry associations also recommends that the Act be amended to include a new national standard requiring fisheries management measures to promote the safety of life at sea. We would like to point out that *Fortune Magazine*, in an article published in 1993 recognized the Bering Sea crab fishery to be the most dangerous occupation in the United States.

In regards to permitting authority for the State of Alaska and in regard to the problem of a scallop boat that was fishing without a permit in the Gulf of Alaska, the ACC recommends amendment of Section 306 of the Act to give permitting authority to the State of Alaska over shellfish in the EEZ off the coast of Alaska.

In regards to ITQs, individual transferable quotas, the ACC vessel owners recommend that any amendments to the Act, relative to ITQs, not create barriers or disincentives to their establishment in appropriate fisheries. The ACC vessel owners support the establishment of ITQs in the Bering Sea crab fisheries.

I'd like to point out that most of the ACC boats are family owned small businesses, and they wish to remain that way in the future. They do not intend to sell out to large corporations. The vessel owners have a long history in the Bering Sea crab fisheries, and they would prefer that an ITQ program should recognize that par-

ticipation. However, they are prepared to compromise, as they have come to recognize that the qualifying period is one of the most controversial parts of developing an ITQ program, and that they are willing to openly negotiate the qualifying period to accommodate recent entrants. That's how important they think the ITQ program is to the future of the fishery.

Further, the ACC boat owners recognize that ITQs will be a revokable privilege subject to full control by the public, the North Pacific Council and Department of Commerce.

Finally, the ACC supports ITQs for the following reasons: First, improved safety. They will be able to fish when the weather conditions do not present unacceptable hazards. This is a benefit which cannot not be gained in a mere license limitation system.

Improved resource conservation. With a slower pace of fishing, selectivity in targeting resources and sorting catches will be vastly improved. Discards and the mortality of discards will be reduced. In a mere license limitation system, it is reliably estimated that technological improvements yield approximately 5 to 6 percent increases in capture efficiency each year, thus greatly intensifying pressures on limited fishery resources.

Improved individual accountability. Observer coverage which will be required for all vessels will prevent high-grading and other irresponsible practices, and it will guarantee effective enforcement in the public interest.

Improved economic efficiency. Transferable ITQs provide a market based industry buy-out program with no expenditure of public funds for the purchase of excess harvesting capacity.

Reduction in fleet size, achieved by some consolidation of quotas, will enable the vessels remaining in the fisheries to achieve improved operating efficiency. At the same time caps on quota shares held by individuals and businesses will prevent undue concentration of fishing privileges. For processors as well as fishermen, longer seasons will provide steadier employment and consequent benefits to local communities.

Increased value of the tax base and new source of fees. At this time, the ACC proposes that the Act be amended to provide that fees for ITQs in the case of Bering Sea Aleutian Islands crab fisheries, that are managed by the State of Alaska, should be collected by the Governor of the State of Alaska. We also support an amendment to authorize CDQs with a cap of 3 percent while providing ground rules for qualifying CDQ communities.

Improved product quality. A slower paced fishery will allow the more careful handling of the catch to preserve quality. Deliveries to shorebased plants will not be compressed into short seasons, thus allowing better handling by processors.

In addition, processors will have more time to perform value-added secondary processing. To the benefit of the consumer, increased quantities of high quality products in a more competitive marketplace will lead to moderation in the price of premium products. It should be noted that cities like Anchorage can benefit from new opportunities for secondary processing as well as additional services to fishermen and processors.

I wish to conclude by saying that the ACC does not really see the extent of windfall profits in terms of entering into an ITQ program

that some predict. I think this is understandable when you consider that there are many compromises that have to be made by the fishermen and the processors entering into an ITQ framework.

In terms of fees, the compromises on the initial allocation, and the allocation of CDQs, the actual windfall, the increase in the investment value to the vessel owners and to other companies would probably not be realized until 5 or 6 years after an ITQ program is implemented.

That concludes my comments, Mr. Senator.

Senator STEVENS. Thank you very much.

[The prepared statement of Mr. Thomson follows:]



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Statement of Mr. Arni Thomson

Executive Director

Alaska Crab Coalition

Before the

Subcommittee on Oceans and Fisheries

Committee on Commerce, Science, and Transportation

U.S. Senate

March 25, 1995

Mr. Chairman:

I would like to express the appreciation of the Alaska Crab Coalition ("ACC") for the opportunity to provide a statement on reauthorization of the Magnuson Fishery Conservation and Management Act. The ACC, which was formed in 1986, now represents the owners of 60 crab harvesting vessels that operate in the federal waters of the Bering Sea/Aleutian Islands off the coast of Alaska. The ACC also represents 11 fish processing companies and 49 other associate companies that provide services to the fleet. Ours is a major industry. The first wholesale value of the crab harvest off Alaska was \$650 million in each of the years, 1992, 1993, and 1994, and our fleet employed over 3000 people.

It is fair to say that the ACC, since its inception, has been in the forefront of industry efforts to achieve improved management of the fisheries in the Bering

Sea/Aleutian Islands. Our goal has been straightforward: sustainable fisheries. In the pursuit of this objective, the ACC has sought increased safety of fishing operations, enhanced conservation of fisheries resources, and credible scientific research.

The ACC has promoted scientifically based, responsible regulatory administration of the fisheries, and where the existing legal framework has proved demonstrably inadequate, we have sought remedial legislation. We have not lightly advocated government intervention. Our objective has been to achieve essential improvements to safety and conservation, with the minimum necessary regulatory burden and cost to the taxpayer.

The ACC supported the enactment of the 1990 amendments to the Act, including particularly the North Pacific Fisheries Research Plan, which led to improvements in our system of fisheries management. However, as reflected by our recommendation for further amendments, the ACC and many other industry groups believe that the nation remains some distance from achieving the goal of ensuring that our valuable fishery resources are exploited in a responsible manner.

I am proud of the record of achievement of the ACC. The Magnuson Fishery Conservation and Management Act reflects important conservation-related amendments for which our organization led the way among responsible industry groups. Legislation introduced in the last Congress contained both safety and conservation proposals that were originally conceived by our organization.

In the 104th Congress, the ACC will continue to promote safety and conservation. However, we assure you that we will not support misguided proposals, such as those launched in the last Congress, that would entail new layers of bureaucracy or undue

regulatory burdens. A copy of proposed amendments which we support is attached to this statement. They enjoy the support of other organizations, including the Fishing Vessel Owners Association and Deep Sea Fishermen's Union.

An explanation of our specific proposals is in order. The ACC proposes amendment of the Act to include a National Standard requiring that fisheries management measures promote safety of life at sea. This is a vitally needed provision. Fishing is, in many areas and at many times, a dangerous occupation. Lives are lost in the federally managed "Olympic" style fisheries each year. Sadly, some of our management measures actually contribute to the dangers encountered by our fishermen. In 1994, 18 people perished in fisheries off the coast of Alaska. In 1995, to this date, 8 have lost their lives and 3 vessels have been lost in the 32-day opilio crab fishing season, alone. Severe injuries have remained an everyday occurrence.

In the sablefish and halibut fisheries off the coast of Alaska, lives have been lost each year in a mad scramble by thousands of vessels to harvest the available resource in a matter of hours or a few days. The "fishing derbies" have required that, for fishermen to earn their livelihoods, they would have to do so without regard to severe weather and sea-state conditions. The newly implemented system of individual fishing quotas ("IFQs") for these fisheries is expected to alleviate what has been a truly tragic situation.

Unfortunately, humane systems of management are politically difficult to devise, as they involve some element of allocation of finite, and sometimes declining, resources. In the public debates and policy deliberations, safety issues tend to be lost, as the focus all-too-often falls on purely economic considerations. The Act must be amended to ensure that the priorities of our fisheries management system accord with the fundamental values of our society.

I would like to make it clear that the enactment of our safety amendment would not mandate any particular system of fisheries management, such as ITQs. We recognize that some fisheries may not be suited to such a system. Accordingly, our amendment would ensure that safety would be properly taken into account, without prejudice to the basic system of management that would apply in any particular fishery. We appreciate the recognition by the sponsors of S 39 of the need to amend the Act to provide a firmer foundation for the consideration of safety in the management process. We urge that the suggested, alternative approach of establishing a new National Standard be given sympathetic consideration.

The ACC supports amendment of the Act to provide expressly in the National Standards that conservation is the principal management objective. This is a proposal which we made at the outset of the current reauthorization process.

Our proposed amendments to the National Standards would also give needed focus to issues of waste in the fisheries which result from excessive bycatch of non-target species and discards of target species. The Members of the ACC are acutely conscious of the economic losses that have long been associated with the excessive levels of bycatch in certain fisheries of the Bering Sea. We are aware, as well, of the economic waste that has resulted from the massive discards of target species in those and other fisheries. Although we are compelled to accept the fact that there are forces at work in the marine ecosystem that are beyond the reach of human intervention, there is much that can and should be done to ensure that fishing gear and practices are employed in responsible ways, so that waste is minimized. The provisions of S. 39 relating to bycatch and discard waste reflect a recognition of need for remedial legislative action. However, the ACC believes that a major strengthening of the National Standards, which are the touchstones of the Act, is

needed to ensure a real commitment on the part of fisheries managers to address the problem of waste.

Some in the trawl industry make much of the assertion that all fishing groups, no matter what gear they employ, inflict bycatch mortality. What those people do not care to point out is the fact that the impacts vary greatly among the gear types. Trawlers, by the nature of their non-selective gear, inflict mortality, not only on their own target species, but also on the target species of most other gear groups. Thus, trawlers impose direct costs on other sectors of the industry by reducing the immediate and future harvests of the other gear groups.

It is true that fixed gear fishermen, employing pots or longlines, also have bycatch impacts. For example, the bycatch of crab pot gear, principally juveniles and females of the target species, represent foregone future harvests for fishermen utilizing that gear. Consequently, fixed gear fishermen have a vested interest in minimizing bycatch mortality through gear design and fish handling techniques, as well as through strict quotas and time and area closures. Fixed gear bycatch does not impose direct costs on the trawlers' target species.

Notably, in the crab and cod pot fisheries, the Alaska Department of Fish and Game and the National Marine Fisheries Service, based on authoritative studies, estimate the mortality of crab discards at only 8-10%. In addition, the National Marine Fisheries Service estimates the mortality rate of halibut in the Bering Sea pot fisheries for cod at less than 1%. As a result, the pot fishery for cod is exempted from halibut bycatch caps. By contrast, the estimated mortality rates for halibut in the trawl fisheries, again according to the National Marine Fisheries Service, range from 66 to 74%.

We in the crab industry have taken the initiative to propose crab fishing gear design requirements that greatly increase selectivity and minimize "ghostfishing". We have made gear modifications to provide for large mesh inserts that allow the escape of undersized crab from the pots. We have added halibut excluder panels. We have built in biodegradable cotton thread panels to minimize ghostfishing. In addition, when confronted with data suggesting declines in crab stocks, the ACC has been in the forefront of efforts to secure the needed time and area closures, reduced quotas, and other conservation measures. Unfortunately, fisheries managers have not always responded to our concerns, and as history shows, the resources have suffered under archaic management policies and practices.

I would like to highlight our concern for the protection of sensitive spawning and nursery areas. We feel that there should be greater attention to the effect of bottom trawling on the benthic environment, which is believed to be quite significant. Crab in the first instar stage of development find refuge from predators by crawling into the subsurface layer of the seabed. Therefore, bottom trawling in crab nursery areas may well have a very detrimental effect on crab survival rates. The damage is a matter of particular concern, where the large nets and heavy doors and chains of industrial factory trawlers are used. Habitat amendments proposed in S. 39 can be useful in addressing these problems.

Before departing from the subject of habitat, I would like to call attention to the fact that the NOAA Outer Continental Shelf Environmental Assessment Program ("OCSEAP") has yielded useful data on the sensitivity of crab nursery areas. OCSEAP considers the North Aleutian shelf to be the primary habitat for king crab and is concerned about bottom trawling impacts. The Chairman of the North Pacific Fishery Management Council, in a letter to former President Bush concerning Lease Sale 92, acknowledged that the habitat in that area is critical to crab, and to halibut, as well. Alaska Governor Tony

Knowles has pointed to the need for protection of ocean bottom crab and coral habitats off the shores of his State. On the far side of the Bering Sea, Russia has protected its crab habitat from bottom trawling and has been rewarded with rich crab harvests. In fact, many U.S. vessels have moved to Russian waters to take advantage of the abundant crab resources there.

The ACC is also deeply concerned about the problem of excessive fishing capacity in relation to the available resources. It is an unfortunate fact that rapid overcapitalization of major fisheries in the Bering Sea, as well as elsewhere in our federal exclusive economic zone, has given rise to severe pressures on fisheries managers to permit exploitation that cannot be reconciled with basic conservation principles. Some statistics should be considered. Since January 1, 1990, the Bering Sea crab fleet has grown from 162 to 255 vessels, an increase of 57%. Concomitantly, fishing days on the crab grounds have declined during that period from 234 to 72 annually, a decrease of 320%. This compression of fishing seasons has had dramatic, adverse effects. While this intolerable situation has been developing, the National Marine Fisheries Service and the Regional Fishery Management Councils have felt compelled to dedicate their meager fiscal and administrative resources principally to the development of systems for the allocation of limited, and all-too-often declining, fisheries resources among competing sectors of our industry.

ITQs are a very effective means of reducing and avoiding overcapitalization, by encouraging the consolidation of fishing opportunities and a consequent reduction of fishing capacity. However, as in the case of halibut/sablefish individual quotas, limits can and should be placed on the concentration of crab quota shares in the hands of any particular individuals or businesses. The ACC, as an organization of family businesses, is committed to the establishment of caps to ensure the avoidance of unwarranted and

counterproductive consolidation of quota shares. We do recognize that other methods than ITQs may be employed to reduce overcapacity, such as government-run or subsidized vessel "buy-back" programs, if the public funding can be found to support them. I should observe that, in light of government budgetary constraints, there is a very strong case for giving industry the regulatory tools to finance its own "buy-out" scheme through the issuance of ITQs and the consolidation of individual quotas. A paper delivered at a University of Washington conference, June 14-16, 1994, Michael Sissenwine, Senior Scientist, National Marine Fisheries Service, detailed the harsh realities of excessive fishing capacity. In that paper, it was noted that the NOAA and National Marine Fisheries Service Strategic Plans both advocate "conversion of fisheries management from open access to controlled access, especially individual harvest rights, such as ITQs".

The Subcommittee should find it interesting that, in the international context, when our federal fisheries managers have been freed of the intense pressures of certain sectors of our fishing industry, conservation properly has been the center of attention. At the United Nations Conference on Environment and Development ("UNCED") in Rio, the United States Government played a highly constructive, leadership role in the articulation of conservation guidelines, principles, and commitments under the new rubric of "sustainable use". At a 1992 conference in Cancun, Mexico, the U.S. contributed importantly to the development of international standards of "responsible fishing". A paper prepared by The United Nations Food and Agriculture Organization ("FAO") for the 1992 Cancun conference stated, "The excessive level of fishing effort now existing in the world should be the primary concern in terms of sustainability of the fisheries resources."

I would like to flag some of the key points that emerged from the Rio and Cancun conferences. UNCED proclaimed that, "States commit themselves to the conservation and sustainable use of living marine resources under national jurisdiction". The Conference recognized "mounting problems" in the world's fisheries, including "overcapitalization and excessive fleet sizes...insufficiently selective gear, [and] unreliable data bases".

UNCED declared that, "[I]t is necessary to...promote the development and use of selective fishing gear and practices that minimize waste of catch of target species and minimize by-catch of non-target species...[and] preserve rare or fragile ecosystems as well as habitats and other ecologically sensitive areas...." UNCED further declared that nations should "...[t]ake measures to increase the availability of marine living resources as human food by reducing wastage, post-harvest losses and discards, and improving techniques of processing, distribution and transportation...[and] [d]evelop and promote the use of environmentally sound technology under criteria compatible with the sustainable use of marine living resources, including assessment of environmental impact of major new fishery practices..." In designating protected areas, "priority should be accorded, as appropriate" to specific kinds of areas, including "spawning and nursery areas".

The 1992 Cancun conference declared that "States should promote the development and use of selective fishing gear and practices that minimize waste of catch of target species and minimize by-catch of non-target species." The conference further declared, "States, in the design and subsequent introduction of new fishing gear and practices, should take into account qualified assessments of impacts on the sustainability of fisheries, giving due consideration to the specific characteristics and biodiversity of different fishing areas." "States should promote and enhance collection of data necessary for the conservation and sustainable utilization of fisheries resources." "States should take

necessary measures to protect coastal wetlands and other areas of critical fisheries habitat from all kinds of degradation." And, "States should take steps to improve management systems as part of the practice of responsible fishing."

The Cancun conference proclaimed that nations "recognize the principle of sustainable utilization of marine living resources as the basis for sound fisheries management policies. In this regard, they consider as one of the most important objectives the application of policies and measures which result in a level of fishing effort commensurate with the sustainable utilization of fisheries resources, taking into account the specific characteristics of particular fisheries."

The July 29, 1993 Communique of the Inter-American Conference on Responsible Fishing, Mexico City, stated that the planned International Code of Conduct for Responsible Fishing should provide for sustainable utilization of resources. Improved gear selectivity was a key focus of the Communique. In a December 1994 communication to members of the FAO, the Director-General circulated a highly elaborated, draft International Code of Conduct for Responsible Fishing. The proposed Code of Conduct embodies the principles and rules set forth at Rio and Cancun. Sustainable utilization is the touchstone. Reduction and avoidance of excess fishing capacity and improved selectivity of fishing gear and practices are heavily emphasized.

The ACC believes that the Congress and our fisheries managers should provide for legislative and regulatory implementation of the key elements of the international consensus reflected in the Rio and Cancun declarations, the Mexico City communique, and the emerging Code of Conduct. It is true that general provisions of the Magnuson Act relating to conservation reasonably may be interpreted to be consistent with the new international guidelines, principles, and commitments. From that standpoint, an

elaboration in the Magnuson Act of the central points accepted by the international community would not represent a departure from the basic framework of the prevailing domestic management system. However, experience has shown that the Magnuson Act could usefully be strengthened to provide our fisheries managers with greater leverage-- and a more clearly defined responsibility--to achieve conservation objectives in the public interest

Certain industry groups in the United States will not welcome the express inclusion in the Act of provisions reflecting the international consensus that was achieved under U.S. leadership. The ACC would like the Subcommittee to recall that some industry groups were strongly opposed to the North Pacific Fisheries Research Plan enacted in the 1990 amendments, a plan that is now almost universally recognized as indispensable to the achievement of basic conservation and management objectives in the multi-billion dollar fisheries of the Bering Sea and Gulf of Alaska. It is a credit to the Congress that such opposition did not prevent the enactment of a highly worthy program.

Fees are currently being addressed by some public interest organizations and industry groups solely in the context of limited entry. However, it must be pointed out that any fish taken from the exclusive economic zone by any fisherman represents a private gain for which a reasonable fee might well be charged. It must also be recognized that, in a fishery successfully managed for sustainable utilization, the public loses nothing when a private company or individual gains. Fisheries resources are renewable, and fees should reflect that nothing is being taken from the public that cannot soon be restored. We can accept a slightly higher fee for ITQs, insofar as it is demonstrated that there is a higher administrative cost to the government for such programs. However, it should be understood, at the same time, that ITQs should lead to improved resource conditions, which in turn, will lead to greater economic benefits for the nation. In addition, it must be

understood that ITQs convey only privileges that can be revoked by the government without compensation to holders. ITQs do not create property rights that are protected by the takings provision of the U.S. Constitution. Fees should reflect the fact that ITQs simply provide for the orderly utilization, not the permanent alienation, of public resources. For these and other reasons, including those related to improved safety and conservation, fees should not be imposed at levels that will deter the adoption of ITQ programs. More broadly, the ACC vessel owners recommend that any amendments to the Act on individual transferable quotas ("ITQs") not create barriers or disincentives to their establishment in appropriate circumstances.

The ACC vessel owners support the establishment of ITQs in the Bering Sea/Aleutian Islands crab fisheries, for the following reasons:

- **Improved safety.** Fishermen will be in the position to slow down the pace of their fishing activities. They will be able to fish when the weather conditions do not present unacceptable hazards. In the case of crab fishing, the load of pots on vessels will be reduced, because individual quotas will end the competitive race in short seasons to place and haul as much gear as possible. This will both improve vessel stability and reduce the hazards to gear handlers. These are benefits which would not be gained in a mere license limitation system.
- **Improved resource conservation.** With a slower pace of fishing, selectivity in targeting resources and sorting catches will be vastly improved. Discards, and the mortality of discards, will be reduced. Individual quotas will provide an incentive to fishermen to engage in practices that enhance stock rebuilding. Higher TACs will directly translate to higher catches for each fisherman who holds a percentage share of the available harvest. In a slower fishery, fewer pots will be lost, and ghostfishing will, therefore, be minimized.
- **Improved individual accountability.** With individual quotas, fishermen will feel, and will be, more accountable for their conduct. Responsible fishing will be the rule, not the exception, as each quota holder will have a tangible share of the resource. Where self-interest does not produce responsible behavior, observer coverage, which will be required for all vessels, will prevent high-grading and other

irresponsible practices, and will guarantee effective enforcement in the public interest. ITQs would be privileges (not property rights), which could be modified or revoked without compensation to the holders by the government.

- **Improved economic efficiency.** Transferable ITQs, as marketable commodities, will provide a market-based industry buy-out program for overcapitalized fisheries, with no expenditures of public funds for the purchase of excess harvesting capacity. By leading to a reduction of fleet size through consolidation of quotas, the vessels remaining in the fisheries will achieve improved operating efficiency, while at the same time, caps on quota shares held by individuals and businesses will prevent undue concentration of fishing privileges. Vessels (and processing facilities) will be idle for shorter periods of the year, and their productive capacity will be put to fuller use. With ITQs, there will be no incentive to make increasing investments in marginal improvements, with progressively diminished returns, simply to remain competitive in ever more compressed seasons, as occurs in the open access and license limitation systems. Mere license limitations halt the increase of capacity, but do not reduce it, nor do they address the law of diminishing returns on marginal improvements to fishing vessels and gear. For processors, as well as fishermen, longer seasons will provide steadier employment and consequent benefits to local communities.
- **Increased value of the tax base and new source of fees.** With an economically more sound fishery, profitability will improve and, thus, the income tax base will increase. Increased harvests resulting from improved resource conditions will provide higher revenues from landing taxes. Fees on ITQs will provide revenues to the government from the private utilization of the resource. Fees should be set at levels that are reasonable in relation to the economics of the fisheries. Pending legislative proposals indicate that open access and license limitation fisheries will provide few, if any, fees for utilization of public resources. The ACC proposes that the Act be amended to provide that fees from ITQs will be paid to the Secretary, except in the case of Bering Sea/Aleutian Islands crab fisheries of the exclusive economic zone that are managed by the State of Alaska pursuant to fishery management plans. This recognizes the expected increased cost to the State of managing ITQ fisheries and responds to the concern of some that there will be a need for short-term impact assistance and long-term adjustment assistance for those who do not receive ITQs. The same logic would seem to apply to CDQs, and that is reflected in our proposed amendments.

- **Reduced gear conflict.** With less gear deployed at any given time on the grounds, conflict with other gear types will be reduced.
- **Improved product quality.** A slower paced fishery will allow the more careful handling of the catch to preserve quality, thus improving competitiveness against high quality imported fishery products; and increasing acceptance in quality-conscious export markets. Moreover, deliveries to shore will not be compressed into short seasons, thus allowing better handling by processors. In addition, processors will have more time to perform value-added secondary processing. To the benefit of the consumer, increased quantities of high-quality products in a more competitive marketplace will lead to moderation of premium pricing.
- **Improved markets.** Fishermen and processors will be able to coordinate the harvest and delivery of product to respond to market demand.

The ACC proposes that Congress place limits on community development quotas, and we oppose the broader concept of "fishery dependent communities". In the Alaskan context, "community development quotas" can serve legitimate social and economic purposes. However, in the absence of explicit limitations, abuses can prove to be very costly to those who are not the recipients of the special allocations of federal fishery resources. We must remember that our fisheries are, for the most part, seriously overcapitalized. In fully developed fisheries, in order to provide special quotas to one group, it is necessary to reduce the harvests or the harvest capacity of others. There must be a balance between providing for development of truly disadvantaged local communities and allowing the economic survival of the historical participants in the fisheries. It is interesting that the earlier-referenced FAO paper prepared for the 1992 Cancun Conference stated, "Further development of the fisheries sector cannot be achieved without an overall reduction of the [global] fleet size to a level where fishing effort, at the most, matches the maximum sustainable yield of the resources being exploited or, better, to an even lower level to ensure long-term profitability and sustainability of fisheries "

This statement may be aptly applied to the case of the fisheries off the coast of Alaska.

In closing, I would like to tie a few points together. In the North Pacific region, the State of Alaska already charges very substantial fees and taxes on vessels that operate not only in State, but also, in federal waters. In addition, the fleets from outside Alaska pay a high price for benefits to the State from dedicated groundfish quotas for local communities. Clearly, these special quotas reduce the available resources for those who have historically operated in the fisheries, and who must attempt to survive in an already heavily overcapitalized economic environment.

In short, there are limits to what the established fleets can sustain. New fees imposed on individual fishermen, and quotas established for local communities cannot be considered in isolation from one another, nor in isolation from other fees, taxes, and costs borne by our fishermen. In addition, it may well be that the elimination of excess capacity in the existing fleet will be indispensable to the further development of coastal community-based fisheries operations. Otherwise, neither the historical participants nor the new entrants can hope to benefit, and they will all be likely to suffer. As I have stated, however, we recognize that fees are appropriate for ITQs and that fees from ITQs should be paid to the State of Alaska in the case of the State-managed Bering Sea/Aleutian Islands crab resources of the exclusive economic zone.

The ACC understands that it will not be an easy task for this Committee, the Congress, and the Administration to build upon the conservation-related provisions of the 1990 amendments and to bring the Act into conformity with the newly emerged concept of "responsible fishing" and new international standards of fisheries conservation and management. Nor will it be a simple matter to amend the Act to ensure that fisheries management measures contribute to safety and do not threaten it. Limited entry and community development issues will be very thorny. Nevertheless, the ACC believes that

our government will rise to the challenge, as in 1990, and that our nation will be able to look forward to the sustainable--and safe--use of a national treasure, abundant fisheries resources.

Proposed Amendments to the Magnuson Fishery Conservation and Management Act

1. New National Standards on conservation and safety

"(8) Conservation and management measures shall promote practices by U.S. fishermen and United States fish processors in a fishery that, to the extent practicable, (A) minimize the harvest and reduce the mortality of fish that are not fully utilized by U.S. fishermen or United States processors in that fishery, and (B) maximize the utilization of those fish that are harvested by U.S. fishermen but are not required by regulation to be returned to the sea; except that no such measure shall have economic allocation as its sole purpose."

"(9) Conservation and management measures shall promote the safety of life and property at sea."

2. Shellfish permit authority for the State of Alaska

Amend section 306 of the Act as follows:

"(4) Notwithstanding any other provision of this Act, the Governor of the State of Alaska may require any person to obtain a fishing permit from such State, if--

(A) such person engages in fishing for shellfish that are subject to the provisions of this Act;

(B) the State manages, outside its boundaries, a shellfish fishery that is subject to the provisions of this Act; and

(C) the fishing referred to in paragraph (A) results in the taking, directly or incidentally, of any fish from a fishery referred to in paragraph (B)."

3. Community Development Quotas

Amend the Act to contain the following new provision:

"Section _____. Community Development Quotas.

(a) The term "community development quota" means any allocation of fish for harvesting or processing in a fishery or fisheries for the benefit of a proximate coastal community or group of coastal communities in which--

(1) the average annual unemployment rate is substantially above the national annual average;

(2) the average annual per capita income is substantially below the national annual average; and

(3) there exist limited opportunities for community members to participate in the affected fishery or fisheries.

(b) The Secretary may establish a program to provide community development quotas which shall--

(1) provide opportunities for community members to participate in the affected fishery or fisheries and thereby--

(A) increase the economic self-sufficiency of the community;

(B) reduce the unemployment within the community; and

(C) increase the average annual per capita income of the community members;

(2) not increase harvesting or processing capacity in fully developed fisheries; and

(3) not exceed a maximum of three (3) percent of the annual total allowable catch for the affected fishery or fisheries."

4. Fees for Fishing Quotas

Amend section 304(d) of the Act as follows:

- (1) insert "(1)" at the beginning of the first sentence; and
 (2) insert the following at the end of the paragraph:

"(2)(A) Except for fisheries referred to in subparagraph (B), the Secretary shall impose on holders of individual transferable quotas and on holders of community development quotas an annual fee of up to two percent of the ex-vessel value of the fish harvested and sold pursuant to such quotas.

(B) With respect to the Bering Sea / Aleutian Island crab fisheries of the exclusive economic zone that are managed by the State of Alaska pursuant to fishery management plans, the Governor of Alaska--

(i) may require holders of individual transferable quotas and holders of community development quotas that apply to such fishery to obtain permits from such State for the utilization of such quotas, except that no such permit requirement shall have the effect of re-allocating the affected quotas or achieving purposes not directly related to the administration of the conservation and management program for the affected fishery or fisheries; and

(ii) shall impose on holders referred to in clause (i) an annual fee of up to two percent of the ex-vessel value of the fish harvested and sold pursuant to quotas referred to in such clause.

(C) Any fee collected pursuant to subparagraphs (2)(A) and (B) shall be used only --

(i) for the conservation and management of the fishery to which the quotas referred to in such subparagraphs apply; and

(ii) as may be necessary and appropriate, for programs of short-term economic impact assistance and long-term economic adjustment assistance to individuals who do not receive individual transferable quotas, and communities that do not receive community development quotas.

(D) The expenditure of fees in relation to conservation and management referred to in subparagraph (C) shall be determined in cooperation with the appropriate Councils.

(E) Assistance programs referred to in subparagraph (C) that are established by the Secretary shall be developed in cooperation with the appropriate Councils and with the Governors of the States in which such programs are to be implemented.

(F) For the purposes of this section, the ex-vessel value of fish harvested and sold shall be deemed to be their value prior to any processing."

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Wednesday
February 22, 1995
Seattle Post-Intelligencer

It wasn't just the sea that killed them

The mayday call came on VHF, the radio of last resort. Perhaps a rogue wave broke out the wheelhouse windows. The crewmate had no time to give his name or the name of his crab boat. Just the coordinates: a spot in the Bering Sea north of the Pribilof Islands.

On Jan. 15, the Northern Mariner rolled over. All six men aboard were killed.

It was a day for cautious souls to be in port. Winds gusted up to 50 knots. But 250 boats braved the storm because it was the first day of opilio crab season, which lasts only a month.

"Nobody's going to sit in the barbor when you only have a month," says Kris Fanning, president of the Alaska Crab Coalition and owner of the crab boats Caprice, Denali and Entrance Point. "In the first two weeks, three boats were lost. That's more than 1 percent of the fleet."

Fanning used to have another boat, the Nettie H. But on Sept. 13, 1993, the Nettie H. sent out a mayday just outside False Pass in the Aleutians. Says the Coast Guard's summary report: "Vessel missing, presumed sunk without trace; five persons on board missing."

The list of Coast Guard reports is loaded with such phrases: "Victim died after 10 minutes in water. . . . Entire crew missing; found slick and life raft. . . . Fetal injury from head being crushed by trawl door. . . . Killed in fire on board vessel. . . . Leg tangled in anchor line, pulled overboard. . . . Crushed between crab pot launcher and rail. . . ."



Bruce Ramsey

FISHING IS A killing business. Eighteen crewmen died off Alaska in 1993, 13 in 1994 and seven so far this year. According to a study done by Richard Kennedy of the U.S. Public Health Service, the 1991-92 fatality rate in the Alaska fishing industry was 200 per 100,000 people, making it worse than logging (185). The highest fatality rates were in halibut (305 per 100,000) and crab (480). Crab fishing in Alaska, the report says, is "probably the riskiest industry in the country."

"Bruce was fully aware of the risk," says Christine Forde of her husband, lost on the Northern Mariner. "He thought about it constantly. When he left Dec. 30, he woke up both our daughters to hug them and say goodbye. He told me it was particularly hard to leave this time. Because of the way the risk was, and even the flying back and forth, (it) makes you think more about life and its importance, and what your values are."

Forde was 38. He had been fishing since he was 13. His father and grandfather were fishermen. And he took safety seriously. He could don a survival suit in less than a minute. He took courses in fire at sea. He was a trained medic.

BUT THE RISK remained "One thing that's very attractive in fishing is the gambling aspect, the high adventure, high risk," Christine Forde says. "There was nothing my husband loved more than coming into town on a sunny day with a shiny boat and a tankful of fish."

"Yet, she says, "He clenched his teeth a lot at night."

Some risk is unavoidable. But she, too, puts part of the blame on the system — the race for fish.

One way to reduce these risks is to guarantee each boat a certain quota of fish, whether they catch it today, tomorrow or next Tuesday.

Today's system is a fleet quota. Replacing it with individual fishing quotas, or IFQs, would reduce the pressure. British Columbia went to an IFQ system in halibut several years ago, and fisheries officials list safety as the No. 1 benefit.

The United States is following suit in halibut and black cod. The 1994 halibut season, the last under a fleet quota, was two 24-hour periods. One of them was stormy, and five boats sank. One man died. Many were hurt, typically by putting a hook through a hand.

THIS YEAR, the halibut season opens March 15 and will stay open into November. Because quotas will be by the boat, fishermen will be able to sleep at night. They will be able to go into port during a storm. If a crewman leaves, the boat owner will have time to find somebody he knows rather than scoop the first one off the dock.

It will be the same old rules in the other fisheries. The king crab season was only 11 days last year, and is unlikely to be much longer this year.

"Right now, you go out," says Kevin Kaldestad, who owned the Northern Mariner. "You go with five or six guys until they get tired, they quit, they get sick, they get hurt."

With an IFQ system, he says, everyone will be able to slow down.

IFQs have broad support in the crab and groundfish fleet, but have been delayed because of rivalries over the initial deal-out of shares. Should longtime fishermen get more shares than newcomers? And should processors get a share, too?

But money isn't everything. Bruce Forde was not a boat owner, but he supported IFQs. So does his widow, Christine.

Bruce Ramsey is a PI business reporter and columnist. His column appears Wednesday.

Senator STEVENS. Next Ronald Rogness, Seafood Sourcing Manager.

STATEMENT OF RONALD ROGNESS, SEAFOOD SOURCING DIRECTOR, LONG JOHN SILVER'S, INC., LEXINGTON, KENTUCKY

Mr. ROGNESS. Thank you, Mr. Chairman. I am Ron Rogness, the Director of Seafood Sourcing for Long John Silver's in Lexington, Kentucky, and we are very grateful for the opportunity to testify here today before the Subcommittee.

Long John Silver's is a U.S. based and U.S. owned chain of approximately 1,470 quick service restaurants in 35 States. We serve primarily fish and also shrimp and chicken. We have over 26,000 employees, and our 1994 system-wide sales were \$940 million. To my knowledge, we are the largest U.S. buyer and end user of groundfish products harvested off Alaska.

Long John Silver's has recognized the major impact the fisheries management system designed by Congress and implemented by the Councils has on our business and on our financial health. The conservative management of the fish stocks by the Council have been a very important factor in our ever increasing and long-term interest in the fisheries of the North Pacific. Each year Long John Silver's purchases approximately 35 million pounds of a product we call deep skinned Alaska pollock, which is made into blocks. It is further processed in U.S. secondary processing plants, and finally it's battered, breaded and cooked in our restaurants throughout the U.S. Over the past several years, we have implemented what has been widely hailed as a long needed improvement in the way seafood is sourced and sold in the State of Alaska.

Instead of purchasing on a spot basis and imposing large price fluctuations on both our guests and our suppliers, we have negotiated contracts with price and quantity fixed for up to a period of 2 years. This allows everyone to make investments, budget expenses and make other business decisions in a rational fashion that has been atypical of this industry to date.

My testimony will focus on three issues raised by S. 39: First, the implementation of an ITQ system would increase the stability of the fishery to the extent that Long John Silver's would be willing to increase its share of fish sourced out of Alaska.

Second, we would like to see the fishery managed in a rational way such that quotas can be taken in a predictable fashion. And finally, our suppliers should not be penalized for producing a higher valued, deep-skinned Alaska pollock product as they could under a harvest priority system.

Under ITQs, LJS has long supported the ITQ system for groundfish fisheries in Alaska. It would allow product to be produced slower, would lower our inventory costs, would produce a higher quality product, and interestingly enough, lower waste and discards. Most of the waste and discard problems targeted by the proposed solution in S. 39 could be resolved by an ITQ system. Under an ITQ system, the overriding objective would change from maximizing the total pounds of raw material processed per hour or day to maximizing the value of each pound of fish harvested.

We see CDQs as an excellent example of the benefit of a ITQ system. Long John Silver's weighs CDQ participation heavily when choosing its supplier partners in the North Pacific, as they were the only suppliers that had a guaranteed access to the quota. This allows LJS to inventory the fish in the water rather than in expensive cold storage facilities.

We feel the results of the CDQ fisheries provide strong support for a move to ITQs, and we would like to see S. 39 encourage as rapid as possible and as practical development of an ITQ system for groundfish.

We recognize regulatory discards as very sensitive and a very important issue for the fishermen of Alaska. S. 39 would establish for each fishery and for each bycatch species a cap which prevents such regulatory discards from being overfished, and upon reaching the cap, the commercial fishery in which those discards are caught would be closed for the season.

While we certainly recognize the need to prevent overfishing—and the discard of whole fish. The provision as drafted could have significant and what we feel are unnecessary negative impacts on our ability to source product in Alaska.

Currently NMFS uses a system of time and area closures once caps are reached. Seldom is the entire Bering Sea closed due to the PSC caps being reached. Instead they close sub-areas of critical importance. It's a problem specific solution, and we feel it balances the need to limit bycatch of those species with the need to allow the fisheries to take the TAC.

The mid-water pollock fishery, the cleanest of the directed fisheries in Alaska, has been excluded from the caps or from most caps on prohibited species by the Council because of its low overall bycatch. While not perfect, we feel this system has performed reasonably well in this fishery.

The risk of an unnecessary and a total closure of the fishery prior to the attainment of the TAC would force LJS to reduce its dependency upon Alaska pollock. It would also make void the long-term contracts that we have worked so hard to initiate. LJS suffered, in fact, severe consequences in 1991 when the Council first introduced the Bering Sea wide closure for cod fishing once the halibut TAC was reached. Long John Silver's orders for Pacific cod were left unfilled and we had to scramble for groundfish on the open market. This resulted in a very dramatic increase in our primary protein costs. We are very reluctant to put ourselves in that position again, and we would ask that the provision be deleted from S. 39 or that the provision be amended to delete mid-water pollock fishing.

Waste production and harvest priority. We applaud the direct manner in which this bill has raised the waste issue and is forcing the industry to deal with it. We do have some concerns about the harvest priority concept and the minimum food grade production standards which would measure the yield by product form. Deep-skinned pollock is made by taking a regular fillet and removing the thin layer of dark-colored flesh next to the skin. Extensive consumer testing has demonstrated that this is the only way we could use Alaska pollock in our restaurants.

While such a product is more valuable to the market and commands a higher price for both fishermen and the processor, the act of deep skinning inevitably results in a somewhat lower product yield than other products. The difference, the layer of dark-colored fat is arguably edible, but it would be very difficult to market, especially in the United States.

Long John Silver's is very concerned that under the harvest priority or minimum food grade standards, fishermen producing our product could be placed at a disadvantage to those producing higher yields but lower valued, partially processed products such as headed and gutted, almost all of which is exported for reprocessing in China.

There is little the Council can do to control the inevitable processing waste which occurs when these types of partially processed products are further processed downstream. It is true whether it occurs in China or it is simply put down a garbage disposal in a restaurant or kitchen in the United States. U.S. companies should not be penalized for producing value added products, even if some processing waste is associated with the manufacturing process.

Earlier it was mentioned about unintended consequences.

We feel that this could be one of those situations. Given the difficulties we have with that and what we see with it, we would request the Subcommittee to reconsider the inclusion of the harvest priority program.

That concludes my testimony, Mr. Chairman, and again, thank you for allowing us to come here and take your time.

Senator STEVENS. Thank you for coming. Hope you enjoyed the trip.

[The prepared statement of Mr. Rogness follows:]

**TESTIMONY OF
RONALD V. ROGNESS
DIRECTOR, SEAFOOD SOURCING
LONG JOHN SILVER'S, INC.**

**BEFORE THE U.S. SENATE COMMERCE COMMITTEE'S
SUBCOMMITTEE ON OCEANS AND FISHERIES**

**ANCHORAGE, ALASKA
MARCH 25, 1995**

Thank you Mr. Chairman, I am Ronald Rogness, Director of Seafood Sourcing for Long John Silver's Inc. in Lexington, Kentucky. I am very grateful for receiving this opportunity to testify before the Subcommittee. While I hated to take up the Subcommittee's time here in Anchorage when you are focusing on Alaskans' issues with our fisheries, I was unable to attend the Seattle hearing and we thought it important that you hear from an end-user of Alaska's groundfish products.

Long John Silver's is a U.S.-based and U.S.-owned chain of approximately 1,470 quick-service restaurants in 35 states serving fish, shrimp and chicken. We have over 26,000 employees or Team Members, and our 1994 systemwide sales were \$940 million. Long John Silver's has a very close partnership with the fishing industry in Alaska. To my knowledge, we are the largest U.S. buyer of groundfish products harvested off Alaska. In that role, Long John Silver's has recognized the major impact the fisheries management system designed by Congress and implemented by the Councils has on our business and our financial health. The careful and conservative management of the fish stocks by the Council has been an

important factor in our ever-increasing interest in the fisheries of the North Pacific. Our interest is demonstrated by the fact our Senior Vice President of Public Affairs, Mr. Bruce Cotton, is the first member of the North Pacific Council's Advisory Panel to represent end-users.

Each year, Long John Silver's purchases approximately 35 million pounds of a product called deep-skinned Alaska Pollock. This product is harvested and processed into blocks and then further processed in secondary processing plants in the United States and finally battered or breaded and fried in our restaurants throughout the United States. Over the past several years, we have implemented what has been widely hailed as a long-needed improvement in the way seafood is sourced and sold in Alaska. Instead of purchasing on a spot basis and imposing the large price fluctuations we've seen in the past on our suppliers and customers, we have negotiated contracts with price and quantity negotiated for up to two years in advance. This allows everyone to make investments, budget expenses and make other business decisions in a more rational manner than has been typical in the industry to date.

My testimony will focus on three issues raised by S. 39 which could impact our sourcing method in Alaska. First, the implementation of an Individual Transferable Quota system would increase the stability of the fishery in Alaska to such an extent Long John Silver's would be willing to purchase an even greater share of its product from Alaska. Second, LJS's ability to continue sourcing in Alaska is dependent upon our confidence that the fishery will be managed in a rational way and that quotas can be taken in a predictable fashion. Finally, our suppliers should not be penalized for producing higher-valued, deep-skinned Alaska pollock products as they might under a harvest-priority system.

1. Individual Transferable Quotas

Long John Silver's has long supported the Individual Transferable Quota system for the groundfish fisheries off Alaska as a way of improving market and supply stability. Foreign groundfish products purchased by LJS are exclusively harvested under ITQ type systems. An ITQ system would enable U.S. fishermen and processors to significantly reduce the rate of harvest and processing. This would in turn result in lower inventory costs, higher-quality product and interestingly, lower waste and discards. In fact, most of the waste and discard problems targeted by the proposed solutions in S.39 could be resolved by an ITQ system. Individual vessels would be responsible for their own waste and would have to operate within their own prohibited species limits. Fishermen who could not fish cleanly would be forced from the fishery. Under an ITQ system, the overriding objective would change from maximizing the total pounds of raw material produced per hour to maximizing the value from each pound of fish harvested.

At last week's hearing in Seattle, Mr. John Bundy of Glacier Seafoods reported on the increased efficiencies and operational benefits his company experienced in the Community Development Quota (CDQ) fisheries. Long John Silver's weighs CDQ participation heavily when choosing its supplier partners in the North Pacific as they represent the only suppliers with guaranteed access to the quota. This allows LJS to inventory the fish in the water rather than in expensive cold storage facilities. We feel the results of the CDQ fisheries provide strong support for a move to ITQs in all of the groundfish fisheries. S. 39 should encourage as rapid as possible development of an ITQ system for groundfish.

2. Regulatory Discards

S.39 would "...establish for each fishery which incidentally harvests regulatory discards under the Council's jurisdiction a cap which prevents such regulatory discards from being overfished or from being placed in risk of being overfished. Upon reaching such cap, the commercial fishery in which such regulatory discards are incidentally caught shall be closed for that season." While we recognize the need to prevent overfishing and the discard of whole fish, the provision as drafted could have significant and unnecessary negative impacts on Long John Silver's ability to source product from Alaska.

Currently the National Marine Fisheries Service enforces the Council's system of Prohibited Species Caps (Regulatory Discards) and area closures once those caps are reached. Seldom is the entire Bering Sea closed due to PSC caps being reached. Rather, the National Marine Fisheries Service closes sub-areas of critical importance to the Prohibited Species when the caps are reached. This approach is a problem-specific solution that allows the NMFS to balance the need to limit bycatch of those species with the need to allow the fisheries to take the Total Allowable Catches of the groundfish in the directed fisheries. The mid-water pollock fishery, the cleanest of the directed fisheries in Alaska, has been excluded from the caps on most prohibited species by the Council because of its low overall bycatch and other special characteristics. While not perfect, this system has performed reasonably well in the pollock fisheries.

The risk of an unnecessary and total closure of the fishery prior to the attainment of the Total Allowable Catch because of bycatch of prohibited species would force Long John Silver's to reduce its dependency on Alaska pollock and would render useless the long-term

contracts we have initiated. In fact, Long John Silver's suffered severe economic consequences in 1991 when the Council first introduced the Bering-Sea wide closure for cod fishing once the halibut Prohibited Species Catch limit was reached. The cap was reached with approximately half of the Pacific cod Total Allowable Catch unharvested. Long John Silver's orders for Pacific cod were left unfilled and we had to scramble for groundfish on the open-market. This resulted in a dramatic increase in our primary protein costs. Remembering that experience, LJS is very reluctant to put itself in that position again. We would ask this provision be deleted from the S. 39 or that the provision be amended to delete mid-water pollock fishing.

3. Waste Reduction and Harvest Priority

Long John Silver's applauds the direct manner in which S. 39 raises the waste issue and forces the industry to deal with it. However, Long John Silver's has concerns about the harvest priority concept and the minimum food-grade production standards which would measure the yield by product form. The deep-skinned product purchased by Long John Silver's is made by removing a layer of the dark-colored flesh next to the skin on a fillet. Extensive consumer testing has demonstrated this is the only way we could use Alaska pollock in our restaurants. While such a product is more valuable to the market and commands a higher price for the fisherman/processor, the act of deep-skinning inevitably results in a somewhat lower product yield than other products. The difference is due to the removal of the layer of dark-colored fat that, while arguably edible, would be difficult to market -- especially in the United States.

Long John Silver's is very concerned that under the Harvest Priority or minimum food

grade recovery standards, fishermen producing our product could be placed at a disadvantage to those producing higher yield, but lower value products such as headed and gutted -- most of which is exported for re-processing in China. There is little the Council can do to control the inevitable processing waste which occurs when these types of partially-processed products are further processed downstream. This is true whether they are further processed in processing plants in China or where the processing waste is simply pushed into a garbage disposal in a restaurant or a kitchen in the United States. U.S. companies should not be penalized for producing value-added products -- even if some processing "waste" is associated with the manufacturing process. Yet that is one of the unintended consequences of an allocation system based on the harvest priority concept. Given these difficulties, we request the Subcommittee reconsider the inclusion of the harvest priority program.

That concludes my testimony, Mr. Chairman. Once again I would like to thank you for allowing me the opportunity to testify at this Alaska hearing and thank you for considering Long John Silver's views.

Senator STEVENS. Next is Ed Wolfe, Vice President Corporate Affairs of Oceantrawl Inc.

STATEMENT OF EDWARD WOLFE, VICE PRESIDENT CORPORATE AFFAIRS OF OCEANTRAWL INC., SEATTLE, WASHINGTON

Mr. WOLFE. For the record, my name is Ed Wolfe, and I'm Vice President of Oceantrawl. As you know, Mr. Chairman, we have offices in Alaska, Russia, and Seattle, and our vessels operate primarily off Alaska, Washington, Oregon, and California. We routinely call on the Port of Dutch Harbor, and as an Alaskan company, we employ a significant number of Alaskan residents.

When I look out in the audience, Mr. Chairman, I see, as the last panel today after these long hearings, people either dozing or thinking about hitting that door and maybe getting an airplane like I am, so I will limit my remarks to even less than the 7 minutes that I think you asked for earlier.

We support you, Mr. Chairman. We supported you from the early days of the Magnuson Act. We supported you when you were instrumental in the Americanization process, and certainly we support your efforts today in your bill particularly with the bycatch and the discard issues.

I recall many of our struggles during the eighties relative to the Americanization process and the ultimate successes we had, and I think we are going to have the same successes with this legislation as we had then.

One of the key points I'd like to make is that we believe that the North Pacific Fishery Management Council (NPFMC) has done an excellent job of managing the fish stocks under their jurisdiction. I was a little bit unclear with regard to the Greenpeace representative's statement in terms of the status of the stocks and what they may be in the North Pacific, and I would hate to see—maybe this is my misunderstanding, but I hope the record will be clear today that, at least in my judgment, I look to the North Pacific Council and its excellent staff and their judgment, their scientists. I think our stocks are in relatively good shape, and I hope the record will be clear on that today, contrary to Greepeace's representative.

The NPFMC done an excellent job of managing, but certainly I would say that the fleets in the North Pacific are grossly overcapitalized. I don't think that's a surprise to anyone, and that our seasons once lasted year-round are now measured in months and sometimes in weeks. This annual race for fish which we are forced to conduct in our pollock, flat fish and other fisheries is wasteful and inefficient, and many times puts the lives and safety of men and women who conduct the fishery at risk. I'm not going to go into depth regarding an ITQ program. A number of people talked about that today. I'd ask that my entire testimony be included for the record in regard.

We do believe that the legacy of the open access management system under which most of the North Pacific fisheries operate has caused many of the problems in our fishery today, and we would like to address the Committee at this point with the more detailed comments in our testimony. In our view, initial allocation of quotas under such an ITQ program—and this is very important to us—

should be based on "current harvesting processing levels," and that is the status quo.

We think an ITQ system would have the effect of reducing over-capitalization by allowing a consolidation of the fleet and providing industry stability by creating a healthy investment climate, climate for the development of additional value-added processing capacities on board our vessels and shore-side facilities in Alaska.

In addition, an ITQ approach would help reduce waste and bycatch as each vessel individually becomes accountable for its own actions, thereby rewarding the clean fishermen and penalizing the dirty fishermen. It will enable fishermen to schedule their individual fishing operations to avoid hazardous weather conditions, optimize recovery rates and deliver their products at times and places when markets are at best.

I would suggest that these benefits from an ITQ system are more than hypothetical. They have been demonstrated in other ITQ fisheries, fisheries nationally and internationally. For example, we as a company have realized some of these benefits through our active participation in the Community Development Quota Program in the Bering Sea fishery. As a partner to the Bristol Bay Economic Development Corporation for the past 3 years, we have been actively pursuing groundfish harvesting/processing opportunities off the coast of Alaska with our partner.

In our opinion, this program has been extremely successfully, and we continue to be a major proponent of the CDQ program continuation and expansion to other species.

With regard to bycatch and waste, I could go on and on, but I will refer to my testimony, as and I'm sure this isn't the time at the end of the day to go into our detailed comments, I refer you to our comments in our formal testimony. The same with the Regional Fishery Management Council.

We applaud your efforts in terms of trying to remedy this process, to strengthen it. We would ask that you take a look at our comments. We have made some specific suggestions with regard to strengthening the provisions within the Council procedures.

And I think I probably did that well under 7 minutes, unless you want me to read the rest of this testimony, Mr. Chairman Senator STEVENS. Nice to see you up here, Ed.

Mr. WOLFE. Nice to be here, sir.

Senator STEVENS. For those of you in the audience who do not know, Mr. Wolfe worked with us when he was in the administration in Washington. He was very distinguished in his advice to us and Congress concerning international fisheries. Glad to see you here.

[The prepared statement of Mr. Wolfe follows:]

Oceanrawl

Testimony of
EDWARD WOLFE
on Behalf of
OCEANTRAWL INC.

Regarding
REAUTHORIZATION OF THE MAGNUSON FISHERY
CONSERVATION AND MANAGEMENT ACT

Presented to
THE SUBCOMMITTEE ON OCEANS AND FISHERIES
of the
SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Anchorage, Alaska

March 25, 1995

Mr. Chairman:

For the record, my name is Edward Wolfe and I am Vice President of Corporate Affairs for Oceantrawl Inc. As you know, Oceantrawl has offices in Dillingham, Dutch Harbor, Seattle and Vladivostok, Russia. Our vessels operate primarily in the waters of Alaska, Washington, Oregon and California. We routinely call on the Port of Dutch Harbor, and as an Alaskan company, our vessels employ a significant number of Alaskan residents.

As a result of our long-term commitment to the conservation of the species from the waters where we operate, and our substantial investment in these fisheries, S. 39 is critically important to us. Thanks to the leadership in Congress of you, Senator Stevens, Senator Gorton, Senator Breaux, Congressman Young and others, we were successful in "Americanizing" our U.S. groundfish resources. This "Americanization" process created tremendous opportunities for both the at-sea and shoreside processing sectors. I was proud to have been a part of this process during the 1980's, and I am pleased to be in Anchorage to inform the Subcommittee of our views regarding Amendments to the Magnuson Fishery Conservation and Management Act (MFCMA).

At the outset, it should be noted that groundfish stocks in the North Pacific are healthy with harvest levels near all-time highs. Our resources have been conservatively managed with rigorously enforced quotas set on an annual basis for each species. Vessels fishing in the North Pacific Ocean carry the highest level of observer coverage of any fishery in the country, and we have the best data collection system in the world. In summary, the North Pacific Fishery Management Council (NPFMC) has done an excellent job managing the fish stocks under its jurisdiction. However, in the North Pacific fishing fleets are grossly overcapitalized, and seasons that once lasted year-round are now measured in terms of months and weeks. The annual "race for fish" that we are forced to conduct in our pollock, flatfish and other fisheries are wasteful and inefficient, and many times puts the lives and safety of the men and women who conduct the fishery at risk.

In these very difficult financial times, Mr. Chairman, we ask only for stability and a reasonable expectation of certainty from the U.S. Government regarding its regulatory actions in conserving and managing these resources. Companies are going bankrupt at an unprecedented rate in the Pacific Northwest and Alaska. We believe that this is the legacy of the "open access" management system under which most of the North Pacific fisheries operate.

Our company has been in the forefront of efforts to promote an Individual Transferable Quota (ITQ) system for the groundfish fishery of the North Pacific. In our view, initial allocation of quotas under such a program should be based on current harvesting/processing levels (status quo). Our industry has suffered too many arbitrary changes whereby fishery quotas have been reshuffled based on political rather than economical justifications. We need stability now more than ever. We need to preserve the status quo in allocations while eliminating the "race for fish." Once again, we fully promote the ITQ system if this program is not used by certain groups to acquire additional fishery allocations based simply on their political connections. Otherwise, we

believe we are better off without an ITQ program. The ITQ system we envision would have the following elements:

- Each vessel would receive an ITQ (stated in terms of a percentage of the annual quota for each target and by-catch species) based on its current harvesting/processing level, thus, preserving the status quo.
- All ITQ vessels would carry one or more observers to monitor catch.
- All catch of target and by-catch species would count against the vessel's ITQ.
- A vessel would have to terminate fishing or else buy or lease additional ITQ's once its initial allocation of any target or by-catch species is exhausted.
- All ITQ holders would pay an annual user fee that would cover the cost of administering and enforcing the program.

The above-described ITQ system would have the effect of reducing overcapitalization by allowing a consolidation of the fleet and providing industry stability by creating a healthy investment climate for the development of additional value-added processing capacity on-board our vessels and shoreside facilities in Alaska. In addition, the ITQ approach would help reduce waste and by-catch as each vessel individually becomes accountable for its own actions thereby rewarding the "clean" fisherman and penalizing the "dirty" fisherman. It would enable fishermen to schedule their individual fishing operations (i.e. predictability) so as to avoid hazardous weather conditions, optimize recovery rates and deliver their products at times and places when and where market opportunities are best. S. 39 includes a provision creating a National Advisory Panel with a mandate to provide recommendations to the Secretary of Commerce for implementing ITQ regulations. We recommend adding to this provision a deadline of one year for final action by the Secretary. In addition, we believe that each fishery in the U.S. should be reviewed on a case-by-case basis. ITQ's may not be appropriate for other regional fisheries as they are for the groundfish fisheries in the North Pacific.

I would suggest to the Subcommittee that these benefits from an ITQ system are more than hypothetical. They have been demonstrated in other ITQ fisheries nationally and internationally. For example, we are already realizing some of these benefits through our active participation in a Community Development Quota (CDQ) program in the Bering Sea fishery. As a partner to the Bristol Bay Economic Development Corporation (BBEDC) for the past three years, we have been actively pursuing groundfish harvesting and processing opportunities off the coast of Alaska with our BBEDC partner. In our opinion, the CDQ program has been extremely successful, and we continue to be major proponents of the CDQ program's continuation and expansion to other species.

The current reauthorization process is an excellent opportunity for Congress to recognize

that CDQ's and ITQ's can be useful management tools dealing with many of the problems currently facing the North Pacific fishery, in addition to reemphasizing the importance of the existing CDQ program. As the Subcommittee is aware, under the CDQ program, certain communities in Western Alaska are allocated a portion of the annual Bering Sea pollock quota. Each community, or group of communities, then contracts with a vessel operator to harvest the community's quota. Allocation of quota is based on the performance of development plans submitted to the State of Alaska. As a current CDQ participant, Oceantrawl is extremely pleased to report at this juncture that the CDQ groups have all implemented new objective measurements for measuring the total catch of fish. In addition, the groups have agreed to place two observers on their boats when harvesting CDQ quota, and in fact, lead the industry in reducing and controlling by-catch and waste. In summary, the CDQ program is assisting in building a private economy in a region that has historically suffered from one of the nation's highest levels of poverty and unemployment.

With regard to specific provisions of S. 39, Oceantrawl has the following comments:

BY-CATCH AND WASTE

We agree that current levels of by-catch and waste in the fisheries are too high and support the inclusion of a new National Standard that would direct Councils to address those issues in their management plans. We propose the following language:

Conservation and management measures shall promote fishing and processing practices that, to the extent practicable, minimize the harvest and reduce the mortality of fish that are not utilized by U.S. fishermen and, to the extent feasible, maximize the utilization of those fish harvested by U.S. fishermen, except that no such measure should have economic allocation as its primary purpose.

However, please be aware that we do not support the inclusion of any Congressionally mandated solutions. Each fishery is different, and the measures necessary to control by-catch and reduce waste in each fishery should be left to the individual Councils. As we mentioned previously, Oceantrawl favors an ITQ system as the management measure in reducing waste and by-catch.

As a final point regarding by-catch and waste reduction measures, we would like to point out that these issues are endemic in all U.S. fisheries and the mandate to reduce by-catch and waste should apply on a national level, not just to the North Pacific fisheries. It is ironic that the North Pacific is singled out in S. 39. As the Subcommittee is aware, the North Pacific is the one area of the country where the Council is already working on a variety of measures to reduce by-catch and to minimize waste in fisheries under its jurisdiction. Although by-catch caps and vessel-incentive programs imposing substantial fines on vessels with unacceptably high levels of by-catch are already in place in the North Pacific, Oceantrawl continues to support measures to reduce discard and processing waste in the North Pacific. Although discard rates are relatively low compared to other regions in the U.S., the total amount is considerable due to the fact that over one-half of the fish caught in the U.S. waters comes from the North Pacific.

Mr. Chairman, once again we promote Congressional consideration of an ITQ program as the most effective means to reduce discard and minimize processing waste in the North Pacific groundfish fisheries. Such an ITQ system would also create economic disincentives for harvesting non-target species since a fisherman will be required to pay a user fee on all fish harvested, and will need to purchase quota shares on the open market to cover any harvests for which s/he does not have an ITQ. These economic disincentives for avoiding incidental harvests also create economic incentives to use as much of the catch (incidental or otherwise) as possible in order to recover costs incurred from purchasing quota shares and paying user fees on incidental catches. We look forward to working with the Subcommittee to identify and implement the right solution for the North Pacific.

FISHING DEPENDENT COMMUNITIES

Oceantrawl is a fishing dependent company and our employees are fishing dependent men and women whose livelihoods are dependent on the fisheries of the North Pacific. We have invested more than \$150 million in an effort to help Americanize the groundfisheries of the North Pacific and the Washington-Oregon-California fisheries. At the time our investments were made, the groundfish fisheries in the Bering Sea and Pacific Ocean were largely conducted by foreign fishing and processing vessels. There were at that time virtually no groundfish fishing dependent communities in the Bering Sea area. We are strongly opposed to any measure that would create a preference for any fishermen based on the region, state or community in which they reside. In our view, such a preference would constitute an unfair "taking" of the legitimate investment expectations that Oceantrawl had when, at the urging of U.S. Congress, the Department of Commerce, the National Marine Fisheries Service, the Pacific and North Pacific Fisheries Management Councils and the State of Alaska, we invested millions of dollars to assist in Americanizing the fisheries of the North Pacific and the Pacific Coast. If Congress determines that there is a need to authorize and set parameters for the CDQ program, then the provisions relating to fishery dependent communities should be redrafted to reflect that intent, replacing the overly broad term "fishery dependent community."

ADMINISTRATION OF THE REGIONAL FISHERY MANAGEMENT COUNCILS

S. 39 points out that confidence in the regional fishery management councils is at an all time low, and consequently, the bill attempts to remedy this problem. However, we believe many of the provisions of S. 39 need strengthening in order to tighten up Council procedures as they apply to the NPFMC and Pacific Fisheries Management Council (PFMC). For example, Council advisory panels meet before every Council meeting, official minutes are prepared, roll call is taken and a record of votes are kept on file. Although the Senate bill would make these procedures mandatory, these same procedures are currently in place and we believe such a provision contributes little to increasing public confidence in the Council process. We would prefer to see a provision incorporated into the bill requiring recusal of individuals who have direct financial interest in the outcome of certain measures before the Council, including the exclusion of trade association lobbyists or consultants and gear group representatives whose members/clients have a direct financial stake in Council issues. Once such example of this type of abuse can be found within the framework of the PFMC. Regarding the recently implemented

Pacific Whiting Limited Entry Program, you may recall that this program effectively excluded (in the directed fishery) all catcher/processors in the fishery, the very segment which developed this fishery. The nation now finds itself in a situation where some of the same PFMC Council members approved the sale of Pacific Whiting Limited entry permits to the "highest bidder" including catcher processors. We do not believe it was the intent of the MFCMA authors to give one segment of the industry the ability to politically and financially control the fishery and the future of competing segments of the industry without adequate safeguards, checks and balances.

Finally, there has been considerable debate in the past over the disproportionate allocation of seats on the North Pacific Fishery Management Council. The primary issue in our view is the failure of the Secretary of Commerce to comply with the existing statute regarding Council appointments. Section 302(b)(2)(B) of the Magnuson Act directs the Secretary (when making appointments to the Council) to "ensure a fair and balanced apportionment on a rotating or other basis of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council." To date, industry appointments to the PFMC and NPFMC have not reflected a "fair and balanced apportionment" of the active participants in the fisheries being regulated. Consequently, most of the industry seats have been allocated to small boat fishermen who are only marginal participants in the groundfish fisheries being managed by the Councils. For example, longline representatives recently occupied more than half of the industry seats on the North Pacific Fisheries Management Council -- even though their sector of the industry accounts for less than 10% of the overall harvest in fisheries regulated by the Council. Trawlers, on the other hand, which account for more than 90% of the harvest in the North Pacific fisheries currently have only one representative on that Council. We do not believe this is a "fair and balanced" apportionment. It is an apportionment that has resulted in a skewed regulatory regime that distinctly favors one sector over the other. This perceived unfairness in the PFMC and NPFMC structure could be addressed, and possibly remedied, if the Secretary adhered to the appointment guidelines already specified in the Magnuson Act.

PERMITS FOR FOREIGN FISHERY

Section 107 of S. 39 contains provisions which have the effect of legislating a zero Total Allowable Level of Foreign Fishing (TALFF) for Atlantic herring and mackerel for the next four years. We believe that these provisions violate our Governing International Fishery Agreement (GIFA) with the Russian Federation and provisions of the Law of the Sea Treaty, and could ultimately result in a chilling effect on our fishery relationship with Russia and other countries interested in exploring business opportunities with the U.S. I would like to point out to the Senate Subcommittee on Oceans and Fisheries the recent National Oceanic and Atmospheric Administration (NOAA) MFCMA statement on this very issue before the Subcommittee during the Seattle Field Hearing on March 18, 1995. The statement reads as follows:

While the Department supports many of the provisions in S.39, it is opposed to section 107(h) that prohibits the Secretary from issuing permits to authorize the catching or harvesting of Atlantic mackerel or herring by foreign vessels before December 1, 1999. The provision raises concerns from the perspective of our

international obligations. Additionally, the provision may prevent establishment of joint ventures between the U.S. fishermen and other countries for these species, is likely to affect negatively our Governing International Fisheries Agreement (GIFA) relationships, and may affect current fishing agreements between the U.S. and other countries regarding U.S. fishing in foreign waters.

As you are aware, the MFCMA grants to the appropriate management Council the right to determine surpluses in our fishery resources. To the best of my knowledge, Congress has never before legislated this type of scientific determination. Since 1992, the Mid-Atlantic Council has established a zero TALFF for mackerel, even though we understand the stocks are quite healthy and American fishermen harvest less than one-tenth of the Allowable Biological Catch (ABC). In 1993, for example, U.S. fishermen caught less than 4,700 MT of the almost 100,000 MT of the ABC. In view of these actions taken by the Mid-Atlantic Council for the past three years, we question the wisdom of this provision. Many of us are aware of an interest in Europe to fish and purchase these stocks. European companies have established markets for these species and we believe they would be willing to invest in shoreside facilities in New England which might assist displaced groundfish fishermen through investment and technology transfer. TALFF could be instrumental in providing much needed economic opportunities to New England and East Coast fishermen and processors. As the Subcommittee recalls, TALFF in the North Pacific and Pacific fisheries was instrumental in Americanizing our fisheries.

This concludes my testimony. I would like to thank you, Mr. Chairman, and the Subcommittee for this opportunity to testify.

Senator STEVENS. I am grateful to all of you for coming, particularly those who have presented the testimony. We will put all of the prepared testimony in the record. And again, we will be welcome to have additional comments if you see fit to send them. Mr. Rogness, appreciate you coming all the way up to express your views.

Mr. ROGNESS. Good to come back.

Senator STEVENS. We are now going to check to see if anyone is still at home out there in the legislative offices. I was told that there were people in Fairbanks, Kodiak, Valdez, Juneau and Sitka. Would you check in with me if you are out there. Is there someone from Fairbanks?

Mr. PETRE. Yes, sir, I'm here.

Senator STEVENS. We would like to have each of those communities select one person to comment, if you would like to comment. Do you have a person that would like to comment, Fairbanks?

Mr. PETRE. Yes, sir, Senator. My name is Dennis Petre. Can you hear me?

Senator STEVENS. All right, Dennis. Speak up.

STATEMENT OF DENNIS PETRE, ALASKA SPORTFISHING ASSOCIATION, FAIRBANKS, ALASKA

Mr. PETRE. Yes, sir. My name is Dennis Petre. I'm with the Alaska Sportfishing Association. I'm the Fairbanks director. We support the Magnuson Act. We support Senate Bill 39. What we would like to do is see some concern given to sportfishing, and we would like to see more control given to the State of Alaska to open and close seasons, especially on halibut. We would like to see the State waters increased to 12 miles to give us a buffer zone between us and the trawl fleet. We figure it would give us more opportunity for CDQs within this area. We would also like to see an allocation specifically set aside for sportfishing halibut. In Washington they give up to—they split the allocation 50/50 between commercial and sport. We'd like to see the same thing in the State of Alaska. And the portions that we don't use, we would be more than happy to let the commercial fishermen have them back.

We would also like to see it along with the State of Alaska to purchase some of these IFQs, and they can be set aside either for sport fishing or they could lease them back to the commercial fishermen. Right now the commercial fishermen have a problem. They can't buy them up. And I think if the State could legally buy them, they could help out.

A couple weeks ago down in Washington, there were some that were sold through bankruptcy court, 104,000 shares of halibut and 983,000 of sablefish come up on the open market. And I think if the State could have bought them up, we could at least give them back to Alaska fishermen. I'd also like to see the sport reps get some kind of a representation on the North Pacific Management Council. There are no sport reps on our Council, and we are the only Council that doesn't have that. That's it in a nutshell. Thank you.

Senator STEVENS. Thank you very much. If you want to send anything in for the record, send it to me in Washington, will you, please.

Kodiak, do you have a spokesman in Kodiak?

Mr. MACINKO. Yes, we do. I'm not a spokesman for Kodiak, only myself.

Senator STEVENS. Tell me who you are.

STATEMENT OF JOE MACINKO, KODIAK, ALASKA

Mr. MACINKO. My name is Joe Macinko. I'm a small boat commercial fisherman. First, don't allow fees to be charged for IFQs fisheries only, but for all fisheries. It's only a matter of time before the public demands a fair rent for using their resource. If I buy additional IFQ today, how long will it be good for? When will the folks who are hollering about unnecessary farm, timber, mining and water use subsidies get wise to fish? When will they knock the sandcastle down and render my purchase worthless? Small boat fishermen are not afraid to compete for the fish in an auction system on a level playing field. Let Alaskans have a chance to bid before you give away the resource. A yearly auction of available fish and crab would benefit the public, the resource, and responsible fishermen.

Let me backtrack to the source of our problems, overcapitalization. No one seems to disagree on this point, but what caused overcapitalization? I say Federal tax and loan subsidies. IFQs are an effort by the overcapitalization poster children to fix the problems caused by subsidies with more subsidies. It will not work. IFQs reward those who overcapitalize and penalize those who own their boats outright and fish safely and responsibly.

On its face, a groundfish IFQ system would allow them to avoid bycatch and fish cleaner. Nothing could be further from the truth. IFQs are based on historic catches, and history contains the problem. If they get an IFQ for their bycatch, they will never change. Do not allow dirty fishing practices to be carved in stone for all time.

An auction would favor clean gear because dirty gear will have to purchase their bycatch. Both existing and new clean gear types could enter the fishery instead of being locked out as in an IFQ system. It would be cheaper to fish with clean gear, thus providing an incentive that would work in the real world. Overcapitalized fishermen with top heavy debt service are calling for IFQs to bail themselves out. The country cannot afford this. The fish of the North Pacific will not survive their dirty fishing practices and financially responsibility fishermen cannot compete if you give away the resource and don't allow them to bid for it. Is there anything that an IFQ system would do that an auction system wouldn't do better? I don't think so.

Thanks.

Senator STEVENS. Thank you very much, Joe.

[The prepared statement of Mr. Macinko follows:]

Dear Senator Stevens:

As a long time small boat fisherman from Kodiak I would like to comment on a few aspects of the Magnusen Act reauthorization.

First, do not only allow fees to be charged for I.F.Q. fisheries but for all fisheries. It is only a matter of time before the public demands a fair rent for using their resource. Small boat fishermen are not afraid to COMPETE for the fish in an AUCTION system.

A yearly auction of the available fish and crab would benefit the public, the resource and responsible fishermen.

Let me back track to the source of our problems, overcapitalization. No one seems to disagree on this point, but what caused overcapitalization? I say Federal tax and loan subsidies. I.F.Q.'s are an effort by the "overcapitalization poster children" to fix the problems caused by subsidies with more subsidies. It will not work.

I.F.Q.'s reward those who overcapitalized and penalize those who owned their boats outright and fished safely and responsibly.

Proponents say an I.F.Q. system would allow them to avoid bycatch and fish cleaner. Nothing could be further from the truth. I.F.Q.'s are based on history and history contains the problem. If they get an I.F.Q. for their bycatch they will never change. Do not allow dirty fishing practices to be carved in stone for all time.

An auction system would favor "clean gear" because dirty gear would have to purchase their bycatch. New, clean gear types could be developed and enter the fishery instead of being locked out as in an I.F.Q. system. It would be cheaper to fish with clean gear thus providing an incentive that works in the real world.

Overcapitalized fishermen with top heavy debt service are calling for I.F.Q.'s to bail themselves out. The country cannot afford this boondoggle, the fish of the North Pacific will not survive their dirty fishing practices and financially responsible fishermen cannot compete if you give away the resource.

Is there anything an I.F.Q. system would do that an auction system wouldn't do better? I don't think so.

Thank you.

Joe Macinko
1310 West Kouskov
Kodiak, Alaska 99615
907-486-3643

Senator STEVENS. I still have Valdez, Juneau and Sitka.

Is there anyone else, any other community out there that wants to have a spokesman? Valdez, do you have a spokesman? Juneau, do you have a spokesman? Sitka, do you have a spokesman? [No response]

Senator STEVENS. Are there any people here in the audience that want to speak? I have got an appointment with the Governor in 35 minutes, so we are going to divide the time that is left between the number of people that want to make a statement. Give us your name and address first. We will divide the time that is left between those who want to speak. All right.

Senator STEVENS. Let me take the time before we start this last round to thank Katie and Ryan. These are two young people that are volunteering in our Anchorage office as interns.

They organized this and set up the facility, made sure we had chairs and all. We thank you, Katie and Ryan. Kitty and Rick from the GSA have provided us with the teleconference equipment, and they also assisted in obtaining the room.

David Stevens—no relation—but he has provided security, opened the building here on Saturday and permitted us to be here when the building is normally closed. Thank you very much.

How many do we have? Two, three, four, five, six. I know it sounds unfair, but time does come to an end in anything, and I did promise I would get together with the Governor. So I have 9 people—10 people—to use 30 minutes, right? We are going to use the light system now. When the red light goes on, we are just going to ask you to stop, all right? Tom, tell us your last name, please.

STATEMENT OF TOM LAKOSH

Mr. LAKOSH. My name is Tom Lakosh. I have—I'm a resident of Alaska, subsistence and commercial fisherman, and I'd like to thank the Senator for bringing this hearing to Alaska. And I'd wish you would have hearings on all the legislation affecting Alaskans so that we may be able to participate in the democratic process. I strongly thank—highly and vehemently thank the Senator for bringing these amendments to the Magnuson Act. I think it's essential that fisheries be managed on an ecosystem-wide basis so that we can maintain the resource for generations to come, as it is generations of resource, not just the people who wishing to exploit it for the present term.

I believe it is also essential that the bycatch and incidental catch be retained and utilized. I have participated with a nonprofit organization called Earth in distributing fish which would otherwise be discarded. We have distributed up to a million pounds of salmon and incidental catch from longline fisheries per year. We found a very receptive public who is more than willing to utilize that fish for their use. Most of it has been used for food source.

It's a very valuable food source. And I would hope that your legislation would include that any by-caught species and incidentally caught species be specifically used for the people who most need them, the low income people who have very few sources of protein and could best use those fish which would otherwise be discarded.

It must be noted, however, that by-caught species do not belong to the fishers who have a tendency—who are required by law now

to throw them away. Those fish must be retained for those people who own them, i.e., we have had problems on the Yukon River where we couldn't subsistence fish, and that those fish that were intercepted on the high seas should be retained and returned to the owners of those fish, the subsistence fishermen in Alaska who have a priority right to those fish, and that all of those by-caught species which are illegal to retain must be surrendered to the people who truly own them. Thank you very much for this opportunity.

Senator STEVENS. Thank you for taking your time.

Next witness is John Lewis. And following that will be Jere Murray. Mr. Lewis is with the Navy League. Speaks for himself today, though.

STATEMENT OF JOHN LEWIS, ALASKA SPORTFISHING ASSOCIATION

Mr. LEWIS. Senator Stevens, I'm John Lewis. I'm speaking for the Alaska Sportfishing Association today. We have approximately 1,000 members here in Alaska who are sport fishing enthusiasts. The Alaska Sportfishing Association feels that the present Magnuson Act has been infective in reducing bycatch and wanton waste of our fish. The present bycatch level is considered as a cost of doing business by the commercial fishermen. SB.39 attempts to reduce the bycatch and wanton waste of our resource. Senator Stevens, the Alaska Sportfishing Association asks you to put maximum pressure on to reduce the bycatch and wanton waste of our fish.

Why is this a public and specifically the ASA—why are we upset? This hearing is a good example. No sports fishermen were scheduled to testify. We are affected by the Magnuson Act, yet have no representation here today, and we have no representation on the management Council.

Senator STEVENS. Wrong. I have got a sports fishing license, and I am not a commercial fisherman. I wouldn't worry about that if I were you.

Mr. LEWIS. We are worried about it that we don't have anybody on the North Pacific Fishery Management Council. All of the members of that Council receive part of or all of their income from commercial fishing industries. It appears they vote their paycheck just like you vote for Alaska. And you do a very good job for us. That's why we re-elect you every 6 year.

The Council has taken little action to reduce bycatch. As an example, there's no action been taken on deck sorting on these trawlers. They are killing thousands of halibut. You are a sports fisherman, I have been told a very good salmon fisherman. In the pollock A season in 1993, they killed 47,000 of our kings and 270,000 other salmon. They only closed five blocks. It did help reduce the bycatch, but one of the recommendations was to close 15 blocks.

The ASA, Alaska Sportfishing Association, feels the solution to this and the IFQ problems are by having equal representation on the Council. We recommend that you have placed on all of the Councils, not just ours, commercial fishermen, sports fishermen, subsistence people, and the ecologists, even put the Greenies on there. We have only token representation on the AP, one sport fishermen.

Senator STEVENS. Thanks, John.

Mr. LEWIS. Thank you.

Senator STEVENS. Jere Murray.

STATEMENT OF JERE MURRAY

Mr. MURRAY. Senator Stevens, thank you for being here today in Anchorage. My name is Jere Murray. And thank you for this opportunity to have input into the Magnuson Act reauthorization process. I have lived in Alaska since 1968 and have been a commercial fisherman here since 1975. With my own hands and a little money, I built my own boat in 1976. With that boat and a lot of labor, my family has built a home near Seldovia where my wife and I still live. Our three daughters earned a major part of the cost of their college educations working on that boat and are now productive members of Alaskan society.

Life here as we have known it is about to change for the worse, and only you can prevent it. The fox is in the hen house. The barnyard dog is locked in the cellar.

Under the Magnuson Act, the North Pacific Council has begun a process with profound negative impacts on life in Alaska and will continue on this trend unless Congress acts to stop it now. This is the gratis privatization of the fisheries, ITQs. The halibut/sablefish IFQ plan written by the North Pacific Fishery Management Council has been in effect less than 2 weeks, and long time crewmen are calling to say they can no longer find work longlining. They have no IFQs. Vessel owners are becoming crew and pooling their windfall IFQs on single boats.

The quota share pool is larger than predicted, yielding inordinately small allocations to recipients. The quota share holding rent seekers have already abandoned stewardship in favor of self-serving resource destroying management changes. People that have taken a good living from these resources since 1990 find they can no longer participate without making expenditures of hundreds of thousands of dollars for quota shares. Vessel owners who have not participated for years can retire wealthy on the proceeds from sale of their windfall. Corporations are accumulating quota share, and the potential for Alaskan fishermen to become sharecroppers in their home waters or be replaced by coolie labor appears real. Boats are sinking, as they always have, and greed still drives fishermen's decisions as to timing trips. I hesitate to mention the shambles of the National Marine Fisheries Service implementation. This ill-conceived, possibly illegal plan constitutes a give away privatization of our public resource for the immediate monetary benefit of the few. The best and least radical thing to do is scrap it and replace it with a management based upon efficiency limiting tools designed to spread the harvest effort over 8 or so months of the year. Barring that action, replace it with an annual auction of harvest privileges designed to insure that small, efficient, and diversified fishermen have an opportunity to compete in the bidding.

It is especially important to consider a bid process in which a percentage of the ex-vessel proceeds from sale of the harvest can be pledged to the government as rent. Rewrite the Magnuson Act to make it clear that the people who go to sea and risk their lives harvesting marine resources, the crews, are to receive their due

share of any allocation scheme. Make it mandatory that recent participation in a fishery has precedence over past participation. But if IFQs are to be transferable, all participants after a determined cutoff date must receive shares. Let the marketplace work.

Mandate that community development quota programs apply in any area where IFQs or similar allocation programs affecting coastal community access to the resource apply.

Require a portion of the TAC, be allocated to an open access non-IFQ fishery to take place within the territorial—

Senator STEVENS. I am sorry. You have to leave the balance of it out. Submit it for the record. Appreciate your comments. Thank you for waiting.

[The prepared statement of Mr. Murray follows:]

JERE T. MURRAY, Ph.D.
 P. O. Box 227, Seldovia AK 99663
 (907) 234-7646

TESTIMONY BEFORE SENATE COMMERCE COMMITTEE

March 23, 1995.

Senator Stevens, other committee members and staff:

My name is Jere Murray. Thank you for this opportunity to have input into the Magnuson Act Reauthorization process.

I have lived in Alaska since 1968 and have been a commercial fisherman here since 1975. With my own hands and a little money I built my own boat in 1976 and with that boat and a lot of labor my family has built a home near Seldovia where my wife and I now live. Our three daughters earned a major part of the cost of their college educations working on that boat and are now productive members of Alaskan society. Life here as we have known it is about to change for the worse and only you can prevent it.

The fox is in the henhouse and the barnyard dog is locked in the cellar!

Under the Magnuson Act, the North Pacific Council has begun a process with profound negative impacts on life in Alaska and will continue on this trend unless Congress acts to stop it now. This is the gratis privatization of the fisheries - ITQs.

The halibut/sablefish IFQ plan written by the North Pacific Fishery Management Council has been in effect less than two weeks and long-time crewmen are calling to say they can no longer find work longlining - they have no IFQs. Vessel owners are becoming crew and pooling their windfall IFQs on single boats. The quota share pool is larger than predicted yielding inordinately small allocations to recipients. The quota share holding rent seekers have already abandoned stewardship in favor of self-serving, resource destroying management changes. People who have taken a good living from these resources in years since 1990 find they can no longer participate without making expenditures of hundreds of thousands of dollars for quota share. Vessel owners who have not participated for years can retire wealthy on the proceeds from sale of their windfall. Corporations are accumulating quota share and the potential for Alaskan fishermen to become sharecroppers on their home waters or be replaced by coolie labor appears real. Boats are sinking as they always have and greed still drives fishermen's decisions as to timing trips. I hesitate to mention the shambles of the NMFS implementation!

This ill conceived, possibly illegal, plan constitutes a giveaway privatization of a public resource for the immediate monetary benefit of the few. The best and least radical thing to do is scrap it and replace it with management based upon efficiency limiting tools designed to spread the harvest effort over eight or so months of the year.

Barring that action, replace it with an annual auction of harvest privileges designed to insure small, efficient and diversified fishermen have an opportunity to compete in the bidding. It is especially important to consider a bid process in which a percentage of the ex-vessel proceeds from sale of the harvest can be pledged to the government as rent.

Rewrite the Magnuson Act to make it clear that the people who go to sea and risk their lives harvesting marine resources - the crew - are to receive their due share of any allocation scheme. Make it mandatory that recent participation in a fishery has precedence over past participation. But, if the IFQs are to be transferable, all participants after a determined cutoff date must receive shares - let the marketplace work. Mandate that Community Development Quota programs apply in any area where IFQs or similar allocation programs affecting coastal community access to the resource apply. Require a portion of the TAC (at least as large as a required minimum percentage) be allocated to an open access, non-IFQ fishery to take place within the 12 mile territorial sea and be managed with sensible "traditional management tools" so as to ensure multiple season openings to distribute both participation and harvest over a large fraction of the year. If the halibut/sablefish IFQ plan in the North Pacific is not scrapped make all these provisions apply retroactively to it.

Some consideration must be made of the impact of allowing a Council, such as the North Pacific Council, composed nearly exclusively of commercial fishery oriented members with pro-ITQ bias, authority over sport and subsistence resource users. Right now the North Pacific Council is attempting to limit the access of sport fishermen from all over the country to the North Pacific halibut resource by IFQ regulation of the sport charter industry!

Senators, the present IFQ plan is an extremely complex, expensive, devisive and disruptive effort which should be abandoned. Plan supporters will not agree. To understand why just ask them the current market value of their windfall quota shares.

Thank you again for this opportunity. I sincerely hope and trust you will do the right thing at this last opportunity.

Senator STEVENS. Chris Berns. How do you spell that last name? Mr. BERNs. B-E-R-N-S. I submit that for the record.

Senator STEVENS. Good. Thank you.

STATEMENT OF CHRIS BERNs

Mr. BERNs. My name is Chris Berns. I have been an Alaskan since 1960. I have been working in canneries starting in 1968 when I was 13 and been a commercial fisherman since 1970. I'm going to be short and to the point. No more subsidies from the government. CCF and fog loans are the root problem of overcapitalization.

The government should implement some kind of a retraining program for people that are displaced by these IFQs. Should be paid by the IFQ recipients. Like there is no—a bunch of guys aren't going to have jobs; they need to get retraining doing whatever they need to do, and it should be paid for by the government. I'm against IFQs as any solution to any problem. I think it's just some kind of a big give away program. I'm for State's rights and EEZ. I'll get around to this—this is what I submitted here with this Kodiak tanner fishery. It doesn't have any FMP. There is no crab fisheries in the Gulf of Alaska now. There is a harvest going on—there is no directed crab fishery, but there is a harvest going on right now because there is no prohibited species cap in the Gulf of Alaska. So the crab are being harvested.

A lot of lip service is being given to conservation here. And you have a total disaster in the Gulf of Alaska. It used to be one of the richest crab resources in the whole State, which I participated actually in fishing since 1974. This year there is no season, and the trawlers could catch all the crabs they wanted to catch. And it's not going to shut them down. It's a resource disaster. This is CFEC material here. Protection of coastal communities in the North Pacific has to be addressed. And that includes halibut also. I don't have any problems with including coastal communities in the whole United States. But a lot of these IFQ programs, they just make a few guys really wealthy and skim over the rest. And there is no way to retrain people that you displace. There is no provisions made at all. So, your only choice is you have to find a new job or go on welfare.

You have to move out of the coastal communities into urban centers basically because that's where the jobs—there is no jobs in Kodiak except fishing jobs or fishing related jobs. So to displace a bunch of people out of their home communities—for me it's 28 years in Kodiak—to get displaced out of there because of an IFQ system, it bothers me. I have three children and a lot of friends. If you walk the streets of Kodiak today, there is a lot of people wandering around that don't know where to go. They are looking for jobs in the herring fisheries and other State managed fisheries because they don't have the crew jobs they had on the longline vessels. A lot of longline vessels paid up to 50 percent of their gross to the crew because they needed big crews, up to 6 guys, to run the longline vessels. Thank you very much.

Senator STEVENS. Thank you for coming. We will read that information you brought.

Senator STEVENS. Mike Macy.

STATEMENT OF MIKE MACY, ALASKA WAVERIDERS

Mr. MACY. Thank you, Senator Stevens. My name is Mike Macy. I represent the Alaska Waveriders, an organization of surfers, body boarders, in-water recreationists and commercial fishermen.

Basically we support the provisions of the Alaska Marine Conservation Council and especially on the issue of bycatch.

Despite some of the testimony that we have heard today, it's obvious that not everything is hunky-dory in the North Pacific fisheries, and we don't know whether the threshold has already been crossed. We don't know whether the crash has already started and is irreversible. And it's somewhat disappointing that for over a year or two now, the National Marine Fisheries Service has figured out all the things they can't do to address this problem. And I hope, Senator Stevens, you will keep pressure on that agency to come up with a solution and to start managing this fishery—or the North Pacific—as a ecosystem because I think that is the solution. It's easy—having worked as a commercial fisherman, I know how savage the ocean is and how powerful and big it is—it's easy to forget how fragile it's that we all came from the ocean, we all depend on the ocean and it belongs to all of us, not just fishermen and certainly not just large multinational corporations.

The ocean is more than equations. It's more than biomass. It's more than dollars and cents. And it's more than fish resources. I've already submitted written testimony by mail which explains all our positions in detail. As a former surfer, Senator Stevens, you can appreciate our concern. We don't want to be the last thing swimming in the ocean for the predators to feed upon.

Thank you very much.

Senator STEVENS. Are you going to get surfers quotas? I get a grandfather's share anyway.

[The prepared statement of Mr. Macy follows.]

Alaska Waveriders

308 "G" Street, Suite 222, Anchorage, AK 99501
(907) 279-8247

March 22, 1995

The Honorable Ted Stevens
U.S. Senate
Washington, D.C. 20510

Dear Senator Stevens:

Alaska Waveriders, a group of surfers, in-water recreationists, and commercial fishermen, would like to thank you for introducing S. 39 and for your leadership in re-authorizing the Magnuson Act.

Alaska Waveriders is very encouraged by the measures already included in S. 39 to reduce bycatch. However, we think that the full utilization requirement puts the cart before the horse. It's essential to reduce bycatch to an absolute minimum before we start talking about full utilization.

Alaska Waveriders would like to see zero tolerance for bycatch. Please include more incentives for fishermen not to catch unwanted fish. Also, please remove any subsidies or loan guarantees for fish meal plants. Subsidies and loans will only create a constituency for bycatch and further institutionalize and entrench this scourge.

As you attempt to perfect S. 39, please include language that will direct the National Marine Fisheries Service to manage the fisheries for long-term sustainable yield, taking into account the protection, health, and needs of the entire marine ecosystem. The current emphasis on optimum yield over-exposes fishery managers to expediency and political pressure. Optimum Yield artificially divorces conservation from economics. As crashed fisheries the world over have proven, the two are inseparable. Moreover, the healthy economics depends on a health marine ecosystem and not the other way around as dirty-fishing advocates and their collaborators would have us believe.

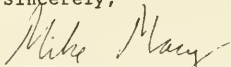
To this end, S. 39 should define overfishing as any level of fishing that compromises the health and integrity of the ecosystem. Where overfishing occurs or has occurred, S. 39 should require rebuilding plans which factor in the needs of the entire ecosystem.

Finally, please continue to insist that the National Marine Fisheries Service address the bycatch-marine conservation issue. Alaska can't afford another federal agency that shirks its

responsibility to steward the resources it is charged to protect. For over a year now, NMFS has issued a steady parade of excuses why it can't respond to this crisis in Alaska's fisheries. With a different attitude, they could have solved the problem by now.

As surfers, Alaska Waveriders have a direct and vital interest in Alaska's marine ecosystems and ensuring that sea-lions, sharks, and other predators have plenty to eat without resorting to neoprene-coated recreationists.

Sincerely,



Mike Macy, Director For Public Policy

cc: Rep. Don Young
Rep. Jim Saxton
Rep. Wayne Gilchrest
Rep. Gerry Studds
Rep. George Miller Alaska Waveriders

Senator STEVENS. Dave Ogden.

Mr. OGDEN. Thank you, Senator Stevens. It's Doug Ogden.

Senator STEVENS. Sorry.

STATEMENT OF DOUG OGDEN

Mr. OGDEN. No problem. O-G-D-E-N. Thank you, Senator Stevens, for letting me speak. My name is Doug Ogden. I'm here as a citizen of Alaska. I do sit on the board of directors for the Alaska Sportfishing Association. I also sit on the State of Alaska Citizens Advisory Committee for the reauthorization, which you have heard from already today. And finally, I guess I am the token seat on the North Pacific Council family. I sit on the advisory panel as a sport fish representative.

There are many issues on the reauthorization I could speak about, but you have heard plenty of them already today. I, like many citizens, was ignorant of many of the marine fisheries issues. Many citizens still are. I read the data that came out and the theories for IFQs, being very interested in possible alternatives to the existing situation. The theories that I read about were; no derby fishing, no race for fish, increased safety, and decreased bycatch; all very, very good, promising things.

As time went on, I began to compare this issue to a bucket of paint. While it's still in the bucket, the color may look good; but until you see it on the wall, you don't know exactly what you are going to get. IFQs have turned out to be like that. There seems to be a lot of bad sides surfacing.

As a sport angler, one of the concerns I'm particularly hesitant about is the conservation of near shore stocks.

Since the commercial IFQ fishers won't go to their traditional grounds to maximize their one shot harvest, the tendency is to shorten the trip length, go just outside the port, lay a skate or two and thus, over a very short period of time, deplete the near shore stocks. Those are the ones (stocks) that the sport fishers typically like to go to. As someone who does not own a boat,

I use charters exclusively for halibut or use friends when I can hammer one down. As a charter, they are restricted to a 12-hour round trip dock to dock. That limits the areas that they can go to.

If the IFQ fishers park right out on the—I don't want to use the word traditional, but "typical" sportfishing grounds, they (the near shore stocks) could very easily and quickly be devastated to the point where the very necessary economy of the sport fishery can be affected, both from tourists and from the local citizens' access. Please consider the sport harvesters when you are looking at the IFQ issue.

Again, I'd be very happy to sit down and give you all my brains that I've got on all the other issues from a sport fish point of view, but given the short length of time, thank you for the opportunity to let me speak.

Senator STEVENS. Scott Vorrath, captain of the fishing vessel Elizabeth.

**STATEMENT OF SCOTT VORRATH, CAPTAIN OF FISHING
VESSEL ELIZABETH**

Mr. VORRATH. Thank you, Senator. I started fishing 8 years ago. I've invested 8 years of my life in longlining, and I started at a time when first year I did it, we didn't make any money at it. The captain turned it over to me the next year, calling it a young man's fishery. I fished every opener since then except for 1989 when I cleaned up Exxon's oil. As a result of that, in Cordova we have had closures of herring and crab, and though I've diversified into other things, out of necessity, I've—longlining has always paid the bills. At this juncture, I am no longer going to be able to participate in the fishery. Last year I caught 80,000 pounds of halibut and black cod, and my quota share is 4,000 pounds. Not even enough to gear up for. It's not going to be a business anymore. 8 years that I've invested into it is now going to be past.

I don't understand why we can't—I'm not for IFQs.

Certainly I've testified at all the National Marine Fisheries and Council meetings against them. But what my issue would be is why take 10 years ago investment and include it over present day investment. Mr. Shadle, Mr. Seaton were not Johnny-come-latelys who jumped in at the peak, were people who spent time in it, invested in it, have boats, have expenses, and will not be able to participate.

And we keep getting back to the point of overcapitalization. Well, if—that means there are people out there who aren't making money at it, and I don't believe that's true. The people that are pioneers in the industry are still making money at it. And if we took this IFQ plan and included the last 10 years, the pioneers of the fishery would get more than the people who have only owned boats for the last 5 years, and they would still be competitive. They would still be able to make their payments. There is no reason to give giant windfalls to some and run others out of business.

We can keep those 11,000 jobs. We can keep those 3,000 boats. We can still maintain all our CDQs. We could maintain our bycatch parameters. All the benefits of the plan could still be in place, and yet not create so many huge winners at the expense of so many losers.

And that's all I have to say. Thank you.

Senator STEVENS. Scott, hearing your statement is one of the reasons I have such great reservation about ITQ. I do not understand why they used the years that they used, and I do not understand why they could not recognize the new entrants. I hope our guidelines make them go back and review them. I do appreciate your time.

Mr. VORRATH. We certainly appreciate your efforts. Thank you, Senator.

Senator STEVENS. Steve Ganey, Alaska Marine Conservation Council.

**STATEMENT OF STEVE GANEY, ALASKA MARINE
CONSERVATION COUNCIL**

Mr. GANEY. Thank you, Senator Stevens. My name is Steve Ganey, and I have three brief comments. First, I'd like to see the Magnuson Act clearly establish conservation over economics as a

top priority. Our fisheries should be managed for long-term sustainable health of marine ecosystems. This is the best way to provide for future economic health of coastal communities that rely on our ocean's bounty.

Sustainable yield in this bill should be defined to remove the possibility of exploitation of our fisheries for short-term economic gain. Social and economic factors should clearly be secondary to ecologic factors. Also, sustainable yields should only be allowed to be lowered, not raised, by social, economic and ecologic factors.

Second, I would like to see added emphasis on incentives that would promote a true reduction in bycatch before focusing on full retention, full utilization. Full retention, full utilization does not solve the bycatch problem. Specifically, it does not reduce total removal of marine life from the ecosystem. To be cautious in our efforts to insure the long-term stability of marine ecosystems, we should reduce the habitat disruption produced by bycatch. When dealing with complicated natural systems, the first priority should be to maintain all the elements, all species that are of value in an ecosystem and not just commercial species.

With that in mind, my third point is that I would like to see the attention to multispecies management in this bill strengthened. We must not focus on single species. Adequate protection of our marine resources will require consideration of the interaction of species within ecosystems. Please consider this when reviewing the definition of overfishing in this bill. Overfishing should be defined as a level of fishing that jeopardizes sustainable yield or one that compromises ecologic integrity. Thank you.

Senator STEVENS: Thank you very much.

Senator STEVENS: Two more. While Eric Weber is coming up here, I want you all to join in thanking Mary Vavrik who has been our court reporter and stayed with us for such a long period all day. Thank you very much, Mary. Eric.

STATEMENT OF ERIC WEBER

Mr. WEBER. Thank you, Senator Stevens. My name is Eric Weber. I have fished down in False Pass, Alaska for the last 20 years. The early seventies, the majority of my brother and sisters had migrated toward False Pass and have fished for halibut and salmon.

I'd like to state my opposition to the IFQ program.

I've taken every opportunity during the conception of this program to state an opposition to it. Through the IFQ program or—through the halibut fishing, my brother and sisters have been able to put themselves through college, develop families, start to raise children. We had always thought this fishery would be available for them also to earn money to attend college. The IFQ program doesn't provide that for them and for many other Alaskans.

In short, I believe that the IFQ program is a rip off to all Alaskans. Thank you very much for this opportunity.

Senator STEVENS. Thank you for coming.

The last witness is Sandra Arnold.

**STATEMENT OF SANDRA ARNOLD, EXECUTIVE DIRECTOR,
ALASKA WILDLIFE ALLIANCE, ANCHORAGE, ALASKA**

Ms. ARNOLD. My name is Sandra Arnold. I'm the Executive Director of the—

Senator STEVENS. Pull the mike up a little, please.

Thank you.

Ms. ARNOLD. My name is Sandra Arnold, Executive Director of the Alaska Wildlife Alliance here in Anchorage. We are a private wildlife protection advocacy group. First thing I'd like to say on behalf of our 2,000 members, thank you, Senator Stevens, for taking such a big step in the right direction with the new conservation measures in your bill. Fish and fishing issues, per se, are not in the traditional purview of the Alaska Wildlife Alliance. We deal primarily with marine mammals, sea birds, sea otters and other issues, which is exactly why I'm here to make a very brief statement today.

What happens in the fishing industry and what we do to our fish resources directly affects what happens to sea lions, walrus, whales, otters, sea birds, and countless other marine species. We would all be naive to think that overfishing and other abuse of fish resources doesn't have something to do with the problems we are seeing with marine mammals, sea birds and other wildlife and people dependent on marine ecosystems.

With that, I'll just make four quick comments. The first is habitat. Habitat protection must be considered the most important factor in maintaining healthy marine ecosystems. Two is bycatch. Before we do anything else, including IFQs, we have to reduce bycatch. The idea of full utilization of bycatch definitely has merit, but it provides no incentives to first reduce bycatch. In fact, if subsidies are provided for full utilization, bycatch may even be encouraged. First reduce bycatch to the lowest achievable level, then support full utilization into fish meal or what have you.

Three, let's do away with the term maximum sustained yield and replace it simply with sustained yield. By including the word maximum, we are leaving no margin for error and are perhaps giving free license to overexploit marine resources.

Last, economic factors. Economic factors should only be allowed to raise a determined annual sustained yield—I mean lower—excuse me—should only be allowed to lower a determined annual sustained yield, not raise it. In other words, if the experts determine a particular fishery's sustained yield that the ecosystem can support, and if the market price jumps up, we can't just magically raise what's sustainable. This is a clear case of putting profit before ecosystem integrity and fishers and the resource and people will suffer in the long term.

That's it. Thank you.

Senator STEVENS. Thank you very much.

Mr. EDWARDS. I didn't file out a card. I promise I'll be brief.

Senator STEVENS. OK. Give you 2 or 3 minutes. I really do have to go. You do have to fill out the card.

Mr. EDWARDS. I'll be glad to.

Senator STEVENS. Committee rules require that.

STATEMENT OF GARY EDWARDS

Mr. EDWARDS. Thank you. Senator Stevens, thank you for holding the meeting here. I'm Gary Edwards. And I'm an owner of a 90 foot fishing boat in Kodiak since 1991 and participate in the crab longline and pot cod fisheries.

Senator STEVENS. Pull that up to you, Gary.

Mr. EDWARDS. I appreciate you holding the meeting here where it's possible for a small boat commercial fishing fleet to have a say and participate directly. With all due respect to the good work you have done for Alaska and the time you spent on the issues here today, I cannot sit here and in the last few days listening to other Alaskan representatives, not understanding how you can say that you will—you will refuse to intervene in the IFQ issue, in the fundamental issue of IFQs and not support an amendment outlining them as a management tool in the U.S. fisheries.

Everywhere I turn, I see these representatives of Alaska and government representatives in general leaving it up to the North Pacific Management Council and saying they do not want to micro-manage the fisheries, and yet the Magnuson Act and Bill 39 is your acknowledged responsibility.

And here today you are taking suggestions on guidelines and refinements to the IFQ plan. I understand your reservations about micro-managing the Council's decisions and how that takes away power from the Council, although when you consider the overwhelming negative testimony toward IFQs through the years, including the lack of an economic impact statement for Alaskan fishing communities, fish dependent communities, and due to the special interests stacked on the Council at the time through the years that we are deciding on the IFQs, this situation changes.

When you see a fundamental wrong being done such as Council going ahead with a plan that goes against the very philosophy of capital—of a capitalist system, special interests on the Council, self-serving interests, all the statements in the brief provided by Paul Seaton and the Alliance Against IFQs, which I plead with you to read through if you haven't already, I don't see how the—how your point about leaving it up to the Council can still fly. The Magnuson Act is a chance to right these wrongs.

As further evidence of the lack of the need for a management system such as IFQs, I ask you to look at the fact that in the last 2 years the Alliance Against IFQs for crab and bottomfish—which we're also involved in every year and have as much interest than anyone out there and see what's happening—the momentum for IFQs there has slowed down, if not stopped and turned around toward an effort toward license limitations.

The fishermen that I know realize that we have a problem. We are not coming here without solutions. We fully support license limitations. We see the halibut commission starting to use those for the last 2 years in the halibut and sablefish fisheries, and they have been working. We have put up with trip limits, safe openings. They have even tried to weather hold that's worked. We find just the will of the Council was not there when halibut and sablefish was going through.

And other than that, I would just say that this is just about our last chance. We believe it is a Senate and Congressional respon-

sibility now. It has gone beyond the Council. And I thank you for your time.

Senator STEVENS. I would only close by saying that since I have been in the Congress of the United States I have opposed trying to dictate to regions, particularly in fisheries, what the solution should be to any problem. We created the Councils to have representation from the area, to buildup expertise and experience in dealing with the resources.

It was our intention to put conservation of the species first. We need to adjust that a little bit. But I do not believe that you would want to have the precedent established that Congress would intervene and start setting the kind of systems that would be used in one part of the country as opposed to another in terms of fisheries management.

You know, the system we have here is a very fragile one. We barely have a majority in terms of this regional Council.

The more we tinker with it, the more we are going to lose even that control. We have the Alaska majority out of recognition of our right to assure that the fisheries will survive as our basic resource of this State. I think the time will come when we do not have the basic resources of oil or gas or other very profitable resources. And if we have some way to retain control over the resource, that will make a great deal of difference to our grandchildren as to what their lifestyle will be in Alaska.

I am worried very much about the concept of absentee investor owners making decisions about our future with regard to this resource base. I do believe that if I had been on the Council, I might have done something about this plan, approached it a different way, but might have lost in terms of my vote, too. We have created this Council for the purpose of having management from the area. The Council has made its recommendation. It has now been approved by the Secretary.

As I said, I have serious questions about it in many ways, but I do not want to be the one who suggests to Congress that the type of management concept that we sought and got approval of should be changed. If we can change this one, then we can change almost anything. Congress can do a lot of other things if we can do this one. I do not believe that we should start that.

I very reluctantly take the position that I have taken. I know that many of you are harmed. My own son has left the fishery, in part, of developments in this area, and I know very personally the impact on his family.

Now, that does not mean that the Council itself and the system itself is wrong because this decision may be wrong. I am hopeful that they will listen to us about these ITQ standards. I am hopeful they will listen to you all in terms of what impact this has had, particularly on the younger people who have entered the fishery and established a reputation but who were not included in the time period that was adopted. That, to me, is the worst part of this plan. That, plus the added capital requirement that is now going to be imposed on future generations and allow this generation to retire in ease. Not only can they sell their boats that they have invested in and deserve the right to sell, but they are going sell a quota share that has just been created by fiat. That to me is wrong, and

the time factor is wrong. But to legislate them wrong is to set a precedent that we will regret.

We have given this council jurisdiction over half the coastline of the United States, over more than half the fisheries of the United States, and they have made a significant error, in my judgment. But that does not mean that we should destroy the system or set a precedent that would be even more harmful to Alaska. I do not have time to argue with you. I am just stating my position. I have taken my 3 minutes.

All right. Thank you.

[Whereupon, at 5:03 p.m., the hearing was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

STATE OF ALASKA MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT REAUTHORIZATION ISSUES AND CONCERNS

March 25, 1995

The following represents the position of the State of Alaska on key issues related to the reauthorization of the Magnuson Fishery Conservation and Management Act. This paper was developed in concert with the State of Alaska's Citizens Advisory Committee on federal legislation. Specific reference is made to HR 39 and S. 39 as introduced.

1. Council Membership

The State supports maintaining the current makeup of the North Pacific Fishery Management Council.

2. Conflict of Interest and Recusal

The State supports a recusal process for Council members to address perceived conflicts of interest. The standard should be such that recusal is required only if the decision before the council could provide a direct and significant personal financial benefit to that Council member, their family, company, etc. All Council members should be able to participate in deliberations, and recusal should be required only for the final vote.

The State can support the recusal provisions in either S. 39 or HR 39 as explained below:

The State supports the recusal process outlined in S. 39. The standard for recusal is acceptable so long as the "designated official" is chosen by the Secretary with the concurrence of the Council. This provides for a proper balance between the Secretary and the councils, and will prevent the Secretary from abusing this process. In addition, the State recommends the deletion of provisions requiring the Secretary to establish rules governing the recusal process.

The State can also support the recusal process outlined in HR 39. The definition of "an interest that would be significantly affected" as presented at page 18 should be retained. NOAA General Council

ultimately represents the Secretary at the council, so this definition must be retained if NOAA General Council is going to make these determinations.

3. Conservation, Bycatch and Full Utilization

The State supports provisions to control, reduce, and minimize bycatch and discard waste in our nation's fisheries. Legislation should require that fishery management plans include measures to give priority to, or provide other incentives for the use of fishing practices within a gear group which result in the lowest bycatch and discards for the given harvest of a particular target species. Both HR 39 and S. 39 provide useful direction to the councils by establishing new definitions, new national standards and new requirements that Fishery Management Plans include incentives and allocation preferences to address the problem.

The State supports both the Senate and House definitions of "bycatch" and "economic discards." The State supports the national standard on conservation in HR 39. In addition, the State recommends S. 39 national standard on overfishing be added to HR 39. The State recommends replacing the proposed FMP language in HR 39 for Sec. 303 (a)(7)(E)(12), with the following: "conservation and management measures shall, to the maximum extent practicable, minimize economic discards, minimize bycatch and the mortality of living marine resources cause by bycatch;" and the State supports the general requirement for bycatch reduction measures to be adopted in FMPs as presented in HR 39 and S. 39.

The State supports language in S. 39 relating to the North Pacific Fisheries Conservation at page 19, and recommends that similar language be added to HR 39.

4. Optimum Yield

The State supports the Senate definition of optimum yield and recommends this language be added to HR 39.

5. Fishery Dependent Communities

The State supports the national standard on fishery dependent communities in S. 39 and recommends that it be added to HR 39.

6. Community Development Quotas

The State strongly supports statutory authorization which protects the Bering Sea Community Development Quota program.

7. Habitat

The State supports provisions in both HR 39 and S. 39 to strengthen the habitat conservation provisions in the Act. The State supports the definition of essential fishery habitat in S. 39 and recommends this language be added to HR 39.

While the State is supportive of the need to conserve fisheries habitats, we are also concerned about the ability of the Councils to effectively address habitat issues, given their present workload addressing fisheries conservation and management. The primary habitat protection role should be vested in the Secretary, with an enhanced opportunity for the councils to identify, review, and make recommendations on habitat issues.

8. Nationwide Data Collection and Vessel Registration

The State is strongly opposed to any centralized nationwide vessel registration system which would disrupt the comprehensive systems that already exist on the West Coast and in Alaska. Legislation should specifically include the states and councils as full partners and provide for regional data management systems.

A centralized national fisheries data collection system is also redundant for the West Coast/Alaska, and could disrupt data collection systems currently operated by federal, state, and tribal entities. The State supports the language in S. 39 only if the new Sec. 402.(a) data collection provisions include language similar to that in the new Sec. 401.(a) (2), (3), and (4). Data management systems must include the states, councils, and tribal entities as full partners, and provide for regional systems.

9. Fishery Rationalization Programs

Overcapitalization of the nation's fisheries has become a major problem on both coasts. The State believes that the goal of achieving economic efficiency in the harvest of our fishery resources is important, but should be balanced along with the need to achieve full

utilization, reduce bycatch, maintain diversity in the fisheries and parity among the various segments of industry, as well as the necessity of meeting the economic and social needs of coastal fishing communities.

Both the House and Senate are struggling with the criteria for implementing limited access programs, including IFQ programs. The State recommends that the following be considered:

- (i) requirements for full retention and utilization of target species, provisions establishing individual incentives to reduce bycatch, and specific measures to prevent high-grading;
- (ii) criteria for transfer of limited access rights requiring 75 percent U.S. ownership (Sec. 802 (a)-(c) of Title 46 U.S.C.) of companies and corporations receiving such rights to reduce the extent of foreign ownership and control of private fishing rights in U.S. waters;
- (iii) notwithstanding the MFCMA's confidentiality standards, provisions should be added to ensure that data such as cumulative catch histories by vessel are available to the Councils and the public when designating quota systems. This information is vital to determine "who gets how much" under different management options. Such information is necessary in order to meet the requirements of National Standard 4 to ensure that no individual or corporation receive an excessive share or quota allocation;
- (iv) requirements to minimize negative economic impacts on coastal communities and provide increased economic opportunities for coastal communities which are dependent on fisheries;
- (v) clear authority to provide for processing quotas if appropriate and necessary to maintain parity between segments of the processing sector, as well as between harvesters and processors;
- (vi) strict requirements for effective monitoring and enforcement programs, including provision for catch inspection before leaving fishery management areas or waters under U.S. jurisdiction; and
- (vii) include stiff penalties for violations of quota share systems such as provisions for revocation of fishing rights or quota shares for serious infractions.

10. Fees

The State supports provisions to assess reasonable fees on IFQ fisheries to cover the costs of fishery management. The IFQ transfer fee proposed by the Senate should be on the value of the quota, not the ex-vessel value of the fish. The State would also support an alternative fee system tied to vessel licenses or registration. Any fee system should provide a credit for federal, state, and local fishing assessments and fees.

Fees collected should go to management and enforcement in the region collected. An industry oversight advisory committee system should be created to assure that funds received from fees are appropriately spent.

11. State Jurisdiction

Amend section 306 accordingly:

(a)(3) Except as otherwise provided by paragraph (2), a State may not directly or indirectly regulate any fishing vessel outside its boundaries unless:

(A) the vessel is registered under the laws of that State;

(B) there are no federal fishing regulations established for the fishery pursuant to an approved fishery management plan; or

(C) pursuant to an approved fishery management plan.

12. Emergency Actions

The State supports provisions in both the Senate and House bills granting emergency regulation authority for 180 days with provision for an additional period of not more than 180 days. The State supports a provision excluding the NMFS regional director or his designee from voting on emergency actions for which a unanimous vote is required.

From: John Carli
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Anchorage, AK 99509

Phone: 907-694-7277
Fax: 907-696-2000

To: The Honorable Senator Ted Stevens
U.S. Federal Building
222 W. 8th
Anchorage AK 99513

March 23, 1995

Subj: Magnuson Fishery Conservation and Management Act
Ref: Halibut Individual Fishing Quota
IFQ Permit #1941 (14 pounds)
IFQ Quota Share Certificate #69329WCKS (131 units)

Dear Senator Stevens:

I have run into an unexpected problem and would appreciate your assistance in attempts to resolve. I did not object to the quota share process when it was developed because I was assured by both state & federal officials that it is a fair and equitable way of distributing halibut. Now I know better.

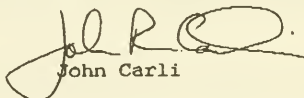
I have fished halibut for many years, not as a "highliner", but as a second income. I commercially fished when able and did not fish when other employment precluded fishing. My average annual haul is low, and my five year average accurately reflects that.

I have been issued an "Individual Fishing Quota (IFQ)" that is too small to use. My total allotted IFQ poundage is 14 pounds. This is too small to harvest.

Should I catch one "average" 45 pound halibut, I will be in excess of 300% overage of my allotted quota! One 140 pound halibut will put me in excess of 1,000% overage! This puts me at risk of severe fines and penalties.

I feel that I have been forcibly removed from the fleet. I am asking for your help. Perhaps a solution would be to set a minimum poundage allowance for each IFQ.

I thank you for your time.


John Carli

Encl: IFQ Permit #1941 (14 pounds)
IFQ Quota Share Certificate #69329WCKS (131 units)
IFQ Initial Issue Transfer Eligibility Certificate

Initial Issue
Transfer Eligibility Certificate

CARLI, JOHN R.

has met the terms of the Pacific halibut and sablefish Individual Fishing Quota program as promulgated by the U.S. Secretary of commerce (50 CFR, Part 676), and is therefore certified as eligible to receive Quota Share [QS] and Individual Fishing Quota [IFQ] by transfer (purchase, gift, or lease). The holder has been assigned the following IFQ Identification Number, which must be provided upon application to receive QS and/or IFQ by transfer.

69329WCKS



By Direction of Steven Pennoyer, Director
Alaska Region, National Marine Fisheries Service

By Philip J. Smith 18-Nov-1994
Philip J. Smith Date
Chief, Restricted Access Management Division

Quota Share CERTIFICATE

JOHN R CARLI
IFQ ID No. 69329WCKS

is the holder of the following designated Quota Shares:

**131 Units, designated as:
H-3A-D-B-762, 649, 859 through H-3A-D-B-762, 649, 989**

This certificate is a Quota Share Permit, issued under the provisions of the Pacific halibut and sablefish Individual Fishing Quota program, as promulgated by the Secretary of the U.S. Department of Commerce. This permit entitles the holder to all privileges and responsibilities under the terms of the Individual Fishing Quota program, as set out in 50 CFR, Part 676.



By Direction of Steven Pennoyer, Director
Alaska Region, National Marine Fisheries Service

By: Philip J. Smith 16-Nov-1994
Philip J. Smith Date
Chief, Restricted Access Management Division

**IFQ Annual Fishing Permit
for the 1995 season**

**JOHN R CARLI
Permit: 000000001941**

is the holder of the following Individual Fishing Quota for halibut in vessel category D as measured in net weight:

Area	Initial Pounds	Underage (+)/ Overage (-)	Leased In (+)	Leased OUT (-)	Total IFQ Pounds
3A	14	0	0	0	14

This permit is an Individual Fishing Quota Permit, issued under the provisions of the Pacific halibut and sablefish Individual Fishing Quota program, as promulgated by the Secretary of the U.S. Department of Commerce. Under the terms of the Individual Fishing Quota program, as set out in 50 CFR, Part 676, this permit authorizes the holder to harvest halibut or sablefish in the amount(s), in the IFQ regulatory area(s), and aboard a vessel of the appropriate category as described above. Prior notice of IFQ landing must be made to NMFS via the toll-free number (800-304-4846).



By Direction of the
National Marine Fisheries Service
Steven Pennoyer, Alaska Regional Director

By: Philip J. Smith Date: 16-Feb-1995
Philip J. Smith
Chief, Restricted Access Management Division


International Seafoods of Alaska, Inc.

Kodiak • Egegik • Seattle

TESTIMONY

DANA CARROS FOR INTERNATIONAL SEAFOODS OF ALASKA

TO

THE SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

MR. CHAIRMAN AND MEMBERS OF THE SENATE SUBCOMMITTEE ON OCEANS AND FISHERIES. I WOULD LIKE TO THANK YOU FOR EXTENDING THE DEADLINE FOR TESTIMONY TO YOUR COMMITTEE. IT IS OFTEN HARD TO FIND THE TIME TO WORK ON THINGS OF THIS NATURE WHILE ALSO TRYING TO ACTIVELY TAKE CARE OF THE DAY TO DAY RESPONSABILITIES OF RUNNING A BUSINESS.

THE RECENT IMPLIMENTATION OF I.F.Q.S HAS CAUSED ALOT OF TREPIDATION FOR OURSELVES AND FOR THE FISHERMEN WHO SUPPLY FISH TO OUR CANNERY.

THE END OF AN ERA, MARCH 15TH. MARKED THE FIRST DAY THAT MANY ABLE-BODIED ALASKAN FISHERMEN FOUND THEMSELVES OUT OF WORK BECAUSE THE GOVERNMENT THOUGHT THAT THEY SHOULD NOT BE ALLOWED TO FISH. SUCCESSFULLY FENDED OFF FOR YEARS BY THE COMMON SENSE OF PEOPLE SUCH AS KODIAK'S COALITION, I.F.Q.S ARE NEVERTHELESS FORCED UPON US. THE MAJORITY OF PEOPLE CONTINUE TO ASK "WHY IS THIS HAPPENING"?

FOR OVER A HUNDRED YEARS BRIGHT EYED U.S.-ALASKA FISHERMEN HAVE BEEN ABLE TO MAKE A FUTURE BASED ON THEIR OWN DETERMINATION AND BUSINESS ABILITY. AS THEY GOT OLDER THESE FISHERMEN SOLD THEIR BOATS AND RETIRED, THE CYCLE CONTINUED ANEW. NOW THROUGH THE "FORESIGHT" OF THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL OUR NEWEST GENERATION OF FISHERMEN ARE LEFT OUT. BLACK COD AND HALIBUT ARE "RESERVED" FOR THE PREVIOUS GENERATION'S RETIREMENT BENEFIT. TO ADD INSULT TO INJURY, THE ALASKA DEPT. OF FISH AND GAME IS CONSIDERING A SET ASIDE OF 45% OF PACIFIC GREY COD FOR THE I.F.Q. HOLDERS AS A BYCATCH AGAINST THEIR BLACKCOD AND HALIBUT QUOTAS!

SENATORS, OUR CANNERY IS WORKING WITH NUMEROUS SMALL FISHERMEN WHO SEE VERY LITTLE HOPE FOR GETTING A DECENT START. NOT ONLY DO THEY HAVE TO FINANCE A BOAT BUT THEY THEY HAVE TO FINANCE THE "RIGHTS TO FUTURE FISH STOCKS" IF ANY ARE AVAILABLE AT ALL. THE BURDEN IS TOO GREAT.

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Kodiak, AK 99615-2997, USA
TFI- 907 / 486-4768



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THE HUNGER OF SOME OF THE STRONGER FISHERMEN IS CAUSING A QUOTA SHARE GRAB BY THE RICH AS THEY MANOUVRE TO CONSOLIDATE A BIGGER PORTION OF THE FUTURE FISH STOCKS. THIS POINTS TO THE INEVITABLE RESULT OF OUR FISHERIES BEING HANDED OVER TOTALLY TO A RELATIVELY FEW RICH FISHERMEN. WHO COULD HAVE IMAGINED THIS HAPPENING IN ALASKA? ALLOCATING "FUTURES" IN FISH STOCKS THAT GOD HASN'T CREATED YET IS A TRAVESTY. ANY SYSTEM WICH ALLOWS FOR THE ACCUMULATION OF FISHING RIGHTS OR NEGLECTS NEW RECRUITMENT SHOULDN'T EVEN HAVE BEEN CONSIDERED.

CREWS ARE OUT OF WORK. THOUGH SOME WHO HAVE NOT FISHED IN YEARS RECIEVED WINDFALL ALLOTMENTS MOST OWNERS RECIEVED FEWER ACTUAL POUNDS THAN THEY HAD CALCULATED WAS DUE TO THEM. BOAT OWNERS ARE POOLING THEIR SHARES TOGETHER TO MAKE THE MOST OF THE SITUATION AND ARE THEREFORE FIRING THEIR CREWS TAKING OTHER SHARE HOLDERS AS CREW. BY COMBINNING WITH OTHER BOAT OWNERS WHO HAVE SHARES OF THEIR OWN THEY CAN CUT THEIR EXPENSES AND INCREASE THEIR EFFICIENCY. THE PEOPLE WHO WERE PREVIOUSLY CREWMEMBERS ARE SEEKING PUBLIC ASSISTANCE. SENATORS THE BEST WAY TO HELP THE AVERAGE FISHERMAN IN COASTAL ALASKA IS TO DERAIL I.F.Q.S.

MANY BIG SHARE HOLDERS ARE ACTIVELY LOOKING TO HAVE THEIR CATCH DELIVERED DIRECTLY TO THE FRESH MARKET CIRCUMVENTING THE LOCAL PROCESSORS ALTOGETHER. VERTICLE INTEGRATION IS THE NEXT LOGICAL STEP FOR THIS GROUP OF FISHERMEN AND SOME OF THEM ALREADY OWN THEIR OWN PROCESSING BOATS WHICH WORK THE BERING SEA. THIS SYSTEM HAS THROWN A WHOLE NEW EQUATION INTO THE PICTURE FOR THE PROCESSING COMMUNITY.

DESPITE TESTIMONY TO THE OPPOSITE THE PRICE OF HALIBUT HAS REMAINED THE SAME AS LAST YEAR. THE PRICE OF \$3.30/LB WAS QUOTED AT THE ANCHORAGE MEETING ON 25 MARCH THIS REPRESENTS AN FOB ANCHORAGE PRICE FOR THAT DATE WHICH COULD ONLY BE AVAILABLE TO THOSE WITH DIRECT ACCESS TO THE WHOLESALERS NOT SOMEONE SELLING TO A PROCESSOR.

IN CONCLUSION IT APPEARS THAT THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL IS IN NEED OF GUIDELINES WHICH PROTECT THE RIGHTS OF FISHERMEN. ANY SYSTEM WHICH ALLOWS FOR THE ACCUMULATION OF WHAT ARE ESSENTIALLY ONGOING "FUTURES" SHOULD BE BEYOND THE BOUNDS OF CONSIDERATION. AS A GUIDE I'D LIKE TO SUGGEST THE USE OF ARTICLE 8 SECTIONS 3, 15 AND 17 OF THE ALASKA STATE CONSTITUTION. I'D FURTHER LIKE TO SUGGEST THAT THE SPIRIT OF THESE SECTIONS BE STRENGTHENED IN THE GUIDELINES.

SEC.3 READS "WHEREVER OCCURRING IN THEIR NATURAL STATE, FISH, WILDLIFE, AND WATERS ARE RESERVED TO THE THE PEOPLE FOR COMMON USE.

SEC. 15 READS " NO EXCLUSIVE RIGHT OR SPECIAL PRIVILEGE OF FISHERY SHALL BE CREATED OR AUTHORIZED " ETC.

SEC. 17 READS " LAWS AND REGULATIONS GOVERNING THE USE OR DISPOSAL OF NATURAL RESOURCES SHALL APPLY EQUALLY TO ALL PERSONS SIMILARLY SITUATED WITH REFERENCE TO THE SUBJECT MATTER AND PURPOSE TO BE SERVED BY THE LAW OR REGULATION" .

ADDITIONALLY IT SEEMS OBVIOUS THAT CONFLICT OF INTEREST RULES NEED TO BE APPLIED TO THE COUNCIL.

THANK YOU FOR THE OPPORTUNITY TO ADDRESS THE COMMITTEE.

Dana Carros

DANA CARROS

ASSISTANT MANAGER / INTERNATIONAL SEAFOODS OF ALASKA

517 SHELIKOF STREET

KODIAK, ALASKA 99615 PH. 486-5741

STATEMENT OF THE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE
BEFORE THE
SUBCOMMITTEE ON OCEANS AND FISHERIES
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
U.S. SENATE
FIELD HEARING
ANCHORAGE, ALASKA
MARCH 25, 1995

The National Oceanic and Atmospheric Administration (NOAA) appreciates the opportunity to present the views of the Department of Commerce (Department) on reauthorization of the Magnuson Fishery Conservation and Management Act (Magnuson Act) and S. 39, the Sustainable Fisheries Act.

In general, the fishery resources off Alaska are healthy and support large fishing fleets delivering substantial amounts of salmon, crab, and groundfish products to U.S. and foreign consumers. More than 5 billion pounds of groundfish are harvested annually. The 1994 all-salmon commercial harvest of 196 million fish set another new record, beating the 1993 record harvest of 193 million fish. Exceptions exist, however, with respect to the overall good health of Alaska fisheries resources. Stocks of red king crab in the Bering Sea are depressed. The State of Alaska did not allow any directed fishery for red king crab in 1994, and may not allow a commercial fishery for years. In response, NMFS closed large areas in the Bering Sea to

groundfish trawling to protect female red king crab. Although most stocks of groundfish species are in excellent shape, stocks of Pacific ocean perch in the Gulf of Alaska are depressed compared to biomass that could be supported by available habitat. A rebuilding plan is in effect to promote the growth of Pacific ocean perch stocks.

Depressed stocks notwithstanding, Alaska fisheries annually generate more than \$3 billion, first wholesale value. This value, however, has attracted excessive fishing effort. One of the most severe consequences of overcapitalization is the race for Alaska's available resources, resulting in derby-style fisheries. These derbies cause excessive bycatch of halibut, salmon, and crab, and also certain amounts of groundfish. Other non-target species, which have less economic value or for which markets have not yet been developed, are often discarded.

To address this issue, the North Pacific Fishery Management Council (Council) has engaged in a program to manage rationally fisheries within its area of authority. As part of this Comprehensive Rationalization Program, the Council recommended, and NMFS has implemented, an individual fishing quota program for halibut and sablefish in which fishermen are allocated a portion of each year's halibut and sablefish quota based on their individual historical catches of these species. Fishing under this program commenced March 15, 1995.

S. 39 - The Sustainable Fisheries Act

S. 39 includes major steps necessary in our efforts to build sustainable fisheries and insure optimum utilization of fishery resources. The Senate bill contains amendments to the Magnuson Act that will improve the stewardship of our Nation's marine resources.

NOAA believes that we must forge strong, even ironclad, stewardship principles for inclusion in the Magnuson Act to ensure we not only avoid future disasters but also reap the maximum benefits, consistent with conservation of the resource, from the fisheries for the Nation. By wisely managing fishery resources for the greatest long-term benefits possible, we will increase the Nation's wealth and, in turn, the quality of life for members of the recreational and commercial fishing industries and dependent communities. Additional benefits of increased jobs, increased economic activity and greater supplies of safe, wholesome seafood will also be realized.

It is our belief that NOAA should seek to achieve the goal of effective fisheries management by concentrating on two areas: (1) refocusing on developing more and better scientific information to guide policy development and fishery management policies and planning, rather than letting controversy and uncertainty drive decision-making, and (2) undertaking an

aggressive approach to stewardship of our trustee resources to rebuild overfished stocks and maintain them at maximum sustainable levels, thereby avoiding the enormous economic and social consequences that accompany attempts to repair damage to resources after it occurs. This means being conservative in the management of fisheries today to assure sustainable levels of harvests in the future. It also means the use of management approaches that discourage both wasteful fishing practices and the investment in more fishing vessels than are needed to harvest the available fish.

The first area of action can largely be accomplished through our current authority. We have improved, and will continue to improve, our scientific data collection activities, resource surveys, biological studies, analyses and modeling of fish stocks, and advanced fishery predictions. Our proposed Fiscal Year 1996 budget includes an increase of more than \$23 million for data collection programs, making them a top priority. Progress in the second area is critical and will require amendment of the Magnuson Act, coupled with a refocusing of in-house efforts, to achieve our goal of sustainable fisheries.

In order to achieve this second area of rebuilding and maintaining stocks at maximum sustainable levels, we need the help of Congress through amendment of the Magnuson Act. Many of the provisions in S. 39 are major steps in the effort to ensure

effective stewardship. Foremost, we support strong attention to conservation issues. We enthusiastically support measures that will result in the termination or prevention of overfishing. Requiring action by a Regional Fishery Management Council within one year of notification that a fishery is in an overfished condition is a significant measure. Inclusion of provisions for preventing overfishing and rebuilding programs that emphasize maintaining stocks at, or restoring stocks to, their maximum sustainable yield on a continuing basis is critical to ensuring the long-term productivity of fishery resources. We cannot afford to continue the current practices permitted under the Magnuson Act, by which stocks are legally allowed to be fished down to, and managed at, the point that overfishing occurs. We can do better. The Nation deserves better.

The Department supports strongly the concepts of identifying essential fish habitat and providing for improved consultations with other agencies. Regulatory measures alone will not restore our fisheries. Measures to identify and protect essential fish habitats will provide the long-term foundation necessary to sustain viable commercial and recreational fishing industries. Any progress we make in addressing the issues of overfishing and rebuilding depleted stocks will be short-lived if we do not ensure adequate fish habitat. Given the importance of this issue, we are pleased to note that representatives of the conservation community and fishing industry have been working

together with NMFS towards enhancing habitat conservation as part of this reauthorization. We support these efforts.

We also support the provisions in the bill that deal with bycatch. Much like habitat degradation, this is a very serious threat to achieving full benefits from our living marine resources. Large bycatches of undersized and non-target species have significantly reduced the populations of many of our marine fish stocks and other marine organisms. Emphasis on bycatch through a mandatory requirement for FMPs to contain information on bycatch is well taken and essential in our view. In addition to the provisions of S. 39, we recommend that a new National Standard be included to require all fishery management plans to minimize bycatch.

In addition to these amendments, we need to, and will, seek innovative ways to reduce bycatch. However, measures such as incentives and harvest preferences must be designed carefully to prevent "due process" problems. For example, we do not believe that such programs could prohibit some fishermen from receiving allocations of, or access to, fish stocks because of their individual bycatch levels without also providing for some sort of administrative hearing in advance of an agency decision.

While the Department supports many of the provisions in S. 39, it is opposed to section 107(h) that prohibits the Secretary from

March 30, 1995

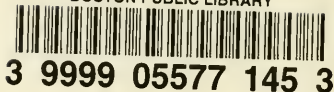
TO: U.S. SENATE SUB-COMMITTEE ON OCEAN FISHERIES

I have lived almost all of my life in Alaska and fishing has been my livelihood.

After I graduated from High School I went into the service. When I received my discharge from the Navy, I went home to Alaska to resume my fishing career. While I had been in the service (1966 - 1970) the permit program for Salmon was put into effect. Since I had been unable to fish for the last four years I did not have enough points to receive a salmon permit. I then fished with my father and purchased my first vessel, M/V Sogn. In order to get a state loan at that time the vessel had to be a combined boat--dragger, longliner, crabber--able to go from one fishery to another. I fished shrimp during the summer (which prohibited me from doing the Halibut) and crabled in the winter. During the last of the shrimping seasons when I could have done the halibut, the Sogn sank.

For the next couple of years I ran boats. Then in late 1988 I lease/purchased the F/V Destiny, a 100-foot crab boat. This vessel had been neglected, had little crab gear (no halibut gear) and for the first couple of years I had to reinvest most of my capital for repairs. This meant I was unable to purchase additional gear for other fisheries until late in 1990. This gave me only one season of halibut for IFQ's.

When I purchased the Destiny, I did so in good faith thinking I would be able to go from one fishery to another in order to supplement my income. I thought commercial fishing was a free enterprise where everyone had equal chance to make a living. Now, with IFQ'S, I find that I cannot make a living. I have the crab seasons (which have been either non-existent for King Crab or the quoto cut more than half for Opeillo this year) and then only the chance of tendering in the summer and these tender contracts are almost impossible to get. After living in Alaska for 45 years I find that I am being squeezed out of the only business I have ever known--commercial fishing. I now own a boat that cannot work enough of the fisheries to make my payments. I certainly cannot afford to go out and purchase IFQ's at the high prices. Anyone who loans money on these shares requires a large cash investment on the part of the purchaser. How can I make my boat payments and come up with that kind of money?



I have participated in the halibut fishery every year since 1990, and have landed 60,000 - 100,000 lbs each year. I do not believe that the IFQ system is fair when there is not even a hardship clause to give some relief to a lifetime Alaskan resident. As long as I did fish halibut by 1990, I should have some sort of allowance for only having one year to submit for quota shares. Why not allow me to use some of my recent years for halibut?? What about all the other fishermen who were only recently able to purchase a boat? How can they make their payments and maintain a living for their family? Is this fair and equitable for everyone?? The answer is NO!! At least with a permit program everyone would start out equal.

I have tried to build a life for my family in the fishing industry and a future to pass on to my children. But if we are knocked out of these fisheries I will have nothing to leave my sons but a 100 foot albatross. My father was a fisherman before me, and now my two sons are fishing with me. What do they have to look forward to with the IfQ plan? Many of the larger shares go to individuals who do not even live in Alaska most of the time. I have been in Alaska for over forty years and have raised my children here. Surely there is a more equitable manner to save our fishing industry without hurting the Alaskan fisherman.

I have been told to buy halibut shares, but where do I get my financing??? Most banks will not loan any money on IFQ's. If they do, they will only finance a small portion of the cost. With the high costs of insurance, expenses, and boat payments-- how do I come up with the money for these IFQ's????

I know I am not the only fisherman in this position. Please give us a chance for survival--reconsider the IFQ program, not only on Halibut but regarding ALL fisheries. IFQ's should not be used to manage our fishery resources. It does not limit the fishery--it simply limits who can participate and like most government policies the rich get richer and the poor get poorer!! It certainly does nothing for many of us old-time Alaskans and the struggling young fishermen who have supported the state of Alaska our whole lives. It's left us without a livelihood. Limited entry seems to be working for Salmon and I believe it could work for all fisheries. We need to find a way to make a program that is fair and equitable for everyone!!!

Thank you for your time and consideration in this matter.

Handwritten signature: Ronald J. Tennison

~~RONALD J. TENNISON~~

~~PO BOX 2206~~

~~KODIAK, AK 99615~~

~~Home - 907-486-6814~~

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6814

DATA CONTRACTORS INC.

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(907) 561-2210 FAX (907) 563-7817

U.S. Senator Ted Stevens
522 Hart Senate Office Building
Washington D.C. 20510-0201

March 24, 1995

Dear Senator Stevens:

Eric Cox of our office recently wrote to you regarding the upcoming Request for Proposal for the NMFS North Pacific Fisheries Observer Program. Since his letter to you, this RFP has been issued. It calls for three contracts in amounts of 42%, 33% and 25% of the total need for Observer Contractor services.

Currently, there are five observer contractor companies, two of which are based in Alaska. The RFP calls for awards to be made to only THREE of the existing five companies. By advertising for only three contracts, this RFP's award will put two companies out of business. Under the current plan outlined in the RFP, and given the political climate of Seattle vs. Alaska in the ongoing fisheries-turf struggle, odds are that one of the Alaska based contractors will not receive an award, and possibly that both will be forced out of business. It is interesting to note that the members of the voting committee for these RFP awards are NOAA employees based at the Alaska Fisheries Science Center in Seattle. There will be no voting member who has Alaska's interest at heart. For this reason, we believe the stage has been set to effectively force 50% (and possibly 100%) of the Alaskan companies involved in this program out of business. Should an Alaskan company get an award, we believe that political maneuvering by NMFS indicates only the smallest contract award will go to an Alaskan company.

Beyond the enlightened self-interest which prompts this letter, we believe this will adversely affect the Anchorage-based North Pacific Fisheries Observer Training Center. As an Alaskan company, we urge local hire, and prefer to train our people locally. We have been a prominent supporter of the Anchorage training center, and consistently make use of the classes offered by the University of Alaska Anchorage North Pacific Fisheries Observer Training Center. It is an excellent facility with an excellent staff which serves a vital role in supporting the goals of the Observer Program. The Observer Training Center also provides a great deal of financial relief for Alaskan based observer

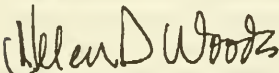
companies who would otherwise have to send employees to Seattle for training. We believe it has great potential to become a cornerstone of the Observer Program as it develops to offer briefings and debriefings along with the training classes it already provides.

The UAA Observer Training Center is not supported by the out of state contractor companies, which serves to add it to the list of entities that will be affected by the RFP award. While it's purpose is not solely for the use of Alaskans, it is Alaskan companies which provide 98% of its enrollment. It stands to reason that if the Alaska based observer contracting companies are put out of business by this RFP award, it will have a crippling effect on the Anchorage training center, thus reducing further Alaska's involvement in the management of Alaska fisheries.

As Alaskans working for the responsible use of our resources, we are naturally concerned that our current share of that responsibility -- our livelihood, and that of our employees and future employees -- is in jeopardy. As a result of this, we are lobbying for changes to the RFP and are requesting your support. We would like to see more Alaskan participation in the award process. In order to maintain a viable involvement of Alaskan entities in the Observer program, we believe that 50% of the award must go to Alaskan companies. We propose a minimum of 4 awards from this RFP with an equal split (25-25-25-25%) going to each awardee.

We understand you will be in Anchorage on Saturday for the Magnuson Act hearings, and ask for a few minutes of your time to speak with you about these issues.

Sincerely,



Helen D. Woods
Vice President

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