

On Time Public Comment List

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Kozak PC9



YURON RIVER DRAINAGE FISHERIES ASSOCIATION

February 21, 2012

ATTN: BOF COMMENTS
Boards Support Section
Alaska Department of Fish and Game
P.O. Box 115526
Juneau, AK 99811-5526
Fax: 907.465.6094

Re: Proposal 385

Dear Board of Fisheries Members:

The Yukon River Drainage Fisheries Association (YR DFA) appreciates the opportunity to comment on Proposal 385. YR DFA is an association of commercial and subsistence fishermen and women on the Yukon River in Alaska with a mission of promoting healthy, wild fisheries and cultures on the Yukon River. Our Board consists of 16 members and 14 alternates from each of the fishing districts on the Yukon River in Alaska as well as one non-voting member and one alternate from Canada.

The YR DFA Board recently met in Galena, Alaska and voted by consensus to **support this proposal with the following modification: require that all fish wheels are manned to allow the release of live Chinook salmon and that the use of live boxes is prohibited**

The YR DFA Board supported this proposal because it is not creating a new fishery, rather is merely finding a means for a historical fishery to continue to operate under current conservation needs. The board fully supports the need to conserve Chinook salmon, and thus supports the proposal only with the requirement that fish wheels be manned so Chinook salmon can be released. So long as Chinook salmon are protected, if there is a harvestable surplus of chum salmon available and they can be taken without harm to Chinook salmon, this harvest should be allowed.

The YR DFA Board supported a modification to the proposal that the use of live boxes is prohibited because of the increased mortality due to capture, handling and release with the use of live boxes. Because of this increased mortality, allowing the use of live boxes would run counter to the goal of this proposal of allowing harvest of chum salmon while protecting Chinook salmon. Manning fish wheels to release live Chinook salmon will accomplish this goal with less risk to the Chinook salmon being caught, therefore YR DFA supports this approach.

If you have any questions or would like additional information please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jill Klein', is positioned above the typed name.

Jill Klein
Executive Director

725 CHRISTENSEN DRIVE, SUITE 3-B • ANCHORAGE, ALASKA 99501
TELEPHONE: 907-272-3141 • 1-877-99YUKON(9-8566)
FAX: 907-272-3142 • EMAIL: info@yukonsalmon.org
WWW.YUKONSALMON.ORG

Darrell Kapp
338 Bayside Rd.
Bellingham, WA, 98225

February 23, 2012

Alaska Board of Fish
PO Box 115526
Juneau, Alaska, 99811-5526

Re; Proposal 380, Definitions

Dear Chairman Johnstone and Board Members,

The issue in Alaska is: what is "overall length". Proposal 380, suggests a definition for an anchor roller by saying **what it is not**. I suggest following the Code of Federal Regulations. Title 46: Shipping Part 69 – MEASUREMENT OF VESSELS

Weathertight means secure against penetration of water into the vessel in any sea condition.

By using this definition to construct the legal language of length, the Board would be saying **what it is**.

AS 16.05.835

© In this section, "overall length" means the straight line length between the *weathertight* extremities of the vessel.

Thank you for your consideration

Darrell Kapp



PUBLIC COMMENTS

To the Alaska Board of Fisheries
For March 20 to March 23, 2012 Meeting in Anchorage

March 5, 2012
By Gordon Scott
Box 847
Girdwood AK 99587
Phone: 907 653 7347
Mobile: 907 244 7607

RECEIVED

MAR 05 2012

**BOARDS
ANCHORAGE**

*Attn: Shannon
BoF 5w Shellfish
Public Comment*

Shellfish – PWS Shrimp

Proposals 358, 359, 360, 361 re: PWS SPOT SHRIMP

I **OPPOSE** these 4 proposals. They do not have any data to back up their various claims. They mention concern for overharvest and an unsustainable catch.

The current management plan (adopted in 2009) uses the Schaeffer model to set harvest levels, and uses a 90% confidence level as a conservative buffer. And if the stocks decline below the threshold value, then the commercial fishery is shut off, leaving 100% of the resource for the non-commercial fisheries.

They mention that the commercial fishery is destroying family events. In actual fact families can still go shrimping, unrestricted by area and catch.

They mention closing area 2 to commercial shrimping. The commercial closed areas were created with the intention of leaving the areas close to ports available exclusively to sport/personal use/subsistence users. The commercially closed areas are more than adequate as set now to allow non commercial users to elect not to fish where commercial fishing is open. And the area 2 is only open for commercial fishers every third year when the commercial fishery is open. However the area 2 is open and available for non commercial fishers all the time.

Proposal 362 (Fishing hours) My recommendation. Amend regulation to 12 hours per day, and encourage ADFG managers to extend the hours longer than that when applicable.

When many boats have converged in small areas (as in the first opening of each of the last 2 years fishery), the hour restrictions are good, because gear is close together. If boats were to operate gear in the darkness, there would be many more gear conflicts as people would not be able to spot other buoys. However, after effort dwindles to many fewer boats, then the hour restrictions are unnecessary. With area 3, which is very far from ports, the hour restrictions are going to have severe consequences on getting out to the grounds, and on getting product to market in a timely manner. With tunnel hours and fuel dock hours restricting times that boats can leave port, it will take most of the lawful fishing hours just to get to and from the grounds. Perhaps the fishing hour restriction could be changed to daylight hours (such as with duck hunting). The Department has extended the fishing hours in the past, but (especially for distant areas) it would be better to not be rushed and compromise safety or to make rushed sets (more risk for lost gear), just to be able to pull the gear on transit days.

P123

Proposal 363 (Nellie Juan closed area) Please SUPPORT this proposal.

The sole intent of the commercial closed areas was to allow small boats to not get pushed too far from ports by the extra competition of commercial users. This is mainly a safety measure as it helps allow the small boats to not venture far and be able to have a good chance of catching shrimp. The Port Nellie Juan area is mainly an open area subject to heavy weather, and often not suitable to small boats. The larger boats that typically use Port Nellie Juan for sport/personal use are able to travel the 25 plus miles to the Port Nellie Juan area more safely than the small boat fleet that predominately makes up the pot Shrimp sport/personal use fleet. However they are also able to choose to travel anywhere in the Sound, with greater safety and range capabilities than small boats. Keeping this area closed to commercial fishing (in one of every three years) does not support the intent of the commercial closed areas.

The catch data presented in RC-2 shows that the Port Nellie Juan waters do not represent a primary catch area of the sport/personal use/subsistence fisheries. I do not have any data, but I am sure that other smaller areas represent a much higher percentage of the sport/personal use/subsistence catch.

The data presented in RC-2 is also potentially misleading as it is not clear exactly what area it is in reference to. The non commercial data given in RC-2 for 2009 and 2010 is for the catch in "Port Nellie Juan waters". According to Chart 16705, Port Nellie Juan includes much more area than the Commercial Closed Area. 5AAC 24.200 includes all the way through King's Bay in the Port Nellie Juan Subdistrict. ADFG could help to clarify exactly which waters "Port Nellie Juan waters" catches are in reference to. Also the percentages referenced are not directly comparable. The sport/personal use/subsistence percentages are of an open area different from that of the commercially open area. They also do not include the latest data (missing is the 2011 sport/personal use/subsistence catch data for Port Nellie Juan waters.)

Also, the threshold GHLL trigger of 110,000 pounds to allow a commercial fishery helps to insure that there should be plenty of shrimp available for the sport/personal use/subsistence fisheries every year. Thus opening the Port Nellie Juan area for commercial fishing once every three years will not preclude sport/personal use/subsistence fishers from a reasonable chance of catching shrimp, and it does not contradict the intent of the commercially closed areas.

Proposal 364 Please SUPPORT this proposal.

Department comments oppose this proposal solely on the basis that there MAY BE an increase in lost pots, resulting in more undocumented removals from ghost gear. I believe to the contrary that there may be a DECREASE in lost pots. I have not seen any documentation covering circumstances of losing pots. However there are only a few main reasons for lost gear.

PZJ3

Not enough buoy line. In this case, 2 times not enough buoy line will probably not save pots from being lost. A longer string of pots tends to be a better anchor to prevent dragging away, much like an anchor chain helps to prevent an anchor from pulling out of the bottom.

Waves moving a buoy and dragging a string away. The same reasoning as above applies. Not enough weight to keep the buoy from floating away. The same reasoning above applies.

Broken buoy lines. Here is a case where more pots on a one buoy string of gear may lose more pots. However a longer string on the bottom makes retrieval by dragging a grapple much easier to accomplish as it is a larger target.

It is my belief (I have no proof) that more pots are lost in short 1 and 2 pot longlines than longer ones. Adopting this proposal would possibly help reduce lost gear.

The safety aspect of having one buoy is important also. Having a second buoy increases the chance of getting slack line caught in the wheel, which is a safety hazard.

p 3 of 3

Douglas W. Chaney
F/V Pacific Rose
11719 Madera Drive Southwest
Lakewood, Washington 98499
253.983.5610 ❖ 253. 229.0820

RECEIVED
MAR 05 2012
BOARDS

March 2, 2012

Alaska Department of Fish and Game
Boards Support Section
PO Box 115526
Juneau, AK 99811-5526

Re: Board of Fisheries Proposal 380: Establish a Definition for Anchor Roller

Dear Chairman Johnstone and Board of Fisheries Members:

I am a Southeast Alaska salmon purse seiner and have purse seined for salmon in Southeast Alaska since 1995. Currently, I am the owner of the F/V Pacific Rose. I respectfully request that if the Board of Fisheries wishes to adopt Proposal 380 as a regulation, then the Board should also adopt an amendment taking into consideration those boats that fished for salmon with seines in the waters of the state of Alaska under the existing state statutes and regulations prior to January 1, 2012.

Proposal 380 is based on a Misrepresentation of Facts and Issues

The Alaska Department of Public Safety (DPS) has misrepresented to the Board of Fisheries the underlying facts and issues promulgating Proposal 380. As stated in the proposal issue, "During summer months of 2011, reports were received by the Alaska Department of Public Safety that commercial purse seine fishing vessels longer than the allowable overall length were being used to take salmon." This statement directly implies that there were commercial purse seine fishing vessels fishing illegally. If that was the truth then why were no citations on those vessels written? First, the implied commercial purse seine fishing vessels were fishing legally because they do meet the Alaska statutory requirements of allowable length; and, second, the implied commercial purse seine fishing vessels had fished legally in Alaska before 2011.

The Alaska Legislature limits the allowable length of purse seine vessels in Alaska to 58 feet in overall length. AS 16.05.835. The statute further defines "overall length" as "the straight line length between the extremities of the vessel, excluding anchor rollers." AS 16.05.835(c). On June 24, 2011, Officer Dwight Campbell of the Department of Public Safety measured the overall length of the F/V Pacific Rose at Bar Harbor in Ketchikan, Alaska. The officer's measurements showed specifically that the F/V Pacific Rose is 57' 6" as overall length. Officer Campbell then reviewed my vessel

paperwork and informed me that I was “good to go.” I was fishing legally according to Officer Campbell and under Alaska statutes.

A couple of days later I received a voice mail message from Lt. Steve Hall of Juneau. In his message Lt. Hall stated that “we believe that the bow is illegal, not an anchor roller.” Under the separation of powers articles of the state of Alaska constitution, the Department of Public Safety, an arm of the executive branch, is to enforce statutes and regulations as written. The Alaska Legislature clearly wrote AS 16.05.835(c) and explicitly defined “overall length” as “the straight line length between the extremities of the vessel, excluding anchor rollers.” Therefore, Lt. Hall has the power to enforce the statute as written and not to infuse his or any other officers’ interpretations of the statute.

Secondly, prior to my purchase of the F/V Pacific Rose in April 2010, the ADF&G licensed my vessel, originally called F/V Pacific Skye, for salmon seining in Southeast Alaska in 2009. ADF&G then again licensed my vessel for salmon seining in Southeast in 2010 and 2011. See Attachments A, B, and C showing Commercial Fisheries Entry Commission Vessel License Receipts for Years 2009, 2010, and 2011 respectively. This is contrary to the issue statement pertaining to the Proposal that “[d]uring summer months of 2011, reports were received by the Alaska Department of Public Safety that commercial purse seine fishing vessels longer than the allowable overall length were being used to take salmon.” My boat was not new to the commercial purse seine fishery as suggested by the Department of Public Safety in Proposal 380. The proposal’s issue statement insinuates that F/V Pacific Rose commenced fishing in Southeast during the summer of 2011. As shown in the attachments, this factual assertion is unfounded. ADF&G has licensed my boat to fish for the last three years, even prior to my ownership.

Amend Proposal 380 to Grandfather Those Boats Fishing in Alaska Before January 1, 2012.

In the case Pebble Limited Partnership v. Parnell, the Alaska Supreme Court has spoken favorably of the governmental practice of “grandfathering in” existing uses, in order to minimize economic disruption and protect expectations:

Treating existing uses differently from new uses is a fairly routine legislative practice known as “grandfathering” that can be readily justified in terms of enhancing compliance, avoiding economic disruption, and protecting settled expectations and investments. Thus, we have noted in the equal protection context that “[a]cts conferring ‘grandfather rights’ have generally withstood equal protection challenges.”

215 P.3d 1064, 1081 (Alaska 2009). In the past, the Alaskan legislature has used the practice of “grandfathering” when refining the maximum length of seine vessels.

In 1962, the Alaskan Legislature changed a statute that measured the length of a seine vessel by keel length. The new language stipulated that the maximum overall length of a seine vessel could be 58' excluding anchor rollers. At the time there were seine vessels over 58' in overall length but had a keel length of 49'9" or less. The Legislature understood the economic hardship that this modification would render and included a grandfather clause within the statute as follows:

Unless the Board of Fisheries has provided by regulation for the use of a longer vessel in a salmon seine fishery, a salmon seine vessel may not be longer than 58 feet overall length ***except vessels that have fished for salmon with seines in waters of the state before January 1, 1962, as 50-foot, official Coast Guard register length vessels.***

AS 16.05.835 (a)(emphasis added). Thus, the Legislature protected those seine vessel owners expectations and investments and they did not face any economic disruption. Those owners included Alaska residents and Native Alaskans. Some of those seine vessels are still fishing today.

If the Board of Fisheries adopts Proposal 380 then the Board should also adopt an amendment taking into consideration those vessels that fished for salmon with seines in the waters of the state of Alaska prior to January 1, 2012. Similar to 1962 owners of these vessels include Alaska residents and Native Alaskans. Adding a grandfather clause would not only enhance compliance but also avoid economic disruption, settled expectations, and investments. An amendment is the best option to protect those vessels that have fished legally under the current law.

In conclusion, I respectfully request that the Board of Fisheries take the time to extensively study Proposal 380 in its entirety and not rely on the misrepresentations of the facts and issues presented to the Board by the Department of Public Safety. This proposal as written would cause economic harm to purse seine vessels that already meet the maximum overall length of 58' and are in compliance with existing Alaska statutes and regulations. And if adopted as drafted, then I respectfully request that the Board of Fisheries include an amendment, which would exclude a vessel, which has fished for salmon with seines in the waters of the state of Alaska before January 1, 2012.

Sincerely,

/s/ Douglas W. Chaney

Douglas W. Chaney

Enclosures



COMMERCIAL FISHERIES ENTRY COMMISSION

2009 VESSEL LICENSE RECEIPT

(this license must be kept on board vessel)

8800 Glacier Highway, #109
P.O. Box 110302
Juneau, Alaska 99811-0302
Phone (907) 788-6150
Fax (907) 788-6170
www.cfec.state.ak.us

Vessel Owner

SUMMER FISHING, INC.
#RICKEY AND ASSOCIATES
PICK UP AT COUNTER
JUNEAU AK 99801

Permanent Mailing Address (if different)

SUMMER FISHING, INC.
1201 3RD AVE
SEATTLE WA 98101

Vessel Description

75964 PACIFIC BRYE
ADFG No. Vessel Name

57 AK2833AK9090
Overall Length Hull ID Number

ALUMINUM
Hull Construction

60 Gross Tons 4 Net Tons

HANLY
Make / Model

1979
Year Built

Vessel Activities

Salmon Troll Registration

Effective Date

A

Salmon Net Area

570.25
Salmon Net Permits

FISHING

Type of Vessel Activity

2009-06-30 ER

Date of Issuance

\$120

Amount Paid

Signature of Vessel Owner or Authorized Agent (check whichever applies)

THE VESSEL OWNER OR OPERATOR MUST CERTIFY THAT THIS INFORMATION IS CORRECT BY SIGNING THIS LICENSE RECEIPT. IT MUST BE KEPT ON BOARD THE VESSEL AT ALL TIMES WHILE ENGAGED IN FISHING ACTIVITY. Please refer to the back of this form for information concerning the vessel license and vessel identification requirements. If the Vessel License Record Card by the annual date is lost or damaged, a duplicate may be requested by submitting a Request for Duplicate License (form 01-808) with the appropriate fee. To record a change of ownership, return the Vessel License Receipt Card with a Vessel License Change of Information (form 01-824).

A vessel license is required for any vessel which engages in commercial fishing activities in any State of Alaska. This also includes fishing vessels, tenders, packers, processors, transporters and any vessel which assists another vessel in these activities as well as supply, storage, refrigeration or transportation. (AS 16.05.475) There is an exemption from the licensing requirement for vessels used ONLY at salmon net sites, or to harvest salmon in state waters between the latitudes of Point Romanoff and Cape Newenham, or in state water surrounding Nunak Island, (see AS 16.05.485).

Vessel License Size Classes: Based on overall length defined as "the horizontal distance between the outboard side of the foremost part of the stem and the outboard side of the sternmost part of the stern, excluding rudders, outboard motor brackets and other similar attachments".

ANNUAL FEES

\$24.25 and under \$40-over 25' to 50' \$120-over 50' to 75' \$225-over 75' to 100' \$300-over 100' to 125' \$375-over 125' to 150'
\$67.50-over 150' to 175' \$82.50-over 175' to 200' \$98.00-over 200' to 225' \$127.50-over 225' to 250' \$170.00-over 250' to 300' \$225.00-over 300' to 350' \$300.00-over 350'

Attachment A

COMMERCIAL FISHERIES ENTRY COMMISSION

8800 Glacier Highway, #109
 P.O. Box 110302
 Juneau, Alaska 99811-0302
 Phone (907) 789-6150
 Fax (907) 789-6170
 www.cfec.state.ak.us

2010 VESSEL LICENSE RECEIPT

(this license must be kept on board vessel)

Vessel Owner

DOUGLAS W CHANEY
 11719 MADERA DR SW
 LAKEWOOD WA 98499

Permanent Mailing Address (if different)

Vessel Description

75964	PACIFIC SKYE		57	AKZ7833AF909
ADFG No.	Vessel Name	USCG Reg. or Doc. No.	Overall Length	Hull ID Number
ALUMINUM	60	4	MANLY	1979
Hull Construction	Gross Tons	Net Tons	Make / Model	Year Built

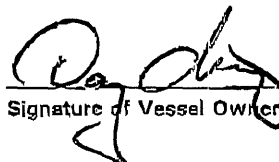
Vessel Activities

Salmon Troll Registration	Effective Date
A	57153
Salmon Net Area	Salmon Net Permits

FISHING, TENDER/PACKER

Types of Vessel Activity

2010-04-20 KA	\$120
Date of Issuance	Amount Paid



Signature of Vessel Owner or Authorized Agent (circle whichever applies)

THE VESSEL OWNER OR OPERATOR MUST CERTIFY THAT THIS INFORMATION IS CORRECT BY SIGNING THIS LICENSE RECEIPT. IT MUST BE KEPT ON BOARD THE VESSEL AT ALL TIMES WHILE ENGAGED IN FISHING ACTIVITY. Please refer to the back of this form for information concerning the vessel license and vessel identification requirements. If the Vessel License Receipt Card or the annual decal is lost or damaged, a duplicate may be requested by submitting a Request for Duplicate License with the appropriate fee. To record a change of ownership, return the Vessel License Receipt Card with a Vessel License Change of Information form.

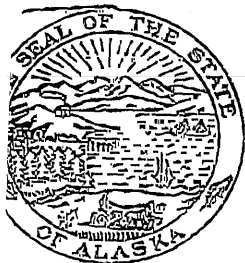
A vessel license is required for any vessel which engages in commercial fishing activities in the State of Alaska. This also includes fishing vessels, tenders, packers, processors, transporters and any vessel which assists another vessel in these activities as well as supply, storage, refrigeration or transportation. (AS 16.05.475) There is an exemption from the licensing requirement for vessels used ONLY at salmon set net sites, or to harvest salmon in state waters between the latitudes of Point Romanof and Cape Newenham, or in state water surrounding Nunivik Island. (see AS 16.05.495).

Vessel License Size Classen: Based on overall length defined as "the horizontal distance between the outboard side of the foremost part of the stem and the outboard side of the aftermost part of the stem, excluding rudders, outboard motor brackets and other similar attachments."

ANNUAL FEES
 Vessels to 25': \$34 Over 25' to 50': \$60 Over 50' to 75': \$120 Over 75' to 100': \$225 Over 100' to 125': \$300 Over 125' to 150': \$375 Over 150' to 175': \$450
 Over 175' to 200': \$525 Over 200' to 225': \$600 Over 225' to 250': \$675 Over 250' to 300': \$750 Over 275' to 300': \$825 Over 300': \$900

Revised August 2007

Attachment B



COMMERCIAL FISHERIES ENTRY COMMISSION

8800 Glacier Highway, #109
P.O. Box 110302
Juneau, Alaska 99811-0302
Phone (907) 789-6150
Fax (907) 789-6170
www.cfec.state.ak.us

2011 VESSEL LICENSE RECEIPT
(this license must be kept on board vessel)

Vessel Owner Permanent Mailing Address (if different)

DOUGLAS W CHANEY
11719 MADERA DR SW
LAKEWOOD WA 98499

Vessel Description

75964 PACIFIC ROSE WN9785NZ 57 AKZ7833AF909
ADFG No. Vessel Name USCG Reg. or Doc. No. Overall Length Hull ID Number
ALUMINUM 60 4 MANLY 1979
Hull Construction Gross Tons Net Tons Make / Model Year Built

Vessel Activities

Salmon Troll Registration Effective Date
A 57153
Salmon Net Area Salmon Net Permits

FISHING, TENDER/PACKER

Types of Vessel Activity
2011-01-11 MF \$120
Date of Issuance Amount Paid
Signature of Vessel Owner or Authorized Agent (circle whichever applies)

THE VESSEL OWNER OR OPERATOR MUST CERTIFY THAT THIS INFORMATION IS CORRECT BY SIGNING THIS LICENSE RECEIPT. IT MUST BE KEPT ON BOARD THE VESSEL AT ALL TIMES WHILE ENGAGED IN FISHING ACTIVITY.

A vessel license is required for any vessel which engages in commercial fishing activities in the State of Alaska. This also includes fishing vessels, tenders, packers, processors, transporters and any vessel which assists another vessel in these activities as well as supply, storage, refrigeration or transportation.

Vessel License Size Classes: Based on overall length defined as "the horizontal distance between the outboard side of the foremost part of the stem and the outboard side of the aftermost part of the stern, excluding rudders, outboard motor brackets and other similar attachments."

ANNUAL FEES
Vessels to 25': \$24 Over 25' to 50': \$60 Over 50' to 75': \$120 Over 75' to 100': \$225 Over 100' to 125': \$300 Over 125' to 150': \$375 Over 150' to 175': \$450 Over 175' to 200': \$525 Over 200' to 225': \$600 Over 225' to 250': \$675 Over 250' to 300': \$750 Over 275' to 300': \$825 Over 300': \$900

Revised July 2010

Attachment C

JEFFREY B. DAVIS
P. O. Box 311
Chinook, Washington 98614
503-791-4676 davisjag@gmail.com

Alaska Board of Fisheries
P. O. Box 115526
Juneau, Alaska 99811

RE: Proposal #382 - Golden King Crab

To Whom it May Concern:

My name is Jeff Davis. I have been fishing on board the catcher/processing vessel Patricia Lee every year since 1980. I began working as an alternate captain in 1982 and have been the full-time captain for the past ten years. We are the largest quota share holder in the western Aleutians.

I am in support of Proposal #382 and ask that you consider an increase in the total allowable catch.

I've seen our CPUE at around 8 to 13 for year after year. We started out single pot fishing then gradually started long-lining our pots. There have been years where the quota wasn't caught while fishing 12 months straight. We catch and process on board the Patricia Lee and for years we would stay out for two months or till we were out of fuel without filling the boat with product. We hold 280,000 lbs. of live crab and 160,000 lbs. of finished.

About eight years ago I started seeing a rise in CPUE for our operation to around 25 to 35. We started filling the boat in 17 to 20 days and catching our quota in six months. Our catch rates have been extremely high for several years.

Now that the fishery is rationalized and cooperatives are allowed, there are only a few boats fishing in the western area, where we fish.

I have fished some of the same sets in certain areas for 30 years, leaving many large areas untouched. We fish our gear from 60 to 300 fathoms. We started using 9.5 inch escape web and rings on our pots in 90's. That resulted in far less bycatch of sub-legals in the gear. But if we find a pot that maybe the rings were plugged up we will find many sub-legal crab. I have also pulled pots from 500 fathoms deep and found many sub-legal crab. I find that the female crab are usually found in certain areas that we avoid as we don't find enough legal males with them to make it worth handling them.

I believe that Golden King Crab thrive in the Aleutian Island from at times 25 fathoms to 500 plus fathoms. It is one of the healthiest crab stocks that I have seen.

If you have any questions concerning my experience in the fisheries feel free to contact me.

Thank you


Jeffrey B. Davis

LAW OFFICE OF
BRUCE B. WEYHRAUCH, LLC

whyrock@pci.net

114 S. FRANKLIN ST.
SUITE 200
JUNEAU, ALASKA 99801
TELEPHONE: (907) 463-5566 FAX: (907) 463-5858

March 2, 2012

RECEIVED
MAR 05 2012
BOARDS

Alaska Department of Fish and Game
Alaska Board of Fisheries
Boards Support Section
Members of the Alaska Board of Fisheries
P.O. Box 115526
Juneau, AK 99811-5526

**RE: Proposal 380 (taken from ACR #3 from the October 4-5, 2011 BOF
Work Session in Anchorage)**

Dear Members of the Alaska Board of Fisheries:

We thank the members for the time and dedication that they give to their service on the Board of Fisheries. We represent Mr. Chaney and Mr. Briscoe who own purse seine fishing vessels, and operate in salmon purse seine fisheries Southeast Alaska. We write to comment on Proposal 380. We refer to, and incorporate by reference, the comments submitted to the BOF on October 3, 2011 related to ACR #3, because the substance of Proposal 380 is identical to ACR #3.

We ask the Board to reject Proposal 380. If the Board does not reject Proposal 380, then we ask Board to amend Proposal 380 to read as follows:

“anchor roller” means a device used solely in aid of deploying and retrieving anchor gear, and does not provide any additional flotation, planing surface, sea keeping ability, buoyancy, deck space, or structural support to the vessel, except that for a vessel that has fished for salmon with seines in the waters of the state before January 1, 2012, with an anchor roller that bolts on to the bow with a

primarily vertical plane of join, and “anchor roller” includes the segment that bolts on to the bow;

Our concerns about Proposal 380 without the amendment are based on procedural and substantive grounds. Proposal 380 would create massive socioeconomic impacts in state of Alaska fisheries. Implementation of Proposal 380 would also cause health and welfare impacts and dangers to life and safety. Proposal 380 has not been analyzed nor has there been any determination of the economic or socioeconomic impacts to fishermen or the fishing community.

The McDowell Group identified that the Board makes “decisions that have significant economic and socioeconomic implications too quickly and/or without adequate analysis.” The decision making is “highly political, and it suffers from a severe lack of capacity to do socioeconomic analysis of proposed actions.” McDowell Group, State of Alaska Seafood Economic Strategies, page 46 (Dec. 2006).¹

We bring this carefully considered Report by the McDowell Group on the Alaska Fishing Industry to the attention of the Board not to criticize the Board, but to emphasize that Proposal 380 was proposed by the Departments of Public Safety and Fish and Game without any socioeconomic analysis or any analysis or consideration of the impacts of adopting it, or analyzing the impacts of Proposal 380. The Board, as holders of the public’s trust on fisheries development and conservation matters, should exercise its independent and analytic oversight and reject Proposal 380.

- No analysis of Proposal 380 has been performed.
- A decision by the Board now on Proposal 380 will have significant economic and socioeconomic implications.

¹ (http://www.mcdowellgroup.net/pdf/publications/Seafood_Strategies_Planning_Environment.pdf) (subsection of Report entitled: “Distrust of Public Processes”). The cover page, table of contents, and pages 1 and 46 of the McDowell Group’s report are attached.

- A decision on Proposal 380 is being asked of the Board too quickly.
- The Board is being asked adopt Proposal 380 without adequate analysis.
- Proposal 380 will have significant, long-term, and statewide impacts.
- There is no support to what the departments represented to the Board when they submitted this proposal originally to the Board last year as ACR #3.

We appreciate that no system is perfect but the Board's decision on Proposal 380 will have huge implications. The Board has very little understanding about what it is considering, and the proposers of Proposal 380 have submitted information to fan the flames of passions that something very bad is going on. The proposers made statements to the Board without any substantive support. The departments pushing Proposal 380 used such pejorative terms to describe their lobbying efforts to get the Board to adopt Proposal 380 as there have been "clearly unlawful" activities, there are "errors in regulation" that must be fixed, and that there were new and "unlawful interpretations" that must be fixed by the Board. There is nothing in the record that supports any of these assertions.

The path of Proposal 380 is worth reviewing in the context of the comments related to the Board process that the McDowell Group identified.

1. If Proposal 380 is adopted, and enforced, it would cause serious health, safety, and welfare impacts that have not been assessed or analyzed at all by the Board. The anchor on a fishing boat affected by Proposal 380 is dropped from the bow. When dropped, it would hit a bulbous bow under the anchor. This could punch a hole in the bow and sink the boat. It could tangle under the vessel. It could create large indents in the bulbous bow. This would all create stability problems and negatively affect the seaworthiness of all affected fishing vessels.

2. The bolt-on bow does not create any additional packing capacity. Adoption of Proposal 380 does not benefit harvesting ability at all.

3. In 2011, the public was advised that proposals for consideration by the Board were due on April 10. The public was also notified that special petition and agenda change request (“ACR”) procedures were available for the Board to consider out of cycle requests. This cycle for presenting Proposals to the Board before it meets has been in place for more than two decades.

4. In 2011, the public was notified that the Board would have a work session in October 2011, and that the deadline for Proposals was April 8, 2011, and that the ACR deadline was August 26.

5. After the deadline for Proposals was announced, the Department of Public Safety assisted by ADF&G, submitted ACR #3 to the Board.

6. ACRs are designed to address a fishery conservation purpose, correct errors in regulation, or correct an unforeseen effect on a fishery. 5 AAC 39.999(a)(1). ACR #3 had no fishery conservation purpose, there was no error in any regulation, and there was no unforeseen effect on any fishery. If there were any of these things, we have not seen them in the record.

7. In support of the ACR #3 that has become Proposal 38, the Board was told that fishermen operating were doing so in a “clearly unlawful” manner, and that there was an “unlawful interpretation” of the definition of vessel length. There was nothing unlawful at all about anything associated with anchor rollers or vessel length. If there were any of these things, we have not seen them in the record.

8. After the Board’s work session in October 2011, the Board generated its own Proposal 380, which was generated outside the timeline that the Board imposes on the public. The Board takes up Proposal 380 at its March 2012 meeting where it considers statewide Dungeness crab, shrimp, and miscellaneous shellfish issues. Proposal 380 would primarily negatively

affect owners of finfish boats, though some crab boats would be affected by this Proposal.

9. Proposal 380 repeats the inaccurate statements that were in ACR #3 that fishing vessels longer than the allowable length were being used to take salmon. This was inaccurate because if there were vessels operating illegally, their owners could have been cited (and still could be cited) and taken to court.

10. Proposal 380 indicates that vessels have been modified by removing a bow section and in one case several feet of vessel hull length added, and then the bow section was bolted back on. Nothing in the record supports such a statement.

11. Proposal 380 asserts that “no one” is likely to suffer if the Board adopts Proposal 380. This is clearly wrong and misleading and there is nothing in the record to support such a general statement. Anyone who owns a vessel that will be affected by the Board’s new definition will be affected. This assertion by the departments that “no one” will be affected is particularly egregious, in light of what the McDowell Group has said because there is not any economic or socioeconomic information that supports the statement that “no one” will be affected. Proposal 380 is a good example of this issue brought to the attention of the public by the McDowell Group. Asserting that “no one” will be affected smacks of a “highly political” position by the departments who suggested Proposal 30 to the Board, and a lack of capacity to do socioeconomic analysis of a proposed action.

12. Adoption of Proposal 380 will cause boat owners on a state-wide basis thousands of dollars and on a cumulative basis could cost affected boat owners in Alaska millions of dollars in legal costs, boat renovation costs, lost fishing time, and lost crew wages due to down time. This will negatively affect not only individual owners of fishing boats affected by Proposal 380; it will negatively affect fishermen, crew, processors, and communities.

13. The assertions made in support of Proposal 380 appear to be exactly the type of statements that may have been in the sights of the authors

of the McDowell Group's Report when it stated that the Board makes decisions that have significant economic and socioeconomic implications without adequate analysis.

14. The reason the Board seems to be even considering Proposal 380 appears "highly political" in that it was brought to the attention of the Department of Public Safety and then ADF&G, and then the Board by a fisherman who may simply not liked competitors in a salmon seine fishery.

15. Proposal 380 appears to mirror intensive lobbying by the two departments that want the Board to adopt Proposal 380; that would boost enforcement actions and enforcement budgets, but that too does not have any analysis or evaluation identified by the McDowell Group. Where is the analysis that anyone in the fishing industry benefits from Proposal 380?

16. Proposal 380, if adopted by the Board without any analysis will negatively affect thousands of fishermen and hundreds of boats around the state. That is because it is a statewide definition, it will not just affect salmon seine fishermen in Southeast Alaska. Among the fishermen that will be negatively affected are those participating in the state's Groundfish Fisheries, Kuskokwim Herring, Cook Inlet Pacific Cod, Kodiak Area Pacific Cod, Chignik Area Pacific Cod, South Alaska Peninsula Area Pacific Cod, Aleutian Island Pacific Cod, BS/AI Area Pacific Cod, Area M king crab, the Area Q Bering Sea golden king crab fishery), Area J Westward, Kodiak Island Tanner crab, and Chignik king crab.

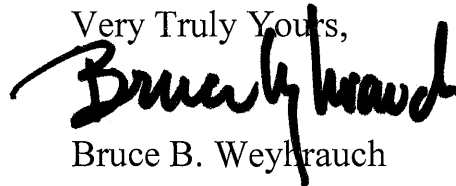
17. Proposal 380 conflicts with federal law. The federal government through NOAA/NMFS defines the overall length of fishing vessels as follows (50 C.F.R. § 679.2):

Length overall (LOA) of a vessel means the centerline longitudinal distance, rounded to the nearest foot, measured between: 1) The outside foremost part of the vessel visible above the waterline, including bulwarks, but excluding bowsprits and similar fittings or attachments, and 2) The outside aftermost part of the vessel visible

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March 2, 2012
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above the waterline, including bulwarks, but excluding rudders, outboard motor brackets, and similar fittings or attachments (see Figure 6 to this part).

We ask the BOF to either vote no on Proposal 380 or amend it as discussed above. Thank you again for your time, participation, and for your consideration.

Very Truly Yours,

Bruce B. Weybrauch

Enclosures

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October 3, 2011

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Mr. Vince Webster, Chairman
Alaska Board of Fisheries
Alaska Department of Fish and Game
P.O. Box 115526
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**RE: Agenda Change Request 3. Alaska Board of Fisheries, Work
Session, October 4-5, 2011. Anchorage, Alaska
Our File: 470.617**

Dear Chairman Webster:

We represent several Alaska commercial fishermen who own purse seine fishing vessels, and operate in Southeast Alaska.

These fishermen were recently very surprised to learn that the Alaska Board of Fisheries ("Board") is being asked to consider Agenda Change Request ("ACR") #3 (attached), drafted by and submitted to the Board by the Alaska by the Alaska Department of Public Safety ("DPS"). ACR #3 requests that the Board adopt a statewide definition of anchor rollers.

We respectfully write to ask the Board to reject ACR #3. ACR #3 violates the law establishing Board policies related to ACRs. Moreover, we ask that the

Board condemn the form and substance of ACR #3. If not rejected outright, ACR #3 should be tabled to allow public review and comment. Finally, if the Board is remotely inclined to waste time to even consider ARC #3, we ask that the Board appoint a committee, or working group, on this matter to report back to the full Board at a time decided by the Board.

ACR #3 contains very misleading information, and significant factual misstatements. In submitting ACR #3, DPS gives rise to extreme concern by commercial fishermen who rely on DPS to fairly deal with the public and fishermen, and fairly interpret and enforce Alaska laws related to the management of our fisheries. Below we detail the misstatements, misleading information, and errors contained in ACR #3, and provide information forming the basis of our requests.

I. ACR #3 DOES NOT COMPLY WITH 5 AAC 39.999.

5 AAC 39.999(a)(1) sets forth the Board's policy for changing the Board's agenda. That regulation is specific on the guidelines that the Board must employ before it accepts an ACR, and provides that the Board will accept an agenda change request only for specific reasons including:

- (A) for a fishery conservation purpose or reason;
- (B) to correct an error in a regulation

There is nothing to remotely suggest that ACR #3 has any fishery conservation purpose or reason. The Board violates 5 AAC 39.999(a)(1)(A) if it considers ACR #3 on that basis. There is no error in any regulation that would allow the Board to accept ACR #3 at this October Work Session. The Board violates 5 AAC 39.999(a)(1)(B) if it considers ACR #3 on that basis.

DPS seems to be attempting to mislead the Board and the public to believe there is an error that needs correcting. However, as discussed in more detail below, there is absolutely no error in any regulation that the Board needs to address through the ACR process.

II. IN SUBMITTING ACR #3, DPS HAS MISLED THE BOARD AND THE PUBLIC AND MAKES SERIOUS MISSTATEMENTS.

Under the heading “State in Detail the Nature of the Problem”, the DPS wrote in ACR #3 at page 4 (emphasis added):

During summer months of 2011, reports were received by the Alaska Department of Public Safety that commercial purse seine fishing vessels longer than the allowable overall length were being used to take salmon. The Alaska Legislature has limited the allowable length of purse seine vessels in Alaska to 58 feet in overall length (AS 16.05.835). ...

During the summer months of 2011, it was found that vessels of more than 58 feet in overall length had been modified by removing a section of the bow (in one case, several feet of vessel hull length), and then bolting the bow section back on.

DPS misleads the Board. If a seine vessel was “longer than the allowable overall length” operating in Alaska in 2011, then DPS should have cited the owner and taken them to court. Instead, DPS seems to be reacting to complaints by small number of fishermen about boats competing with them in seine fisheries. In response, DPS appears to be engaging in a political process with the Board and the public by asking the Board to deal with something that DPS mischaracterizes, which is not an issue properly before the Board.

DPS approaches the “anchor roller” matter as if it came at them out of the blue, as if DPS never knew there were purse seine vessels that had anchor rollers that were long, and as if vessels that DPS would like to get rid of, snuck into Alaska to break the law. Nothing could be further from the truth.

The owner of one of the vessels that DPS boarded this summer in Southeast Alaska was advised by two DPS Troopers that it could not fish because it was too long. If the vessel had done what the troopers directed, then those state employees

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and the state would have been sued for damages based on the negligent acts of those employee. The seine vessel DPS boarded had an American Bureau of Shipping Tonnage Certificate that specifically stated it was 57.5 feet in overall length. The vessel was inspected by the Coast Guard and documented as less than 58 feet.

DPS personnel apparently did not like the look of the seine boat because the seine boat's anchor roller extended off from the bow, and looked different from other seine vessels. However, it was in no way "longer than the allowable overall length" as stated by DPS to the Board in ACR #3.

If that seine vessel, and other seine vessels alluded to by DPS in ACR #3, were "longer than the allowable overall length", DPS should have done its job and cited the vessels owner/operator. The courts could then have sanctioned the owner if the owner was guilty of some wrongdoing.

Instead, DPS comes to the Board claiming illegal acts that do not exist, and seeks an administrative determination that seine vessels operating legally were "longer than the allowable overall length." Saying something does not make it so, and ACR #3 should be rejected on that basis too.

DPS goes on to write in ACR #3 at pages 4-5 (emphasis added):

The owner then considered this hull section to be an "anchor roller." This is clearly unlawful

This statement by DPS presents not only very misleading information, it is a significant misstatement. This causes extreme concern to commercial fishermen who rely on DPS to fairly apply and enforce Alaska laws related to the management of our fisheries.

If any action by a commercial seine vessel operator was "clearly unlawful", why is DPS going to the Board with ACR #3? If a commercial seine vessel operator was operating in a "clearly unlawful" manner, why didn't DPS take immediate steps to halt that "clearly unlawful" activity? If the purse seine vessel was configured in a "clearly unlawful" way, why isn't the state district attorney

prosecuting the vessel's owner? If the anchor rollers on the purse seine vessels that DPS is concerned about are "clearly unlawful", why isn't DPS taking the issue before a judge to have the fisherman fined?

The Board should reject ACR #3. DPS is misleading the Board and public by even bringing ACR #3 before the Board, out of the Board's regular cycle. Moreover, the Board should rebuke DPS for asserting things in ACR #3 that are both misleading and that significantly misstate the law or the facts.

DPS goes on to write in ACR #3 at page 4-5 (emphasis added):

This ACR is primarily to correct an error (omission) in regulation by providing a definition for the term "anchor roller;"

There is no "error" in regulation. That is a misleading statement by DPS, made apparently to shoehorn its way into consideration by the Board under 5 AAC 39.999(a)(1)(B). Alaska law establishes the maximum length of salmon seine vessels. AS 16.05.835 (emphasis added) provides in relevant part as follows:

(a) Unless the Board of Fisheries has provided by regulation for the use of a longer vessel in a salmon seine fishery, a salmon seine vessel may not be longer than 58 feet overall length except vessels that have fished for salmon with seines in waters of the state before January 1, 1962, as 50-foot, official Coast Guard register length vessels.

...

(c) In this section, "overall length" means the straight line length between the extremities of the vessel excluding anchor rollers.

The Board has not adopted a regulation otherwise dealing with salmon purse seine vessel length. Again, however, DPS presents a disservice to the

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public and the Board by writing that ACR #3 is submitted to correct a non-existent “error.”

DPS compounds and repeats its mischaracterization when it writes in ACR #3 at page 5 (emphasis added, boldface in original), in response to the Board asking DPS to “State in Detail how its Agenda Change Request Meets the Criteria Stated Below:”

Correct an error in regulation: Adoption of this ACR corrects an error in regulation by supplying a statewide definition essential to efficient enforcement of the statute limiting the length of purse seine vessels fishing in Alaska.

Again, DPS misstates the current situation by stating to the Board and the public that ACR #3 “corrects an error in regulation.”

There is no fishery conservation purpose or reason for ACR #3. (ACR #3, page 5.) DPS has not provided any information that any of the purse seine vessels that it is targeting with ACR #3 harmed the resource in any way. Nor is there any information to support the notion that the vessels that DPS is targeting are thwarting the fishery conservation purposes considered by the Alaska Legislature when it limited purse seine vessels length to 58 feet. Moreover, there is no information at all that any of the vessels that DPS is going after by submitting ACR #3 are longer than 58 feet at all. The legal documentation that the vessels have, which DPS is targeting, indicate that they meet the legal requirements set forth by the Alaska legislature to operate in Alaska’s fisheries.

DPS writes in ACR #3 at page 4-5 (boldface in original, emphasis added):

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: This ACR introduces no new allocative aspects to the legislative limitation of the maximum length of purse seine vessels. It simply supports efficient

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enforcement of this limitation in light of a new and unlawful interpretation, and clearly notifies the public what an “anchor roller” is.

The Board should demand that DPS produce a copy of the “new and unlawful interpretation” that DPS refers to in ACR #3. If DPS cannot produce it to the Board and the public, DPS must be strongly rebuked by the Board.

In the interests of time, and because ACR #3 has just been brought to our attention, we are limiting our comments to those above, without offering additional reasons why ACR #3 should not be taken out of the Board’s regular cycle.

There is no problem to address as far as purse seine vessels are concerned. There are concerns about the methods that DPS has used, and the information that DPS has submitting to the Board and the public in ACR #3.

The misstatements and actions of DPS in submitting ACR #3 to the Board should be subject to review by the Board or the Board should refer ACR #3 to the Ombudsman’s Office for investigation.

The Board should roundly reject ACR #3.

Very Truly Yours,

/s/ Bruce B. Weyhrauch

Bruce B. Weyhrauch

Enclosure (ACR #3)

C: Monica Wellard
Kerri Tonkin via fax 465-2604

Alaska Board of Fisheries
Work Session
October 4-5, 2011, Anchorage
Agenda Change Requests

- ACR 1** - Return Kodiak Area bag limits for rockfish back to pre-2011 limits, of 10 rockfish daily with 20 in possession; no size limit. (5 AAC 65.022(7)).
- ACR 2** - Close sport fishing for king salmon in the Black River and tributaries in the Yukon River drainage. (5 AAC 73.010)
- ACR 3** - Request Board to adopt statewide definition of anchor rollers into regulation. (5 AAC 39.105(x))
- ACR 4** - Close sport fishing for king salmon in the Black River and tributaries in the Yukon River drainage. (5 AAC 73.010)
- ACR 5** - Correct errors in regulation from 2011 Upper Cook Inlet meeting. (5 AAC 21.353)
- ACR 6** - Amend the maximum allowable harvest in Norton Sound red king crab fishery to align with revised harvest rates based on recent population model. (5 AAC 34.915)
- ACR 7** - Amend pot limits based on new guideline harvest levels in Registration Area J Tanner crab fishery. (5 AAC 35.525(c)(1))
- ACR 8** - Amend various aspects of the management plan for Kenai River late-run king salmon to achieve the biological escapement goal. (5 AAC 21.359)
- ACR 9** - Increase total allowable catch in the Aleutian Islands golden king crab fishery due to lack of adoption of new stock assessment model by crab plan team. (5 AAC 34.612)
- ACR 10**-Amend registration requirements in Bristol Bay salmon fishery to include electronic submission of registration and reregistration via the web. (5 AAC 06.370)

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. This is non-allocative.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD. Bag, possession, and size limits, general regulations for all waters of the Yukon River drainage: King Salmon 3 daily if 20 inches or longer; 2 daily if 28 inches or longer, with a provision for up to 10 a day if smaller than 20 inches. Proposal: Black River and its tributaries are closed to Sport Fishing for Chinook salmon.

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE. Time is of the essence due to current ability of sportfishers to harvest large numbers of the low population of Chinook salmon in the Salmon Fork of the Black River.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST (e.g., commercial fisherman, subsistence user sport fisherman, etc.). The Black River Working Group represents the interests of subsistence users, tribal members, conservation groups, and local residents in the eastern Yukon Flats region.

STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING. This request has not been considered before.

Submitted By: Black River Working Group

ACR #3

STATE IN DETAIL THE NATURE OF THE PROBLEM: During summer months of 2011, reports were received by the Alaska Department of Public Safety that commercial purse seine fishing vessels longer than the allowable overall length were being used to take salmon. The Alaska Legislature has limited the allowable length of purse seine vessels in Alaska to 58 feet in overall length (AS 16.05.835).

The Alaska Legislature defines “overall length” as the straight line length between the extremities of the vessel, excluding anchor rollers. The term “anchor roller” is not defined on a statewide basis. This was not a problem in the past since compliance with vessel length was universal and everyone understood what an “anchor roller” was.

During the summer months of 2011, it was found that vessels of more than 58 feet in overall length had been modified by removing a section of the bow (in one case, several feet of vessel hull length), and then bolting the bow section back on. The owner then considered this hull

section to be an “anchor roller.” This is clearly unlawful, but, lacking a clear definition of “anchor roller” on a statewide basis, there has been some dispute.

A similar situation occurred in Bristol Bay several years ago when owners of drift gillnet vessels that exceeded the allowable 32 feet in length began to remove sections of bow, bolt them back on, and call them “anchor rollers.” The Board of Fisheries responded by approving a sufficiently clarifying definition of “anchor roller” that applied to Bristol Bay [5AAC 06.341(b)(1)]. Enforcement then proceeded in an orderly way and the public was well notified as to what an “anchor roller” really was.

This ACR is primarily to correct an error (omission) in regulation by providing a definition for the term “anchor roller;” this definition would apply to all vessels statewide for which a statutory maximum length has been established by the legislature.

STATE IN DETAIL HOW YOUR AGENDA CHANGE REQUEST MEETS THE CRITERIA STATED BELOW:

1) Fishery conservation purpose or reason: Adoption of this ACR supports the fishery conservation purposes considered by the Alaska Legislature when it limited the overall length of purse seine vessels to 58 feet.

or 2) Correct an error in regulation: Adoption of this ACR corrects an error in regulation by supplying a statewide definition essential to efficient enforcement of the statute limiting the length of purse seine vessels fishing in Alaska.

or 3) Correct an unforeseen effect of a regulation: Adoption of this ACR corrects the unforeseen effect of the lack of regulatory definition of the term “anchor roller” and the unforeseen practice of persons removing the bow section from larger vessels, then bolting them back on and calling them “anchor rollers.”

STATE WHY YOUR AGENDA CHANGE REQUEST IS NOT PREDOMINANTLY ALLOCATIVE: This ACR introduces no new allocative aspects to the legislative limitation of the maximum length of purse seine vessels. It simply supports efficient enforcement of this limitation in light of a new and unlawful interpretation, and clearly notifies the public what an “anchor roller” is.

IF YOUR REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE: This ACR changes no allocation aspects of any fishery.

CITE THE REGULATION(S) THAT WILL BE CHANGED IF THIS REQUEST IS HEARD: The current Alaska Statute regulating purse seine vessel length is:

AS Sec. 16.05.835. Maximum length of salmon seine and certain hair crab vessels.

(a) Unless the Board of Fisheries has provided by regulation for the use of a longer vessel in a salmon seine fishery, a salmon seine vessel may not be longer than 58 feet overall length except vessels that have fished for salmon with seines in waters of the state before January 1, 1962, as 50-foot, official Coast Guard register length vessels.

(b) A vessel engaged in the Bering Sea hair crab fishery within five miles of the shore may not be longer than 58 feet overall length.

(c) In this section, "overall length" means the straight line length between the extremities of the vessel excluding anchor rollers.

It is proposed that the Board of Fisheries adopt a definition of "anchor roller" in statewide commercial fishing regulations, in order to ensure orderly enforcement and clear public understanding. The proposed definition would be:

5AAC 39.975(XX) "anchor roller" means a device used solely in aid of deploying and retrieving anchor gear, and does not provide any additional flotation, planing surface, sea keeping ability, buoyancy, deck space, or structural support to the vessel;

STATE IN DETAIL THE REASON(S) WHY THIS MATTER CANNOT BE HEARD IN THE REGULAR CYCLE: This new interpretation of bolt-on bow sections as "anchor rollers" occurred in the purse seine fleet for the first time in 2011. The Board's next consideration of statewide finfish proposals will occur in the 2012/2013 cycle, which would delay implementation during the 2012 fishing season. A clear definition of "anchor roller" is needed at this time.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF YOUR AGENDA CHANGE REQUEST: Alaska Department of Public Safety.

STATE WHETHER THIS AGENDA CHANGE REQUEST HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AN AGENDA CHANGE REQUEST AND, IF SO, DURING WHICH BOARD OF FISHERIES MEETING: Not on a statewide basis.

SUBMITTED BY: Alaska Department of Public Safety

ACR #4

STATE IN DETAIL THE NATURE OF THE PROBLEM: Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. King Salmon are being fished for sport on the spawning ground of the Salmon Fork of the Black River, primarily by parties flown in by outfitter services.

State of Alaska
Seafood Economic Strategies
DRAFT REPORT

PREPARED FOR:
State of Alaska
Office of the Governor



Research-Based Consulting

Juneau
Anchorage
Kodiak

December 2006

**STATE OF ALASKA
SEAFOOD ECONOMIC STRATEGIES
DRAFT REPORT**

PREPARED FOR:
**State of Alaska
Office of the Governor**

PREPARED BY:



Juneau • Anchorage • Kodiak

WITH ASSISTANCE FROM:
RedPoint Associates

DECEMBER 2006

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INTRODUCTION

These strategies are a tool for state managers, policy makers, industry participants and communities. They are the results of a broad, year-long strategic planning effort by a team of independent fisheries analysts working under contract to the Officer of the Governor of the State of Alaska. The document presents research findings, conclusions and recommendations that address the State of Alaska's economic management of its commercial seafood resource. The goal of the project was to guide and align the state's commercial seafood policies over the long term.

The information and strategies outlined in this document are intended to provide fundamental strategic rationales, based on current conditions, and broad strategic direction. The strategies are rooted in the concept of informed, coordinated decision-making. If followed, they will help Alaska obtain maximum benefit from its commercial seafood resource. Like any strategic plan, the recommendations are intended to be refined, evaluated and updated over time.

McDowell Group and its associates on this project sincerely thank all those who have contributed their ideas and information to this effort. This includes participants from all major commercial seafood industry sectors; staff and managers at the State of Alaska, principally the Alaska Departments of Fish & Game, Labor & Workforce Development, and Commerce, Community and Economic Development; federal fisheries managers, representatives of Alaska seafood-producing communities, fisheries economists in Alaska and elsewhere, and a variety of other experts.

[Note to the reader: The *State of Alaska Seafood Economic Strategies* is a strategic planning document intended mainly for the use of state managers, policy makers, industry participants, and fishing communities. As such, it assumes a basic familiarity with the issues, terminology, structure and history of the Alaska seafood industry.]

In some regions, there has been growth in the small-to-medium-sized plant sector. CDQ groups in Western Alaska are making investments in processing infrastructure in a number of communities (False Pass, Nelson Lagoon, Atka, Nome, Dillingham, among others). Private companies have also constructed new waterfront processing operations (Glacier Seafoods, Juneau; The Fish Factory, Homer). Existing waterfront infrastructure has been purchased and retooled by new business ventures (Island Seafoods, Kodiak; Kenai Landing Custom Processing, Kenai). Secondary processing companies have also developed in some communities, producing products for consumption in regional markets or for export from Alaska.

Distrust of Public Processes

The public and industry participants are expressing more and more distrust in key public processes for fishery management decision-making in Alaska. The two major fishery management bodies dealing with Alaska fisheries resource allocation and management – the Board of Fisheries, for state waters, and the North Pacific Fishery Management Council, for federal waters – are both commonly criticized, but for reasons that are nearly opposite.

The Board of Fish is criticized for making decisions that have significant economic and socioeconomic implications too quickly and/or without adequate analysis. The fact that the Board lacks a mandate or authority to make regulatory decisions on the basis of socioeconomic factors is a source of much frustration. There is also criticism that Board appointments are dominated by political considerations, and that individuals with limited understanding of fisheries and fishery resources are called upon to make extremely sensitive decisions about resource management. In short, the system has two major shortcomings: it is highly political, and it suffers from a severe lack of capacity to do socioeconomic analysis of proposed actions.

The NPFMC, on the other hand, is criticized for having an extremely long and laborious process that is inaccessible to many fishery stakeholders. The time and financial investments necessary to participate meaningfully in the Council process are beyond the reach of most stakeholders. Likewise, the council process is criticized for being too rigid to allow regulators to back away from a course of action once it is initiated, regardless of changes in circumstances or new information. This complaint was made in the course of Council efforts to rationalize crab fisheries in the Bering Sea and Aleutian Islands, and it continues to surface in ongoing actions toward rationalization of groundfish fisheries in the Gulf of Alaska. Many stakeholders are concerned that the Council process, like the Board of Fisheries, is too politically driven and/or controlled by special interests.

Any fisheries allocation system, no matter how well designed, will face criticism. But the fact that the two major fishery management systems in Alaska today elicit strong distrust in many of the stakeholders they are intended to represent impedes the industry's ability to respond to both market forces and the needs of Alaskans.

PROPOSAL 380 - 5 AAC 39.975 (XX). Definitions. Establish a definition for “anchor roller” as follows:

5AAC 39.975(XX) “anchor roller” means a device used solely in aid of deploying and retrieving anchor gear, and does not provide any additional flotation, planing surface, sea keeping ability, buoyancy, deck space, or structural support to the vessel;

ISSUE: During summer months of 2011, reports were received by the Alaska Department of Public Safety that commercial purse seine fishing vessels longer than the allowable overall length were being used to take salmon. The Alaska Legislature has limited the allowable length of purse seine vessels in Alaska to 58 feet in "overall length" (AS 16.05.835). The Alaska Legislature defines “overall length” as the straight line length between the extremities of the vessel, excluding anchor rollers. The term “anchor roller” is not defined on a statewide basis.

It was found that vessels of more than 58 feet in overall length had been modified by removing a section of the bow (in one case, several feet of vessel hull length), and then bolting the bow section back on. The owner then considered this hull section to be an “anchor roller.” A clear definition on a statewide basis is needed to clarify what is and is not an "anchor roller."

WHAT WILL HAPPEN IF NOTHING IS DONE? The term "anchor roller" will continue to be undefined in regulation and may continue to be disputed or misunderstood by the public.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? No.

WHO IS LIKELY TO BENEFIT? The general public and law enforcement will have a clear definition of "anchor roller." Disputes or misunderstanding will be minimized.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? No other solutions were considered as a clear definition would be of best service to the public.

PROPOSED BY: Board of Fisheries

ALASKA BOARD OF FISHERIES
LONG-TERM MEETING CYCLE
 (Three-year cycle)

The board meeting cycle generally occurs from October through March. The board considers changes to regulations on a region-based schedule. All fisheries are considered when the regional area, shellfish species, or statewide regulations are before the board. The fisheries include subsistence, sport, guided sport, personal use, and commercial. Special petition and agenda change request procedures are available for the board to consider out-of-cycle requests.

NOTES:

- 1) Statewide shellfish regulations will not be considered every meeting cycle. When setting the future meeting schedule annually, the board will determine whether to consider statewide finfish or shellfish regulations for that meeting cycle.
- 2) The proposal deadline is April 10 every year. *If April 10 falls on a weekend, the proposal deadline is the Friday preceding that weekend.*

Meeting Cycle:	2010/2011	2013/2014	2016/2017	2019/2020
<u>Area:</u>				
Cook Inlet Area (All Finfish)				
Kodiak and Chignik Areas (All Finfish)				
King and Tanner Crab (Statewide, except Southeast/Yakutat)				

Meeting Cycle:	2011/2012	2014/2015	2017/2018	2020/2021
<u>Area:</u>				
Prince William Sound Area (All Finfish)				
Southeast/Yakutat Areas (All Finfish)				
Southeast/Yakutat Areas (King Crab, Tanner Crab, Dungeness Crab, Shrimp; and Miscellaneous Shellfish)				
Statewide Miscellaneous Shellfish and Provisions				

Meeting Cycle:	2012/2013	2015/2016	2018/2019	2021/2022
<u>Area:</u>				
Alaska Peninsula/Aleutian Island Areas (All Finfish)				
Arctic-Yukon-Kuskokwim Areas (All Finfish)				
Bristol Bay Area (All Finfish)				
Statewide Provisions for Finfish				

THE MEETING CYCLE REPEATS ITSELF EVERY THREE YEARS. This schedule was adopted November 9, 1990, updated October 13, 2010.

ALASKA BOARD OF FISHERIES
2011/2012 Cycle
Tentative Meeting Schedule

**Southeast, Yakutat, Prince William Sound, and Upper Copper River/Upper Susitna River
 Finfish; Southeast and Yakutat Crab, Shrimp, and Shellfish; Statewide Miscellaneous
 Shellfish; Prince William Sound, Cook Inlet, Kodiak, Chignik, and South Alaska Peninsula
 Pacific cod; and Supplemental Issues**

PROPOSAL DEADLINE: 5:00 p.m. Friday, April 8, 2011, Supplemental Proposal deadline for Pacific Cod for PWS, Cook Inlet, Kodiak, Chignik and South Alaska Peninsula: 5:00 p.m., Monday, May 16, 2011

Meeting Dates	Topics	Location	Comment Deadline
October 4-5, 2011 [2 days]	Work Session ACRs, cycle organization, Stocks of Concern	Anchorage Coast International Inn	Sept. 20, 2011
October 6-10, 2011 [5 days]	Pacific Cod for PWS, Cook Inlet, Kodiak, Chignik, and South Alaska Peninsula	Anchorage Coast International Inn	Sept. 20, 2011
December 2-7, 2011 [6 days]	Prince William Sound and Upper Copper River/ Upper Susitna River Finfish	Valdez Convention & Civic Center	Nov. 18, 2011
January 15-21, 2012 [7 days]	Southeast and Yakutat Crab, Shrimp, Misc. Shellfish (including Dungeness, King, and Tanner)	Petersburg Sons of Norway	Dec. 30, 2011
Feb. 24-Mar. 4, 2012 [10 days]	Southeast and Yakutat Finfish (including salmon, herring, groundfish)	Ketchikan Ted Ferry Civic Center	Feb. 9, 2012
March 20-23, 2012 [4 days]	Statewide Dungeness Crab, Shrimp, Misc. Shellfish (except Southeast and Yakutat) and Supplemental Issues	Anchorage Hilton Hotel	Mar. 5, 2012

Total Meeting Days: 34

Agenda Change Request Deadline: August 26, 2011 [45 days prior to fall worksession]

Adopted 06/27/2011

group relating to proposals at any one meeting will not be accepted. Written comments limited to 10 single sided or 5 double sided pages in length from any one individual or group will also be accepted after the two-week deadline, but will not be inserted in board member workbooks until the beginning of the meeting. During the meeting written comments limited to 10 single sided or 5 double sided pages in length from any one individual or group may be submitted by hand delivery at any time if 25 copies are provided; but, as a practical matter comments submitted after the board begins deliberations on relevant proposals are likely to receive less consideration than comments submitted earlier. Oral comments may also be presented as explained below.

There will be five separate regulatory meetings. Each meeting will start at 8:30 a.m. on the dates noted below. The public hearing portions for each regulatory meeting will begin immediately after staff reports and continue until everyone who has signed up and is present has been given the opportunity to be heard. Additional public hearings with Board Committees may be held throughout the meeting before consideration and adoption of proposed changes in the regulations for the various areas. An agenda will be posted daily during the meeting.

The board will take oral testimony only from those who register before the cut-off time announced by the board chair at each regulatory meeting. The length of oral statements may be limited to five minutes or less. Anyone interested in, or affected by, the subject matter contained in this legal notice should make written or oral comments if they wish to have their views considered by the board.

TENTATIVE MEETING SCHEDULE

Work Session: agenda change requests, cycle organization, stocks of concern

October 4-5, 2011

Coast International Inn, 3450 Aviation Ave, Anchorage, AK

Pacific Cod for Prince William Sound, Cook Inlet, Kodiak, Chignik, and South Alaska Peninsula Commercial Fisheries

October 6-10, 2011

Coast International Inn, 3450 Aviation Ave, Anchorage, AK

Prince William Sound and Upper Copper River/Upper Susitna River Finfish

December 2-7, 2011

Convention & Civic Center, 212 Chenega Ave., Valdez, AK

Southeastern Alaska and Yakutat King and Tanner Crab, Dungeness Crab, Shrimp, and Miscellaneous Shellfish

January 15-21, 2012

Sons of Norway, 23 Sing Lee Alley, Petersburg, AK

Southeastern Alaska and Yakutat Finfish

February 24-March 4, 2012

Ted Ferry Civic Center, 888 Venetia Way, Ketchikan, AK

Statewide Dungeness Crab, Shrimp, and Miscellaneous Shellfish (except Southeastern and Yakutat) and Supplemental Issues

March 20-23, 2012

Hilton Hotel, 500 West Third Avenue, Anchorage, AK

Any changes to meeting locations, dates or times, or rescheduling of topics or subject matter will be announced by news release. Please watch for these announcements in the news media or call (907) 465-4110. Please carefully review the **PROPOSAL INDEX** available for the meeting for specific proposal issues to be addressed by the board. Copies of the proposal indices are in the proposal book or at the relevant meeting.

Anyone interested in or affected by subsistence, personal use, sport, guided sport or commercial fishing regulations, is hereby informed that, by publishing this legal notice, the Board of Fisheries may consider any or all of the subject areas covered by this notice. Pursuant to AS 44.62.200(b), the board may review the full range of activities appropriate to any of the subjects listed in this notice. The board may make changes to the personal use, sport, guided sport or commercial fishing regulations as may be required to ensure the subsistence priority in AS 16.05.258. On its own motion, after public hearing, the board may adopt, amend, reject, supplement, or take no action on these subjects without further notice. In addition, the board may adopt other regulations necessary to implement, administer, or enforce the regulations adopted. **THE BOARD IS NOT LIMITED BY THE SPECIFIC LANGUAGE OR CONFINES OF THE ACTUAL PROPOSALS THAT HAVE BEEN SUBMITTED BY THE PUBLIC OR STAFF.** The language of the final regulations may be different from that of the proposed regulations. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.**


If you are a person with a disability who may need a special accommodation in order to participate in the process on the proposed regulations, please contact Monica Wellard at (907) 465-4110 no later than two weeks prior to the beginning of each meeting to ensure that any necessary accommodations can be provided.

Statutory Authority: AS 16.05 - AS 16.20, AS 16.40

Statutes being implemented, interpreted, or made specific: AS 16.05 - AS 16.020, AS 16.40

Fiscal Information: The proposed regulatory actions are not expected to require an increased appropriation.

Date: 8/26/11



Monica Wellard, Executive Director
Alaska Board of Fisheries


ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting Agency: Alaska Board of Fisheries.
2. General subject of regulations: PACIFIC COD FOR PRINCE WILLIAM SOUND, COOK INLET, KODIAK, CHIGNIK, AND SOUTH ALASKA PENINSULA COMMERCIAL FISHERIES; PRINCE WILLIAM SOUND AND UPPER COPPER RIVER/UPPER SUSITNA RIVER FINFISH; SOUTHEASTERN ALASKA AND YAKUTAT KING AND TANNER CRAB, DUNGENESS CRAB, SHRIMP, AND MISCELLANEOUS SHELLFISH; SOUTHEASTERN ALASKA AND YAKUTAT FINFISH; STATEWIDE DUNGENESS CRAB, SHRIMP AND MISCELLANEOUS SHELLFISH FISHERY REGULATIONS
3. Citation of regulations: 5 AAC 01 - 5 AAC 77.
4. Reason for proposed actions: Implement, interpret, or make specific the provisions of AS 16.05 - AS 16.20.
5. Program category and RDU affected: Natural Resources and all RDUs.
6. Cost of implementation to the state agency and available funding: It is not possible to estimate the costs. However, these actions are not expected to require any additional costs.
7. The name of the contact person for the regulations:

Monica Wellard, Executive Director
Alaska Board of Fisheries
PO Box 115526
Juneau, AK 99811-5526
(907) 465-4110
Email: monica.wellard@alaska.gov

8. The origin of the proposed action:
 staff or state agency
 general public

9. Date: August 26, 2011

Prepared by: 
Monica Wellard, Executive Director
Alaska Board of Fisheries
(907) 465-4110

Alaska Board of Fisheries
Work Session – Agenda Change Records
October 4-5, 2011, Anchorage

PRELIMINARY ACTIONS

- F** 1. Return Kodiak Area bag limits for rockfish back to pre-2011 limits, of 10 rockfish daily with 20 in possession; no size limit. (5 AAC 65.022(7))
- F** 2. Close sport fishing for king salmon in the Black River and tributaries in the Yukon River drainage. (5 AAC 73.010)
- *N/A** 3. Request Board to adopt statewide definition of anchor rollers into regulation. (5 AAC 39.105(x)) (**a board generated proposal to adopt a statewide definition of anchor rollers into regulation will be submitted at the March 20-23, 2012 Statewide Board of Fisheries Meeting*)
- N/A** 4. Close sport fishing for king salmon in the Black River and tributaries in the Yukon River drainage. (5 AAC 73.010)
- N/A** 5. Correct errors in regulation from 2011 Upper Cook Inlet meeting. (5 AAC 21.353)
- C** 6. Amend the maximum allowable harvest in Norton Sound red king crab fishery to align with revised harvest rates based on recent population model. (5 AAC 34.915)
- F** 7. Amend pot limits based on new guideline harvest levels in Registration Area J Tanner crab fishery. (5 AAC 35.525(c)(1))
- F** 8. Amend various aspects of the management plan for Kenai River late-run king salmon to achieve the biological escapement goal. (5 AAC 21.359)
- C** 9. Increase total allowable catch in the Aleutian Islands golden king crab fishery due to lack of adoption of new stock assessment model by crab plan team. (5 AAC 34.612)
- C** 10. Amend registration requirements in Bristol Bay salmon fishery to include electronic submission of registration and re-registration via the web. (5 AAC 06.370)

**C=Carried, F=Failed, T=Tabled, C/A=Carried as amended, N/A=No Action*

Agenda Change Requests 3, 6, 9, and 10 will be considered during the March 20-23, 2012 Statewide Board of Fisheries Meeting in Anchorage Alaska at the Hilton Hotel.

Prepared by Alaska Department of Fish and Game, Boards Support Section.

10/13/11

PLEASE READ CAREFULLY

REVIEWER LETTER

Dear Reviewer:

August 2011

The Alaska Board of Fisheries will consider the attached book of regulatory proposals at its **October 2011 through March 2012** meetings. The proposals concern changes to the State's fishing regulations. Members of the public, organizations, advisory committees, and ADF&G staff timely submitted these proposals. The proposals are published essentially as they were received.

The proposals in this book are presented as brief statements summarizing the intended regulatory changes. In cases where confusion might arise or where the regulation is complex, proposed changes are also indicated in legal format. In this format, bolded and underlined words are **additions** to the regulation text, and capitalized words or letters in square brackets [XXXX] are deletions from the regulation text.

You are encouraged to read all proposals presented in this book. Some regulations have statewide application and some regulations may affect other regions or fisheries of the state. Also, some proposals recommend changes to multiple fisheries within an area or region.

In this book the proposals are first grouped by the meeting to which they pertain (see *Proposal Index* for each meeting). Within each meeting the proposals are then organized by region, fishery or species. These proposal lists are not in roadmap order for the meeting. The board will generate a roadmap for deliberations prior to each meeting when committee assignments are made. The roadmap may be changed up to and during the meeting. Agendas for each Board of Fisheries meeting will also be available prior to the meeting.

Before taking action on these proposed changes to the regulations, **the board would like your written comments and/or oral testimony on any effects the proposed changes would have on your activities.**

After reviewing the proposals, please send written comments to:

ATTN: BOF COMMENTS
Boards Support Section
Alaska Department of Fish and Game
P.O. Box 115526
Juneau, AK 99811-5526
Fax: 907-465-6094

Public comment, in combination with advisory committee comments and ADF&G staff presentations, provide the Board of Fisheries with useful biological and socioeconomic information. Written comments become public documents. The following are recommendations for providing written comments:

Timely Submission. Submit written comments by mail or fax so that they are received no later than two weeks prior to the meeting during which the topic will be considered (see *Tentative Meeting Schedule* on Page v). Written comments received after the two-week deadline will still be accepted but will not be inserted in board member workbooks until the beginning of the meeting or cross-referenced with individual proposals.

SUPPLEMENTAL NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE ALASKA BOARD OF FISHERIES

This **SUPPLEMENTAL NOTICE** amends the Notice of Proposed Changes that was issued on August 26, 2011 concerning proposed regulation changes in Title 5 of the Alaska Administrative Code dealing with fishery and aquatic plant resources by adding the following topics to be considered at the meetings noted:

The following additional topics will be addressed at the board's Statewide Dungeness Crab, Shrimp, and Miscellaneous Shellfish meeting scheduled for **MARCH 20-23, 2012** at the Hilton Hotel, 500 West Third Avenue, Anchorage, Alaska:

A board generated proposal to adopt a **statewide definition of anchor rollers** into regulation (5 AAC 39.105(x))

In the **Norton Sound red king crab fishery**, increase harvest levels. (5 AAC 34.915)

In the **Aleutian Islands golden king crab fishery**, increase harvest levels. (5 AAC 34.612)

In **Bristol Bay salmon fishery**, amend registration requirements to include electronic submission of registration and re-registration via the web. (5 AAC 06.370)

All other provisions posted in the August 26, 2011 Notice of Proposed Changes remain the same, including the public comment periods and tentative meeting schedule.

For a copy of the proposed regulation changes, or for a copy of the August 26, 2011 Notice of Proposed Changes, contact the Alaska Department of Fish and Game, Boards Support Section, P.O. Box 115526, Juneau, AK 99811-5526, phone 907-465-4110, or access the internet at:
<http://www.adfg.alaska.gov/index.cfm?adfg=fisheriesboard.meetinginfo>

Statutory Authority: AS 16.05 - AS 16.20, AS 16.40

Statutes being implemented, interpreted, or made specific: AS 16.05 - AS 16.20, AS 16.40

Fiscal Information: The proposed regulatory actions are not expected to require an increased appropriation.

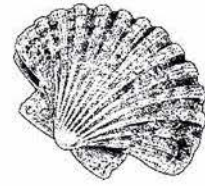
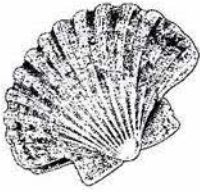
Date: October 31, 2011



Monica Wellard, Executive Director
Alaska Board of Fisheries

**Alaska Scallop Association
(ASA)**

PO Box 8989
Kodiak, AK 99615
(907) 512-7018
(253) 582-2580
jstonecrab@gmail.com



March 5, 2012

Alaska Board of Fisheries (BOF)
Alaska Department of Fish & Game
PO Box 115526
Juneau, AK 99811-5526

FAX: 907-465-6094

RE: Proposal 350, 352 & 353.

BOF Staff,

Please note we have three proposal comments to include in the notebooks.

350- 1 page

352- 4 pages

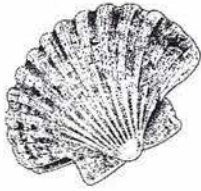
353- 4 pages

Total including this cover- 10 pages.

Please let me know if any pages are missing.

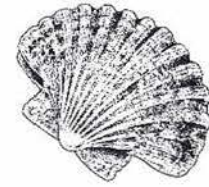
Jim Stone

A handwritten signature in black ink, appearing to read 'Jim Stone', with a long, sweeping underline.



**Alaska Scallop Association
(ASA)**

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jstonecrab@gmail.com



March 5, 2012

Alaska Board of Fisheries (BOF)
Alaska Department of Fish & Game
PO Box 115526
Juneau, AK 99811-5526

RE: Proposal 350

Dear Chairman Johnstone

The intent of this proposal is to allow scallop vessels carrying onboard observers to fish in a second registration area, without physically going to port to sign or fax a new registration form.

Current regulations require a fishing vessel when changing fishing areas to go to an ADFG staffed port to register to fish another area or to fax in a registration. Because of many of the scallop beds remote locations there are times when this regulation has forced a vessel to steam far out of their way, wasting valuable fuel and fishing time. With 100% observers, daily reporting and VMS data showing exact vessel position at all times, ASA feels this is an unnecessary burden on the fishing boats. Observers can easily separate data collected from the two different regions and pass on all pertinent information to ADFG management during the trip and at the trip's conclusion.

In discussions of this proposal, ADFG managers have expressed concern that we could use this proposed regulation to go back and forth multiple times between registration areas. There was also concern we may attempt to fish more than two areas without re-registering. This was not our intent and we agree our proposal as worded could create hardship on ADFG and the onboard observers to manage. ASA is happy to work with ADFG staff to re-word the proposed regulations to alleviate manager's concerns.

Original wording for our Proposal was, "A vessel may be registered to take scallops in only one scallop registration area at a time, *unless a vessel carries an onboard observer. A vessel with an onboard observer may take scallops from more than one scallop registration area at a time*".

Better wording might be; "A vessel may be registered to take scallops in only one scallop registration area at a time, *unless a vessel carries an onboard observer. A vessel with an onboard observer may take scallops from ~~more than one~~ no more than two scallop registration areas at a time during one fishing trip. Additionally vessels may not change registration areas more than one time during the fishing trip without an in-person or signed and faxed/emailed registration.*". Again, we are happy to work with ADFG staff on better wording suiting everyone's needs.

Current regulations already allow switching registration areas without going to an ADFG staffed port, by simply faxing in a signed registration form. Onboard vessel faxing is possible via satellite communications, but is expensive and unreliable.

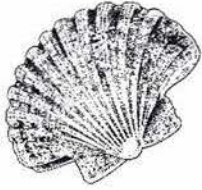
ASA feels this is a reasonable request, given our daily reporting, 100% observer requirements and VMS requirements. This is a slightly relaxed version of the current faxing rule and will not offer any additional chance of abuse.

Sincerely, Jim Stone as ASA President

Alaska Scallop Association

(ASA)

PO Box 8989
Kodiak, AK 99615
(907) 512-7018
(253) 582-2580
jstonecrab@gmail.com



March 5, 2012

Alaska Board of Fisheries (BOF)
Alaska Department of Fish & Game
PO Box 115526
Juneau, AK 99811-5526

RE: Proposal 352

Dear Chairman Johnstone

Our proposal is to re-open scallop fishing, into some very prolific scallop beds that lie in the Mitrofanina Island area.

This area was closed to scalloping in the mid 1980's, due to concern over unknown Tanner crab bycatch in the region. Since 1993 scallopers have been required at their own cost (currently \$350/ day plus expenses) to carry observers 100% of the time. These observers mission is to tally all targeted catch and all discarded bycatch. This information is transmitted to ADFG managers either three times a week or every day at the ADFG managers discretion. Scallop fishermen with the tools of 100% observer coverage, bycatch caps and fishermen's cooperation has allowed them to fish successfully in several regions around the State in both areas closed to crab and opened to crab fishing. Using data from the observers, ADFG and the Scallop Association are able to compile information on where potential crab "hot spots" are and avoid them. Using this bycatch monitoring system at great cost to scallop fishermen has allowed us for many years to stay below any bycatch crab limits allocated to us.

Are there Scallops in the Mitrofanina Island Area?

We have several sources to answer this;

- 1) Our members and older, retired and deceased fishermen's memories of huge beds & catches from this district until it's closure in the mid 1980's. While this is somewhat anecdotal and there was little catch records kept or required during much of this fishing history, we still trust this to be very reliable proof of viable beds in the region.
- 2) ADFG fish ticket records show substantial scallop landings from fishing in this area.
- 3) ADFG's Westward Region 2010 trawl survey, page 73 (below). This survey is not really designed to pick up scallop, yet Scallops are showing up quite clearly with much increase over previous year's surveys.

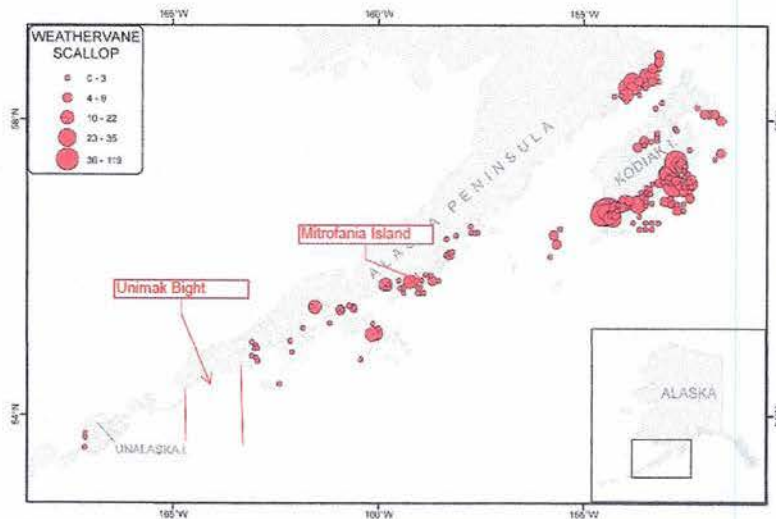


Figure 26.—Weathervane scallop catch in kilograms per kilometer towed from the 2010 Westward Region bottom trawl survey.

Crab Bycatch;

The ASA is very sensitive to crab bycatch; we openly recognize it as our largest perceived negative issue. Many of our scallop members are Alaskan Crab fishermen themselves and fully understand the ramifications of unchecked crab bycatch. 100% onboard observers are the only realistic method to accurately measure and monitor crab bycatch in a fishery. This same proposed area is already fished by several gear types for several non-scallop fisheries with very limited or non-existent observer coverage ranging from 0% to 30%. **The scallop boats have 100% observer coverage.** This 100% observer coverage is our main argument for opening up a Scallop area that was closed 25 years ago due to unknown crab bycatch. Observer coverage tells us and management exactly what our bycatch is, thus allowing us to keep bycatch within whatever parameters the Department determines appropriate. We do not want any gear conflicts with our Crab friends and would gladly stand down during any crab fishery openings.

The below chart taken from a NPFMC Council Staff discussion paper on Bycatch in the Gulf of Alaska, November 2008, section 6.1, page 19, illustrates the estimated mortality of various fisheries on Tanner crab bycatch. Note scallop fishing is not the highest Tanner mortality rate, yet Scallopers currently are not allowed to operate in this district, while other fisheries that have known crab bycatch with little or no observer coverage or any crab limits, do actively fish the area.

Table 12 Various calculations of mortality rates for harvested crab

Study		Directed crab fisheries			Groundfish fisheries			Scallop fishery
		King crab	<i>C. opilio</i> Tanner crab	<i>C. bairdi</i> Tanner crab	Pot	Trawl	Longline	
		Pot	Pot	Pot				
Council re-evaluation of overfishing levels	NPFMC et al 2007	20%	50%	20%				
Council's annual Crab SAFE report	NPFMC 2007	8%	24%	20%	20%	80%	20%	40%
Council's groundfish amendment	NPFMC 1995				8%	80%	37%	40%
NRC study	NRC 1990					12-82%		
1998 snow crab study	Warrenchuk and Shirley 2002			22.2% ^a				

^a Estimate considered to be conservative because the estimated effects of wind and cold exposure as well as handling injuries were considered separately and not synergistically.

The average size (carapace width) of bycaught crab in the scallop fisheries are quite small juveniles, generally less than 30mm, not the keeper sized adult crab sometimes perceived by the public. The Scallop Plan Team of NPFMC is attempting to quantify this sizing structure in future annual Stock Assessment and Fishery Evaluation (SAFE) reports, rather than showing only number of animals.

Other fisheries in the district have no crab bycatch limits whatsoever. The Scallopers are asking for a crab bycatch limit. If we reach this limit we must stop for the year, as we do in the other scallop/crab districts. No other fishery in the region has these restrictions and closure triggers based on a crab bycatch caps.

Alaska Scallop Association (ASA);

The ASA was formed in 2000 in an industry response to the low TAC's as a result of multiple statewide bed closures, the more conservative harvest levels adopted by ADFG and the over capitalization of too many scallop boats chasing less & less scallops. The ASA members signed civil contracts that bound themselves to agreed amounts of Scallop & Bycatch. The ASA members harvest about 95% of the statewide scallop harvest annually. This agreement has changed our personalities and perceptions of fishing and of how we deal with each other. We now work together (Captains, crews & vessel owners) avoiding crab bycatch "hot spots", identifying scallop areas of higher Scallop CPUE and refining better gear modifications. There are three scallop permit holders that have not yet decided to join the ASA. We continue to reach out to these non-members and have had good success working with them on fishing practices and political issues. The ASA has become the one stop place to go for anyone needing to contact the Alaska Scallopers, members or not.

Summary;

Our fishery is prosecuted in an entirely different fashion and mindset than the old days of bitter, sometimes violent gear conflicts and the completely unobserved, uncounted crab bycatch that led to the decision to stop all scalloping in the Mitrofanian Island area. There have been no Scallop/Crab gear conflicts in Alaskan crab districts since formation of the ASA in '2000' even though both seasons are frequently open at the same time.

Other non-scallop fisheries exist, operate and have crab bycatch in this same region, with none of the observer & crab bycatch caps that the Scallop fishermen are more than willing to accept upon themselves. We have successfully fished other districts in State waters for 19 observed years using these same requirements.

Please reward the Scallopers' responsible recent history by allowing us to return to the Mitrofanian Island area. The ground rules of operating are now entirely different than 25 years ago when we last fished this area. We know this area contains a large harvestable surplus of marketable scallops that currently lies on the bottom with no gain for fishers or the State. This harvestable surplus can be successfully prosecuted in a safe and respectful manner to the existing crab populations. We utilize 100% observers ensuring accurate reporting of both Scallop and bycatch at a huge cost to industry. The voluntary formation of the ASA in '2000' has formed a twelve year old alliance of responsible scallopers who have shown a willingness to

work with fishery managers, each other and our neighboring fisheries, again at the Scallop fishermen's own cost.

We will gladly accept any terms the BOF and/or Department wants to put on us to prove the existence of the scallop stocks and of our capability to minimize damage to the existing crab stocks, with zero gear conflicts. We look forward to working with the Board, the Department, Community AC's and the public on this.

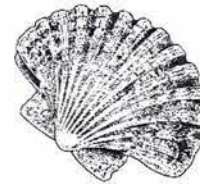
Sincerely, Jim Stone as ASA President

A handwritten signature in black ink, appearing to read 'Jim Stone', written over a horizontal line.

Alaska Scallop Association

(ASA)

PO Box 8989
Kodiak, AK 99615
(907) 512-7018
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jstonecrab@gmail.com



March 5, 2012

Alaska Board of Fisheries (BOF)
Alaska Department of Fish & Game
PO Box 115526
Juneau, AK 99811-5526

RE: Proposal 353

Dear Chairman Johnstone

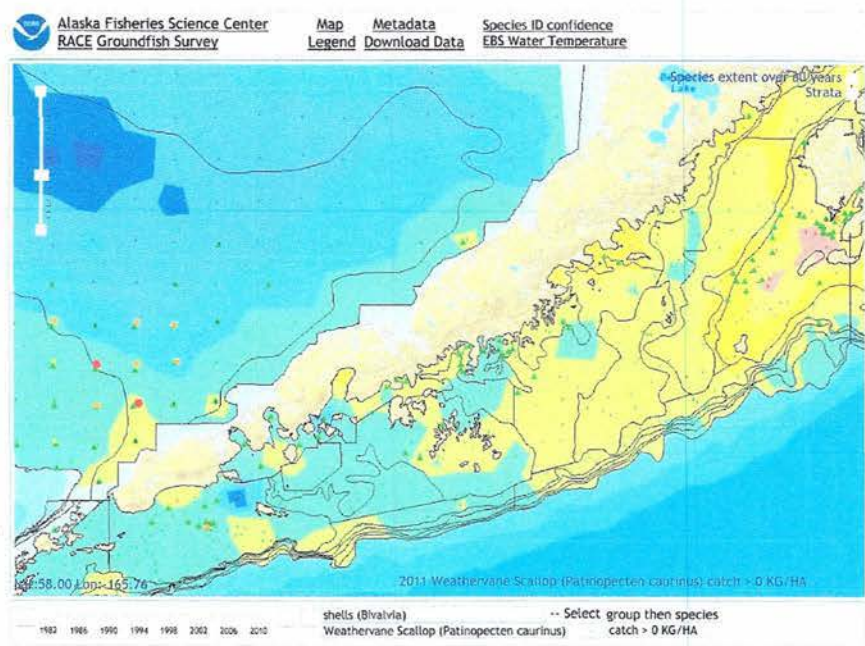
Our proposal is to re-allow the Scallop boats access into some very prolific scallop beds that lie in the Unimak Bight area.

This area was closed to Scalloping in the early 1970's, due to concern over unknown crab bycatch in the region and gear conflicts with crab pots. Since 1993 Scallopers have been required at their own cost (currently \$350/ day plus expenses) to carry observers 100% of the time. These observers mission is to tally all targeted catch and all discarded bycatch. This information is transmitted to ADFG managers either three times a week or every day at the ADFG managers discretion. Scallop fishermen with the tools of 100% observer coverage, bycatch caps and fishermen's cooperation has allowed them to fish successfully in several regions around the State in both areas closed to crab and opened to crab fishing. Using data from the observers, ADFG and the Scallop Association are able to compile information on where potential crab "hot spots" are and avoid them. Using this bycatch monitoring system at great cost to scallop fishermen has allowed us for many years to stay below any bycatch crab limits allocated to us.

Are there Scallops in the Unimak Region?

We have several sources to answer this;

- 1) Older, retired and deceased fishermen's memories of huge beds & catches from this district in the late 60's and early 70's passed down to those of us in the fisheries today. One such example is Pete Minio, the father of current owner/Captain of the Scallop vessel Provider Tom Minio, was one of the original men to fish these beds. Pete Minio has handed down his knowledge of these Scallop beds to his Son and Grandchildren, who still fish Scallops Statewide today. While this is somewhat anecdotal and there was little catch records kept or required at the time, we still trust this to be very reliable proof of viable beds in the region.
- 2) The NOAA Groundfish Trawl survey (web link http://www.afsc.noaa.gov/RACE/groundfish/survey_data/default.htm). This survey is not really designed to pick up scallops, yet it has picked them up in most of the surveys in Unimak Bight since the surveys began in 1982. Chart below is copied from the NOAA link above. This chart probably will not be very clear copied in black and white. ASA will try to submit a better color copy at the meeting.



1 of 1

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3) ADFG’s Westward Region 2010 trawl survey, page 73 (below). This survey is also not really designed to pick up scallop, yet Area M and Kodiak Scallop are showing up quite clearly with much increase over previous year’s surveys, in both Peninsula and Kodiak areas. Unimak Bight is not surveyed in the ADFG western region trawl survey. The Scallop 100% observer program could give much needed data for this data poor region.

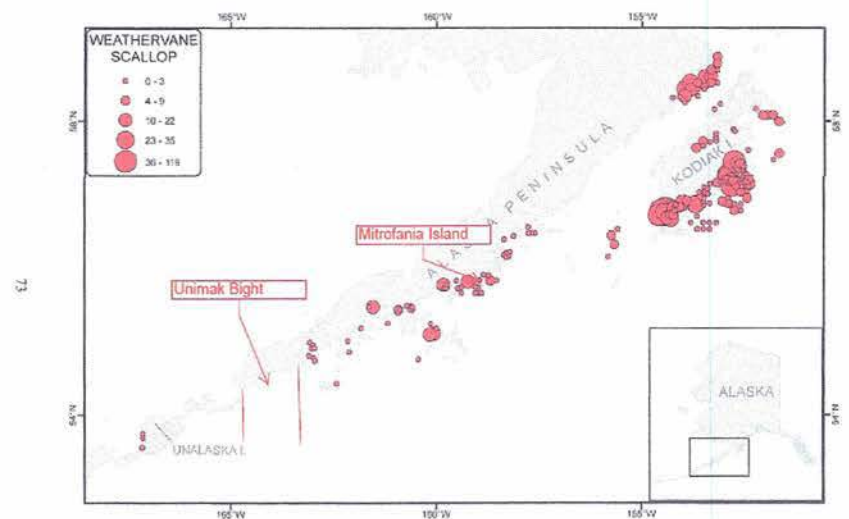


Figure 26.-Weatherervane scallop catch in kilograms per kilometer towed from the 2010 Westward Region bottom trawl survey.

Crab Bycatch;

The ASA is very sensitive to crab bycatch; we openly recognize it as our largest perceived negative issue. Many of our scallop members are Alaskan Crab fishermen themselves and fully understand the ramifications of unchecked crab bycatch. 100% onboard observers are the only realistic method to accurately measure and monitor crab bycatch in a fishery. This same proposed area is already fished by several gear types for several non-scallop fisheries with very limited or non-existent observer coverage ranging from 0% to 30%. **The scallop boats have 100% observer coverage.** This 100% observer coverage is our main argument for opening up a Scallop area that was closed 40 years ago due to unknown crab bycatch and concern over gear conflicts with crab pots. Observer coverage tells us exactly what our bycatch is, thus allowing us to keep bycatch within whatever parameters the Department determines appropriate. We do not want any gear conflicts with our Crab friends and would gladly stand down during any crab fishery openings.

An added benefit of allowing a scallop fishery is the observer data gleaned. Due to budget/timing constraints ADFG has no survey in the Unimak Bight region, therefore little or nothing is known about current stock composition. The observer data from the scallop fishery could supply valuable data about the species (crab and others) in the area for further and better targeted studies, perhaps leading to other potential fishery openings. Cost for this valuable data to other fisheries and the State would be borne upon the scallop fishermen.

The below chart taken from a NPFMC Council Staff discussion paper on Bycatch in the Gulf of Alaska, November 2008, section 6.1, page 19, illustrates the estimated mortality of various fisheries on Tanner crab bycatch. Note scallop fishing is not the highest Tanner mortality rate, yet Scallopers currently are not allowed to operate in this district, while other fisheries that have known crab bycatch with little or no observer coverage or any crab limits, do actively fish the area.

Table 12 Various calculations of mortality rates for harvested crab

Study		Directed crab fisheries			Groundfish fisheries			Scallop fishery
		King crab	C. opilio Tanner crab	C. bairdi Tanner crab				
		Pot	Pot	Pot	Pot	Trawl	Longline	Dredge
Council re-evaluation of overfishing levels	NPFMC et al 2007	20%	50%	20%				
Council's annual Crab SAFE report	NPFMC 2007	8%	24%	20%	20%	80%	20%	40%
Council's groundfish amendment	NPFMC 1995				8%	80%	37%	40%
NRC study	NRC 1990					12-82%		
1998 snow crab study	Warrenchuk and Shirley 2002			22.2% ^a				

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Sincerely, Jim Stone, ASA President

A handwritten signature in black ink, appearing to read 'Jim Stone', written over a horizontal line.

Aleutian No 1, LLC

F/V Aleutian No. 1

420 L Street, Suite 310
Anchorage, Alaska 99501
(907) 274-2248 office, 274-2249 fax

March 2, 2012

Chairman Karl Johnstone
Alaska Board of Fisheries
PO Box 115526
Juneau, Alaska 99811
FAX: 907-465-6094

RE: Proposal 382 – 5 AAC 34.612 Harvest levels for golden king crab in Registration Area O

Dear Mr. Chairman and Board members:

I am writing you in support of increasing the harvest level for golden king crab in the Aleutian Islands, Registration Area O.

The F/V Aleutian No 1 has participated in the Aleutian Islands golden king crab fishery for many years under several owners. We have been the owner since 2007 and are the only vessel that participates in both the eastern and western areas. During this time we have experienced rising catch rates (catch per unit effort, CPUE, as measured by crab per pot haul) in each area to levels unheard of in prior history of the fishery. We routinely harvest 20 or more crab per pot in both areas. This consistent increase in CPUE, together with reduced discards due to increased pot mesh size, has resulted in arguably the most sustainable crab fishery in the state.

A biometric model for the management of the golden king crab fishery is in the works but will not be completed in time for the 2012/13 fishery and will be undergoing first serious review prior to the 2013/14 fishery. This is an ongoing process for at least the past five years. At the Crab Plan Team meeting this January it became apparent that the model needed significant and fundamental revision. This was a good sign in that the direction recommended by the team should eventually lead to a useable management tool. It also allowed more peer review and support for the ADF&G modelers. The review showed that some of the data sets being used were redundant and some resulted in counter-intuitive results. Both of these type of results cast serious doubt on any preliminary model results to date.

The outgrowth of the Plan Team meeting is an invigorated working relationship between ADF&G and industry. The harvesting sector as an unanimous group provided the services of a renowned biometrician who was known to and respected by the team members. We are working with ADF&G staff to strengthen the tri-annual survey methodology to account for the unique aspects of golden crab fishing and to broaden data gathering aspects.

Four years ago we came before you and requested an increase in the harvest level cap. This request was granted due to the sustained high CPUE and the expectation that a management

Aleutian No 1, LLC

F/V Aleutian No. 1

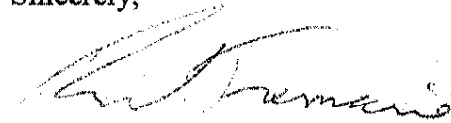
420 L Street, Suite 310
Anchorage, Alaska 99501
(907) 274-2248 office, 274-2249 fax

model would be ready for use within a year or two. Unfortunately, we are in the same position today and the model usefulness is no closer.

There is no sign of overfishing nor of population stress in the golden crab stocks. On the contrary, the continued high CPUEs show every indication that stocks are healthy, recruitment is continuing, and harvest levels are well below maximum sustainable yield. The base for the current harvest level was set many, many years ago based on historic catch, not on biological parameters or indicators. Keeping harvest levels artificially low is not in the best interests of the state nor industry.

We request that you increase the allowable harvest level as specified in 5 AAC 34.162. This will permit ADF&G to increase the annual allowable catch to a level more commiserate with stock abundance as reflected in CPUEs while continuing to refine its biometric model.

Sincerely,



Richard Tremaine
Owner Representative, Aleutian No1. 1, LLC

Kozak & Associates, Inc.

P. O. Box 2684 - Kodiak, Alaska 99615
Phone 907-486-8824 - Cell 907-539-5585
E-Mail - kozak@alaska.com

Date: March 2, 2012
To: Alaska Board of Fisheries
From: Linda Kozak
Subject: Proposal #3827 Aleutian Islands Golden King Crab TAC Increase

I would first like to thank the members of the Board for approving my Agenda Change Request and placing this important issue on the March 2012 meeting agenda.

While it is normally not the responsibility of the Board to review and consider total allowable catch (TAC) levels, this is an unusual case and justifies action by the Board, in my opinion. The Board reviewed this fishery and increased the TAC in 2008. I am asking for your consideration once again to raise the harvest limit for this fishery, which is important to several Alaskan CDQ and community organizations, as well as a Kodiak fisherman, Dick Powell, who helped pioneer this fishery and has been involved with it for over 30 years.

The directed fishery began in 1981 and effort, along with catches, varied from year to year, with the highest year of unrestricted catch of approximately 14.6 million pounds. From 1981 to 1996 when the first GHL was established, the removals were primarily based on the level of effort, with eight of those 15 seasons having harvests over eight million pounds each year. The fishery has never failed to open, and in some years due to a lack of participation, it never closed.

In 1996 the first guideline harvest limit (GHL) was set at 5.9 million pounds. Two years later, due to requirements under the Magnuson-Stevens Act and the overfishing limit definitions under the Fishery Management Plan, the GHL was decreased to 5.7 million pounds where it remained static for ten years. In 2008, at the direction of the Board, the TAC was adjusted upward to 5.985 million pounds. So, for 16 years, the harvest limits for this fishery have remained relatively unchanged, with simply a roll-over from year to year.

It is interesting to note that in 1996 when the first GHL was set at 5.9 million pounds, the catch per unit of effort (CPUE) was averaging five to seven crab per pot. Since that time, CPUE rates remained fairly steady, with increases in the years prior to rationalization. In 2005 when the fishery became rationalized, harvesters were able to stop the race for crab and pot soak times increased with the CPUE increasing dramatically. Some would say that the entire increase in CPUE could be fully explained by increased soak times and reduced effort on the grounds with vessels fishing in a cooperative manner. We don't believe this is the case and feel confident this can be factored into an assessment of the fishery performance.

Proposal #382 – Linda Kozak Comments
Page Two

Individual vessels are reporting that catch rates are continuing to improve each year and trips are getting shorter and shorter. Some have reported CPUE in excess of 30 crab per pot on average, with some individual pots as high as 90. There is also strong evidence of small crab, along with females and pre-recruits despite the fact that the vessels are utilizing large mesh gear in order to minimize bycatch of small crab.

There has been significant discussion by the Board in regard to the stock assessment model. The Aleutian Islands golden king crab stock assessment model has been under development since at least 2007. There have been several versions of the model presented, but it has not been approved by the Crab Plan Team or Scientific and Statistical Committee of the NPFMC. In January of this year a modeling workshop was held with scientists participating from ADF&G and NMFS, as well as independent modeling experts from Washington, British Columbia and New Zealand. The golden king crab model was part of that workshop. The result of the workshop was to create some short and long-term issues to address, with the timeline a bit uncertain for model approval, but certainly not in 2012. There has been discussion about having the golden king crab model at another workshop in January 2013. Once the model is approved, a harvest strategy would need to be developed, which could take some time. I believe a realistic expectation would be at least four to five years before the model could be utilized for fishery management purposes in setting the TAC.

This has been very frustrating for the fishermen who participate in this fishery. For the GH/L/TAC to be set at basically the same level for 16 years while fishery performance has increased dramatically is difficult to understand. Particularly since the fishery historically had removals far in excess of that without any biological concerns. In fact, when the fishery managers set the first GH/L at 5.9 million in 1996, the previous year's CPUE was five crab per pot.

In 2004, the department's Annual Management Report (No. 4K04-43) on page 15 stated:

"Even though the harvest rates are at or near the allowable maximum in some areas, the Aleutian Islands golden king crab population is believed to be healthy. Portions of the stock occur at depths greater than those fished. Additionally, the area surveyed receives more fishing pressure than many other areas in the entire Aleutian Islands, so golden king crabs in other less heavily fished locales may have a lower harvest rate. In order to operate their gear more efficiently, fishers tend to utilize the shallowest waters in which crabs may be found in abundance. Distribution of legal males extends to depths greater than those fished, so the entire depth range distribution of legal males is not exploited. Recent fishery data also indicates that the stock is healthy."

It should be noted that there are over 800 miles of available fishing grounds which are left mostly untouched. With rationalization and the ability to form cooperatives, this fishery is conducted by less than five vessels total. It is entirely possible that there are millions of pounds of legal crab left in the water each year that could have been harvested.

Proposal #382 – Linda Kozak Comments
Page Three

The proposal does not request a specific amount for an increase. It is our hope that at the Board of Fisheries meeting, the industry, department and Board can work together to find some common ground in order to address this important issue.

If the Board were to approve a TAC increase, the logical question would be to ask about future management of this fishery. I am recommending that efforts be made to develop a harvest strategy plan with or without the model, which would factor in CPUE and other data. This fishery is highly observed and research projects are something the golden crab harvesters are very willing to work on in close cooperation with the department. Examples of this would be developing long-term in-season recruitment studies, as well as handling mortality and ocean acidification research. This year, live golden king crabs were brought to Kodiak and are now at the NMFS research facility. Plans are to continue this joint effort in future years in order to provide them with animals needed for various research projects.

I would like to thank you for your consideration of this proposal. I am planning to be in attendance at the Board meeting where I will be available to answer any questions you may have in regard to this issue.