



United States Department of the Interior



FISH AND WILDLIFE SERVICE

1011 E. Tudor Road

Anchorage, Alaska 99503-6199

IN REPLY REFER TO:

FWS/OSM 11023/BOF KTC

Mr. Vince Webster, Chair  
Alaska Board of Fisheries  
Alaska Department of Fish and Game  
P.O. Box 115526  
Juneau, Alaska 99811-5526

Dear Chair Webster:

The Alaska Board of Fisheries will deliberate 2010/2011 regulatory proposals address king and Tanner crab (statewide, except Southeast/Yakutat) commercial, personal use, and subsistence fisheries and Supplemental Issues beginning March 22, 2011. We understand that the Board will be considering approximately 22 proposals at this meeting.

The U.S. Fish and Wildlife Service, Office of Subsistence Management, working with other Federal agencies, has reviewed these proposals and developed the enclosed preliminary comments on proposals which may have an effect on Federal subsistence users and fisheries in this area. We may wish to comment on other proposals if issues arise during the meeting which may have an effect on Federal subsistence users and fisheries.

We appreciate the opportunity to comment on these important regulatory matters and look forward to working with your Board and the Alaska Department of Fish and Game on these issues.

Sincerely,

Peter J. Probasco  
Assistant Regional Director

Enclosure

cc:	Cora Campbell, ADF&G	Jennifer Yuhas, ADF&G, Juneau
	Tim Towarak, Chair FSB	George Pappas, ADF&G, Anchorage
	Jeff Regnart, CF, ADF&G, Anchorage	Lisa Olson, ADF&G, Anchorage
	Jim Simon, ADF&G, Fairbanks	Jim Marcotte, ADF&G, Juneau
	Charles Swanton, ADF&G, Juneau	Interagency Staff Committee

**FEDERAL STAFF COMMENTS ON  
ALASKA BOARD OF FISHERIES PROPOSALS  
for  
KING AND TANNER CRAB (STATEWIDE, EXCEPT  
SOUTHEAST/YAKUTAT) AND SUPPLEMENTAL ISSUES**

**State of Alaska  
Board of Fisheries Meeting  
March 22-26, 2011  
Anchorage, Alaska**

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### Federal Comments

The following comments address these proposals only as they affect Federally qualified subsistence users and resource conservation.

**Proposal 308** requests to limit the size of subsistence crab fishing pots in the Kodiak Management Area (KMA) from June 1 through October 31.

#### **Existing State Regulation:**

##### **Kodiak Area**

##### **5 AAC 02.405. Subsistence crab fishing permits**

*Crab may be taken for subsistence purposes only under the authority of a subsistence crab fishing permit.*

#### **Existing Federal Regulation:**

§ \_\_\_\_.28 *Subsistence taking of shellfish.*

§ \_\_\_\_.28 (a) *Regulations in this section apply to subsistence taking of Dungeness crab, king crab, Tanner crab, shrimp, clams, abalone, and other shellfish or their parts.*

##### *Kodiak Area*

§ \_\_\_\_.28 (k)(4)(i) *You may take crab for subsistence purposes only under the authority of a subsistence crab fishing permit issued by the ADF&G.*

§ \_\_\_\_.28 (k)(4)(iv) *In the subsistence taking of king crab:*

(C) *You may only use one crab pot, which may be of any size, to take king crab;*

(D) *You may take king crab only from June 1 through January 31, except that the subsistence taking of king crab is prohibited in waters 25 fathoms or greater in depth during the period 14 days before and 14 days after State open commercial fishing seasons for red king crab, blue king crab, or Tanner crab in the location;*

*(E) The waters of the Pacific Ocean enclosed by the boundaries of Womens Bay, Gibson Cove, and an area defined by a line 1/2 mile on either side of the mouth of the Karluk River, and extending seaward 3,000 feet, and all waters within 1,500 feet seaward of the shoreline of Afognak Island are closed to the harvest of king crab except by Federally-qualified subsistence users.*

§ \_\_\_\_.28 (k)(4)(v) *In the subsistence taking of Tanner crab:*

*(A) You may not use more than five crab pots to take Tanner crab;*

**Other Relevant Federal Regulation:**

§ \_\_\_\_.27 *Subsistence taking of fish.*

*(c)(18) Provisions on ADF&G subsistence fishing permits that are more restrictive or in conflict with the provisions contained in this section do not apply to Federal subsistence users.*

*50 CFR 100.4 Definitions*

*Fish and Wildlife means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by any treaty or other international agreement), amphibians, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the carcass or part thereof.*

**Customary and Traditional Use Determinations**

The customary and traditional use determination for king crab in the Kodiak Area is for residents of the Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base. All residents of the Kodiak Island Borough have a positive customary and traditional use determination for shrimp, Dungeness, and Tanner crab in the Kodiak Area.

**Is a similar issue being addressed by the Federal Subsistence Board (FSB)?** No. If this proposal is adopted, Federal regulations would not change, and Federally qualified users would continue to be allowed to use crab pots of any size to harvest crab in Federal public waters of the KMA. Federally qualified users may take king crab only from June 1 through January 31, only use 1 crab pot of any size, and may use no more than 5 crab pots of any size to take Tanner crab.

**Impact to Federal subsistence users/fisheries:** Yes. Currently Federally qualified users may only take crab for subsistence purposes in the Federal public waters of the KMA with a subsistence permit issued by the ADF&G. If this regulatory language is adopted, the Federal Subsistence Management Program may need to develop a separate Federal subsistence permit for Federally qualified subsistence users who wished to continue to use pots that were larger than those allowed under State regulations, unless the State would allow Federal subsistence harvests with the larger pots to be reported on its permit.

This may complicate enforcement, create confusion, and increase regulatory complexities.

**Federal Position/Recommended Action:** Neutral. The Federal Subsistence Management Program supports conservation of the resource. However, it is not clear that adoption of this proposal would achieve the stated intent of enhanced enforcement monitoring and Kodiak red king crab conservation. If this proposal is adopted, State regulations would diverge, which would increase regulatory complexities, complicate enforcement, and possibly require separate Federal and State subsistence permits, which would be a burden to subsistence users.

**Proposal 315** clarify the restriction on the use of sport, personal use or subsistence caught shellfish by an owner, operator, or employee of a lodge, charter vessel or other enterprise that furnishes food, lodging, or sport fishing guides services to its guests or clients.

**Existing State Regulation:**

**Kodiak Area-Subsistence Shellfish**

**5 AAC 02.499. Prohibitions**

*(a) An owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or guide services may not furnish to a client or guest of that enterprise, shellfish that has been taken under this chapter, unless the*

*(1) client or guest is in possession of a valid Kodiak Area subsistence permit;*

*(2) shellfish has been taken with gear deployed and retrieved by the client or guest;*

*(3) gear has been marked with the client's or guest's name and address, as specified in 5 AAC 02.010(e); and*

*(4) shellfish is to be consumed by the client or guest or is consumed in the presence of the client or guest.*

*(b) The captain and crew members of a charter vessel may not deploy, set, or retrieve their own gear in a subsistence shellfish fishery when that vessel is being chartered.*

*(c) Repealed 7/1/2006.*

**Other Relevant State Regulation:**

**5 AAC 01.010. Methods, means, and general provisions**

*(d) Unless otherwise specified in this chapter, it is unlawful to buy or sell subsistence-taken fish, their parts, or their eggs, except that it is lawful to buy or sell a handicraft made out of the skin or nonedible by-products of fish taken for personal or family consumption.*

**Sec. AS 43.70.110 Definitions**

*In this chapter, unless the context otherwise requires,*

*(1) "business" means a for profit or nonprofit entity engaging or offering to engage in a trade, a service, a profession, or an activity with the goal of receiving a financial benefit in exchange for the provision of services, or goods or other property;*

**Existing Federal Regulation:**

*§ \_\_\_\_.27 Subsistence taking of fish.*

*(c)(13) No sale to, nor purchase by, fisheries businesses.*

*(ii) If you are required to be licensed as a fisheries business under Alaska Statute AS 43.75.011 (commercial limited-entry permit or crew license holders excluded) or are a business as defined under Alaska Statute 43.70.110(1), you may not purchase, receive, or sell fish, their parts, or their eggs taken under the regulations in this part as part of your business transactions.*

*§ \_\_\_\_.28 Subsistence taking of shellfish.*

*(j)(1) An owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or guide services may not furnish to a client or guest of that enterprise, shellfish that has been taken under this section, unless:*

*(i) The shellfish has been taken with gear deployed and retrieved by the client or guest who is a Federally-qualified subsistence user;*

*(ii) The gear has been marked with the client's or guest's name and address; and*

*(iii) The shellfish is to be consumed by the client or guest or is consumed in the presence of the client or guest.*

*(2) The captain and crewmembers of a charter vessel may not deploy, set, or retrieve their own gear in a subsistence shellfish fishery when that vessel is being chartered.*

**Is a similar issue being addressed by the Federal Subsistence Board (FSB)?** No. Federal Subsistence regulations already prohibit commercial service operators from providing subsistence-caught fish to paying clients. The Federal Subsistence Board also adopted a specific regulation to emphasize that this practice is prohibited under Federal shellfish regulations.

**Impact to Federal subsistence users/fisheries:** No. Adoption of this proposal would have no effect on Federally qualified subsistence users, as the practice of commercial service operators providing subsistence-caught shellfish to paying clients is already prohibited under Federal regulations.

**Federal Position/Recommended Action:** Support. The Federal Subsistence Management Program supports conservation of the resource. If adopted, this proposal would align State and Federal regulations for this practice, further clarify regulations, simplify enforcement, and help protect shellfish populations in areas that are experiencing low abundance.

# Adak Community Development Corporation

March 14, 2011

ADF&G Board of Fisheries  
Boards Support Section  
P.O. Box 115526  
Juneau, AK 99811-5526  
(907) 465-4110  
(907) 465-6094 FAX

**Re: Proposal A: 5 AAC 28.086/7 & 28.647 Aleutian Island District Cod Management Plan**

Dear Chairman Vince Webster,

Adak Community Development Corporation wishes to thank the Board of Fisheries for the Emergency Action you took at the January meeting on the Aleutian Island cod fishery.

We support further action by the Board of Fish to make permanent modifications to Aleutian Islands District Pacific Cod Management Plan in the Adak area between 175 and 178 degrees west longitude, where NMFS most recent Sea lion survey acknowledges pup production has tripled since the 1990s.

NMFS has threatened enforcement action against any vessel holding a federal permit if a vessel participates in the parallel opened by the Board under the Emergency action (see attached NMFS letter.)

**Therefore, ACDC believes that it would be better to simply close the parallel fishery in the area between 175-178 degrees January 1<sup>st</sup>, and open the state managed fishery under the state's existing Aleutian Island cod GHl in the portion of the AI area between 175-178 degrees on January 1<sup>st</sup>, while retaining remainder of the existing rules for the Aleutian Islands District Pacific Cod Management Plan.**

This would allow vessels that qualify to fish cod in the state managed fishery to fish in the vicinity of Adak during the federal season based on the Sea Lion protection measures that have been in place as currently specified in 5AAC.28.647(g) without having to surrender their federal fishery permits.

Additionally, with the loss of so much fishing grounds in the federal Aleutian Island cod fishery the federal trawl CV A season is projected to last much longer than last year. The current NMFS "Fishery Outlook" states : "*For the trawl CV fishery, at the current catch rate during the week of 3/5 of 640 mt/day a closure is projected for around March 25.*" This would



mean the state managed A-season Aleutian Island cod fishery would not open until March 29<sup>th</sup> this year .

ACDC suggests the changes to 5 AAC 28.647 that are shown in **bold and underlined** below:

---

**5 AAC 28.647. Aleutian Islands District Pacific Cod Management Plan**

(a) This management plan governs the harvest of Pacific cod in the Aleutian Islands District west of 170° W. long.

(b) Each year, the commissioner shall open and close, by emergency order, a parallel season in the Aleutian Islands District west of 170° W. long., to coincide with the initial federal season in the Bering Sea-Aleutian Islands Area. The commissioner shall open and close, by emergency order, the parallel season during which the use of the same gear allowed in the federal Bering Sea-Aleutian Islands Area Pacific cod season is permitted, unless that gear is prohibited under 5 AAC [28.050](#) or 5 AAC [28.629](#). **In the area between 175° W. long and 178° W. long, the commissioner shall close the parallel season on January 1<sup>st</sup>.**

(c) **The commissioner shall open, by emergency order, a state waters season in the Aleutian Islands District between 175° W. long and 178° W. long beginning January 1<sup>st</sup>.** The commissioner shall open, by emergency order, a state waters season in the **remainder of the** Aleutian Islands District west of 170° W. long. four days after the initial Bering Sea-Aleutian Islands parallel season for the catcher-vessel trawl fishery is closed. The commissioner shall close, by emergency order, the state waters season opened under this subsection when the guideline harvest level is taken or on December 31, whichever occurs first. All parallel seasons are closed during the state waters season.

(d) During a state waters season,

(1) the guideline harvest level for Pacific cod in the Aleutian Islands District west of 170° W. long. is three percent of the estimated total allowable harvest of Pacific cod for the federal Bering Sea-Aleutian Islands Area; the guideline harvest level will be available for harvest as follows:

(A) a maximum of 70 percent of the guideline harvest level will be available for harvest in the state waters A season before June 10 as follows:

(i) if the state waters A season guideline harvest level has not been taken by April 1, when the federal catcher-vessel trawl fishery season opens, the commissioner will close, by emergency order, the state waters A season, **except between 175° W. long and 178° W. long.** and immediately reopen a parallel season **in the remainder of the Aleutian Islands District west of 170° W. long;**

...

(3) a vessel used to harvest Pacific cod during the

(A) state waters 'A' season with

(i) non-pelagic trawl gear may not be more than 100 feet in overall length;

- (ii) mechanical jigging machines and longline gear may not be more than 58 feet in overall length;
- (iii) pot gear may not be more than 125 feet in overall length;

Thank you for your consideration of our request. These actions are critical to maintaining the viability of the community of Adak in the face of federal actions.

Sincerely,

A handwritten signature in black ink, appearing to read "dave fraser". The signature is written in a cursive style with several overlapping loops and a horizontal line across the middle.

dave fraser  
Adak Community Development Corporation  
PO Box 1943  
Adak AK 99546

Included as attachments to this letter are:

- 1- NMFS letter to federal permit holders about participation in the parallel fishery.
- 2- Executive summary of ACDC's comments on the final BiOp.
- 3- ACDCs comments on the EA/RIR for the interim final rule for the BiOp.



**UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration**

*National Marine Fisheries Service  
P.O. Box 21668  
Juneau, Alaska 99802-1668  
February 3, 2011*

Dear Federal Fisheries Permit Holder:

The purpose of this letter is to remind you of the compliance requirements for Pacific cod caught within State of Alaska (State) waters adjacent to the Bering Sea and Aleutian Islands management area (BSAI) and the Gulf of Alaska (GOA). As a Federal Fisheries Permit holder, you are responsible to know whether your catch is deducted from a Federal Total Allowable Catch (TAC) or from the State Guideline Harvest Level (GHL) and to comply with Federal fishery requirements when your Pacific cod catch will be deducted from the Federal TAC. If you harvest Pacific cod from State waters adjacent to the BSAI or GOA during the federal fishing season when fishing is closed to your gear or operation type under Federal regulations and your catch of Pacific cod is deducted from the Pacific cod TAC, you may be in violation of a Federal Pacific cod closure.

NMFS uses observer, eLandings, VMS, and other data to determine location and time of catch from each haul or delivery. Data on location and time of catch is combined with information on each groundfish management program to determine what groundfish catch is deducted from the applicable allocation for Pacific cod. For example, the observer and eLandings data that NMFS receives identifies the State statistical area where the catch occurred, and the date when fishing occurred. These data are linked to the State and Federally-managed fisheries accounts to deduct the appropriate amounts of Pacific cod.

Generally, any Pacific cod caught in State waters adjacent to the BSAI or GOA during a Federal fishing season is deducted from the Federal TAC, unless it was caught while participating in the State GHL Pacific cod fishery.

Should you have questions regarding Pacific cod catch accounting, please contact the Sustainable Fisheries Division, 907-586-7228.

Sincerely,

*Mary F. ...*

*for*

James W. Balsiger, Ph.D.  
Administrator, Alaska Region



## Attachment 2

### Executive Summary of ACDC Comments to NMFS on the Final Biological Opinion

Adak Community Development Corporation (ACDC) reviewed the final November 2010 Biological Opinion on the Groundfish fishery (BiOp) and we wish to provide comments.

The final version of the BiOp has many editorial changes but the significant substantive changes relating to Steller sea lions (SSL) can be summarized as follows;

- 1- Removal of the "footprint analysis" and addition of revised exploitation rates by region.
- 2- Revision of biomass forage ratio estimates for the EBS, AI and GOA.
- 3- Removal of references to the Aleutian Islands as having relatively "low productivity" compared to other regions.
- 4- Addition of a "working model" under the 4.7.2 "Synthesis" section of factors contributing to the decline in the Aleutians.

We also wish to provide comment on what was not included in the final BiOp that should have had bearing on the conclusions of the BiOp

- 5- The 2010 AI trawl survey biomass estimates and 2010 SSL survey.
- 6- The transient killer whale population estimates from the April 2010 Alaska Marine Mammal Stock Assessment (SAR, 2010)
- 7- Explicit acknowledgement of the relatively higher productivity of the Aleutian Island region for the groundfish species identified as SSL prey items of concern in the BiOp.
- 8- Acknowledgement of the "degree of overlap" analysis provided in ACDC's comments on the draft August 2010 BiOp.
- 9- A comparison of Platform of Opportunity locations with bathymetry, and analysis of what prey species might be available at those locations.
- 10- A comparison of Aleutian Island telemetry data, particularly outside CH, with bathymetry and analysis of what prey species might be available at those locations.

**ACDC's overarching comment is that even if the SSL mitigation measures in place through 2010 were not fully adequate to prevent jeopardy or adverse modification to SSL and their habitat in some areas, full consideration of the revised information either included in, or available to, the authors of the final BiOp should have resulted in more substantive changes to the RPAs proposed in the draft BiOp.**

**Despite the revisions to the final BiOp, despite the claim in section 7.4.4 to have "considered the comments and reviews" and despite the claim to have re-examined the "conclusions reached" it appears that NMFS Protected Resources prejudged the outcome of the BiOp and ignored the revised "weight of evidence" that less draconian RPAs would have been adequate to avoid the likelihood of jeopardy or adverse modification of CH for SSL.**

# Adak Community Development Corporation

February 27<sup>th</sup> 2011

BY ELECTRONIC MAIL

Dr. James Balsiger  
Regional Administrator  
National Marine Fisheries Service  
Juneau Federal Building  
709 West 9<sup>th</sup> Street, Room 420A  
Juneau, AK 99802

Attention: Ellen Sebastian

Re: RIN 068-BA31 Environmental Assessment/Regulatory Impact Review of Revisions to the Steller Sea Lion Protection Measures for the BSAI Management Area Groundfish Fisheries

Dear Dr. Balsiger:

On behalf of the Adak Community Development Corporation (ACDC) and its members, I am pleased to submit our comments on the EA/RIR for the Interim Final BiOp.

The authors of the Nov. 2010 EA/RIR added substantial amounts of analysis to the Aug. draft. The new draft is generally responsive to the comments of the SSC.

## **Failure to Analyze All Reasonable Alternatives**

The central flaw of the current EA/RIR is not the analysis of the alternatives, but rather the alternatives themselves and the lack of analysis of “Alternatives Considered and Not Further Analyzed.” The Council’s proposed alternative received no analysis. The only explanation provide for rejecting the alternative was two sentences on page 2-38:

*“The remaining features of the Council recommendations were found to not meet the performance standards of the final FMP biop (NMFS 2010a). The primary reasons for not meeting the performance standards is that the Council recommendation would allow amounts of Atka mackerel and Pacific cod harvests in a manner similar to historical practices or at amounts greater than allowed by the performance standards (NMFS 2010a).”*

Clearly the Council’s proposed alternative was significantly different than “historical practices or amounts,” and should have been fully analyzed in the EA/RIR. The new information in the final BiOp was significantly different from the information on which the RPAs were founded. (See our comments on the final BiOp.) Based on the new information in the final BiOp and public comments, NMFS Protected Resources has sufficient basis to make substantial changes to the RPAs.

## Community Impacts

The EA/RIR correctly states on page 1-9 that: *“All fisheries management actions need to be developed with consideration of the Magnuson-Stevens Act national standards, including the proposed action analyzed in this EA.”*

Section 11 purports to evaluate consistency with the National Standards in a couple paragraphs. On page 11-2 it states:

*“This action takes into consideration the requirements of national standards 5, 6, 7, and 8. The differences among fishery participants, their locations, fishing practices used for harvesting Atka mackerel and Pacific cod, impacts on the various sectors, amounts and locations of catch and the dependence on these harvests were all considered in the development of the RPA. NMFS developed the RPA to provide as much fishing opportunity while balancing the need to ensure the groundfish fisheries could be implemented by January 1, 2011, in compliance with the ESA.”*

National Standard 8 requires taking *“into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.”*

The EA/RIR has extensive analysis of the impacts on Atka and Adak and acknowledges: *“Of all the communities discussed here, Adak may have the most at risk from this action.”* However, there is no discussion in the EA/RIR of what was done to “provide for sustained participation of...(or)...minimize adverse economic impacts on such communities.”

## Minimize Impacts on Communities

The authors of the EA/RIR did a good job in section 10.2.8 of describing the degree to which Adak has been dependent upon shorebased processing of cod as well as the tax revenue for the Atka mackerel fishery and support services provided to the Atka mackerel fleet. Also, the EA/RIR points out that though Congress intended that the community of Adak should benefit from the allocation of the AI pollock resource to the Aleut Corporation, Adak has received virtually no benefit due to the SSL mitigation measures in place prior to the new RPAs. This has meant that Adak’s economy is doubly dependent on the cod and Atka mackerel fisheries.

On page xiv the EA/RIR states; *“It should be noted, however, that present and near-term adverse employment and income impacts in Adak are not principally associated with, nor attributable to, the proposed Steller sea lion action, but stem from more fundamental structural difficulties with the community’s economic base (e.g., bankruptcy of local seafood processing plant, lack of economic diversity, physical remoteness and aging physical plant, global recession-caused transportation cost increased and general demand weakness).”*

This statement is not entirely correct. It is true that Adak Fisheries went bankrupt in 2009 – in part because it made capital investments related to the promised pollock fishery that never materialized. However, by the 2010 A season, a new company (Adak Seafood) was operating the facility on a temporary lease. Adak Seafood had come to terms with the Aleut Corporation (the owner of the facility) on a long term lease prior to the release of the draft BiOp. It was after the BiOp came out and NMFS informed the Council that it had rejected the Council’s proposed

alternative RPAs that the owners of Adak Seafoods determined it was unlikely they could have a profitable operation in light of the new RPAs.

While it is true that Adak lacks economic diversity and is remote, those factors exacerbate the situation and intensify Adak's dependence on a fishery based economy.

NMFS could have mitigated the impacts of the RPAs on Adak by modifying the SSL mitigation measure in place which prevents all pollock fishing within CH. NMFS could have provided a limited pollock fishery opportunity within RCA 4 to offset the loss of the cod fishery in that area.

Sea lions are not in significant decline in RCA 4, and the justification offered by NMFS for the new closures to the cod fishery was concern over displaced effort from the new closures in RCA 1-3. Sea lions in RCA 4 show no signs of nutritional stress. Natality rates are on a par with other areas in the WDPS. Kanaga Ship Rock has had a 400% increase in pups since the early 1990s. The frequency of occurrence of pollock in the SSL scat in the area has been half of the FO for cod, which suggests a lesser dependence on pollock. Cooperative research has shown the feasibility of in season hydroacoustic surveys of pollock A season biomass in RCA 4 which could provide guidance on setting a harvest cap for a local pollock fishery. All of these factors could have been considered in an alternative to allow some limited pollock fishing in RCA 4.

NMFS could also have provided a preference for shorebased processing of a portion of the cod harvested in area 541 which would have helped provide for the sustain participation of the communities of Adak and Atka.

Such potential mitigation measures were never analyzed.

Instead, in making the one modification to the RPAs in the Atka mackerel fishery in area 542, NMFS excluded participation by those catcher vessels eligible under amendment 80 to harvest 10% of the Atka mackerel in area 542.

### **Economic Justice**

The EA/RIR does not deal with the Executive Order 12898 on Environmental Justice. The Aleut community of Adak shoulders a disproportionate share of the burden of the new RPAs. The EA/RIR acknowledges that *"Of all the communities discussed here, Adak may have the most at risk from this action."* but lacks alternatives that would mitigate the burden.

### **Revenue At Risk**

The EA estimates of "revenue at risk" are based on the portion of the harvest that has occurred in the areas to be closed under the RPAs. In the case of cod, this overlooks a likely negative impact of the RPAs. While the residual open area accounts for 40-60% of the catch depending on gear type, it is a far smaller portion of the physical "real estate" in terms of open area. The result will likely be increased concentration of the fleet, resulting in gear conflicts and crowding as displaced effort seeks to make up catch in the remaining open area.

## Willingness to Pay Analysis

One area where the EA/RIR did not meet the SSC's recommendations is acknowledged on page 10-150. The SSC requested that "*values reported for changes in revenues, costs, and nonmarket values... should be expressed in similar time frames.*" The EA/RIR presents 20 pages of a Willingness to Pay (WTP) analysis in section 10-4 in a net present value context. Yet on page 10-125 the EA/RIR notes that it has dropped the present value calculations that were presented in the Aug. draft: "*Because of the difficulty of identifying an appropriate time frame for this action, this analysis does not include an estimate of the present value of the revenue at risk from this action.*"

The WTP presented in section 10-4 claims present value benefits approaching \$100 billion over a 60 year time frame. If the time frame of the action is too uncertain to estimate the present value of revenue at risk, it should be equally inappropriate to use it for WTP benefits.

While the EA/RIP presents a highly detailed explanation of the Lew, Layton, and Rowe (LLR) model, the results are hard to take seriously. It is plausible that a randomly surveyed family might express a WTP of \$100/year to benefit endangered seal lions. However, there are 415 different endangered animals listed under the ESA in the U.S. If the same individuals were surveyed on their WTP for each of the animals on the list in alphabetical order, it is intuitively obvious "donor fatigue" would set in even for hypothetical donations long before reaching "SSL."

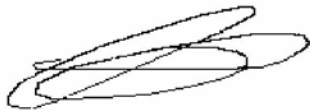
Comparisons of real annual losses of revenue in the fishery to the net present value hypothetical donations which may or may not produce hypothetical benefits to sea lions is like comparing kumquats to kangaroos in Kansas. The money spent on this research would have been much better used doing field work in the Western and Central Aleutians where the paucity of data on SSL vital rates and foraging behaviour is being used as a justification for hyper-precautionary RPAs.

## Conclusion

The EA/RIR describes the impacts of the new RPAs fairly well. However, because NMFS Protected Resources had prejudged the desired outcome, the EA/RIR fails as a NEPA document due to the lack of consideration of reasonable alternative and the failure to include measures meeting the National Standard 8 requirement to mitigate impacts of the action on fishery dependent communities and provide for their sustained participation in the fishery.

Thank you for your consideration of our comments.

Sincerely,



dave fraser  
Adak Community Development Corporation  
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Adak AK 99546



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## *Bristol Bay Borough*

March 11, 2011

Mr. Vince Webster, Chairman  
Alaska Board of Fish  
PO Box 115526  
Juneau, AK 99811-5526

Subject: Request Location of Board of Fish be held in the Bristol Bay Borough

Dear Chairman Webster,

The purpose of this letter is to request the Board of Fish Meeting for November or December 2013 for Bristol Bay region be held in the Bristol Bay Borough. The Bristol Bay Borough would like to host this meeting as it has not been held in the region since 2006 when Dillingham hosted it and many years prior to that before it was held within the Bristol Bay Borough.

The Bristol Bay Borough School has committed to provide the School Auditorium to accommodate the meetings. We have two hotels and numerous B&B's located in both Naknek and King Salmon that can accommodate the many attending. We have also coordinated with many local lodges that will house attendees for the event. To mention some of the Hotels B&B Lodges we have discussed with are Alaska Naknek Anglers, Crystal Creek Lodge, Blue Fly Inn, Hillcrest B&B, Rapids Camp Lodge, Bear Trail Lodge, Al & Lou's B&B, King Ko Inn, King Salmon Lodge, Antler's Inn, Diamond Lodge, Rainbow Bend Lodge, Naknek Riverine Lodge, Chulynn Roost B&B, Little House B&B, Alaska Naknek River Camp, D&D Naknek Hotel, Red Dog Inn, and Creek Side Inn.

We have the capacity and meeting locations to accommodate this meeting and we also have a request to the US Air Force for use of the King Salmon Air Force Station facilities as overflow if needed. The Air force Base alone has the capacity to house the complete housing needs but we prefer to allow local businesses to get the opportunity for the revenue.

We are in coordination with the local eating establishment to accommodate the food needs and will ask for the school and the AF Base Dining Facilities to be available for this in addition if needed for overflow for housing and possible feeding of participants.

The Borough is excited about hosting this event and encourage the Board of Fish to please give our proposal the highest consideration. We request this be an agenda item at your next meeting.

If you have questions please contact Marv Smith, Manager Bristol Bay Borough at 907-246-4224.

Sincerely,

  
Daniel J. O'Hara, Mayor

cc: Jim Marcotte, Executive Director Board of Fish and Game

UNALASKA/DUTCH HARBOR FISH AND GAME ADVISORY  
COMMITTEE

P.O. BOX 162 UNALASKA, AK 99685

Alaska Board of Fisheries Meeting March 22-26, 2011

King and Tanner Crab and Supplemental Issues

Advisory Committee Comments on the Proposals

January 29<sup>th</sup> 2011

- A. Review and provide comment on Crab **Proposals 299-315** for Statewide BOF Crab meeting being held in Anchorage the week of March 21st, 2011. Ms. Fitch emphasized that the ADFG Dept. comments were still in draft form, very preliminary.
- B. **Proposal 299** motion to adopt was made by Roger Rowland and Seconded by Katherine McGlashan. In Proposal 299 under Amend 5 AAC 34.10b as follows:” Male golden king crab may be taken only from 12:00 noon August 15 through 11:59 p.m. May 15 [., except that the commissioner may extend the season by emergency order.” She also said the dept. opposes the proposal as it doesn’t give enough time to set the annual allocation. Mr. Graves asked if it may be a biological issue. Ms. Fitch expressed that it is not a biological issue. Mr. Graves stated that the liked giving the commissioner the last call, and to leave it in his hands. Mr. Goodfellow liked to have a parameter of a 2 week or a month extension of the season. The motion passed 6-1 with Mr. Goodfellow voting ‘Nay’.
- C. **Proposal 300** was motioned to adopt by Roger Rowland and seconded by Don Goodfellow. Proposal 300 was to increase the biodegradable twine requirement to #90 thread. Ms. Fitch stated that this was still in draft form and that more research was still coming in. The Advisory committee elected to take ‘No Action’.
- D. **Proposal 301** motion was made by Roger Rowland and seconded by Don Goodfellow. *Proposal 301* was to Change boundary in the Bering Sea District Tanner crab fishery further to the east in the Bristol Bay area. Mr. Kelty stated that if we head further east we would be moving into the Red King Crab nursery grounds. Not sure if we would want extra activity in that area. Proposal 301 failed 0-7.
- E. **Proposal 302** was motioned by Roger Rowland and seconded by Don Goodfellow. Mary Swenzfier spoke on proposal 302 which deals with Onboard Observer Certification and Decertification. She expressed that the wording would be more concise and raises the standards of the

behavior of observers. Mr. Graves said that he liked the proposal, and wanted clarification on Observer responsibility. Mr. Holman inquired about what was considered still on the boat?' Motion passes 7-0.

- F. **Proposal 303** was motioned by Roger Rowland and seconded by Don Graves. Shellfish Onboard Observer Program. Proposal 303 is about when vessels needs and observer and harassment issues, which may also include vessel crew. The proposed harassment wording is more concisely stated. "for the purpose of this section, 'harass' means words, conduct, or action that, being directed at the observer, other issues that could cause emotional distress in the observer.' Motion passes 7-0.
- G. **Proposal 304** motion to adopt was made by Roger Rowland and seconded by Katherine McGlashan. Mrs. Fitch stated this proposal was modifying the Tanner crab pot storage area in the Eastern Aleutian Islands Tanner Crab fishery. Motion passes 7-0.
- H. **Proposal 305** was motioned by Roger Rowland and seconded by Don Goodfellow. The proposal would change the King Crab fishing season Area Q. Change fishing season date for St. Matthew Island blue king crab fishery to September 15 or September 1<sup>st</sup> from October 15th. The proposal changes (1) male blue king crab may be taken only from 12:00 noon **September 15 (or maybe September 1)** [OCTOBER 15] through 11:59pm **February 1;** [JANUARY 15]. Mrs. Fitch spoke on how much was caught, this season the quota was at 1.4 million pounds and only 1million pounds having been caught to date. Mr. Kelty mentioned that this fishery was rationalized with an 80/20 North /South regional split, with the South communities, with the 20 % of the harvest landings. Mr. Rowland asked if the molting season would be a problem, Mrs. Fitch said there was no concern. Mr. Graves stated that he supported the motion, this may increase the harvest allowing the TAC to be taken in total and it is three day run from St. Matthew Island to Unalaska. Motion passed 7-0.
- I. **Proposal 306** was a proposal on Escape mechanism for shellfish and bottomfish pots. This proposal is for a super exclusive area Norton Sound and the Unalaska Advisory Committee had no comment.
- J. **Proposal 307** –was motioned to adopt by Roger Rowland and seconded by Don Goodfellow. **5AAC 35.520 Size limits for Registration Area J; and 5AAC 35.508. Bering Sea District C. bairdi Tanner crab harvest strategy.** Mr. Kelty stated that if the size limit was reduced to 5" this would increase the TAC and allow the fishery to open, it would also reduce catches of sublegal male crab, thus reducing handling and discard mortality. Motion passed 7-0.
- K. **Proposal 308** Motion made by Roger Rowland and seconded by Don Goodfellow. Advisory Committee took 'No Action'. This issue was specific to Kodiak.
- L. **Proposals 309, 310, 311, 312, & 314** were all motioned to adopt by Roger Rowland and seconded by Don Goodfellow, the committee took 'No Action' on these items.

M. **Proposal 315** motion to adopt by Roger Rowland and seconded by Don Goodfellow. This new section Clarifies restriction on use of sport, personal, or subsistence caught shellfish by owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or sport fishing guide services as follows. Mr. Goodfellow emphasized that he has been at a business where this has happened and it subsidizes their operation. Motion supported 7-0.



2-19-11

Frank Kelty Chairman

Date



**Cordova District Fishermen United**  
PO Box 939 | 509 First Street | Cordova, AK 99574  
phone. (907) 424 3447 | fax. (907) 424 3430  
web. [www.cdfu.org](http://www.cdfu.org) | email. [cdfu@ak.net](mailto:cdfu@ak.net)

March 17, 2011

Mr. Vince Webster, Chairman  
Alaska Board of Fisheries  
c/o Alaska Department of Fish and Game  
P.O. Box 115526  
Juneau, AK 99811-5526

Dear Chairman Webster,

I am writing on behalf of the Cordova District Fishermen United (CDFU) Board of Directors and our members to invite the Alaska Board of Fisheries (BOF) to Cordova to conduct their Prince William Sound Finfish meeting this December.

CDFU has always welcomed the BOF to our community, and our community has made every effort to accommodate the needs of this meeting to our best ability. Since our last opportunity to host the BOF in 2008, the City has completed major renovations and expansion of the Mt. Eccles Elementary School. This new facility will provide an excellent venue for the BOF meeting offering large capacity space for 450 people, excellent acoustics with a new sound system, wireless networking, ample committee break-out rooms, Additionally this new facility is fully ADA compliant.

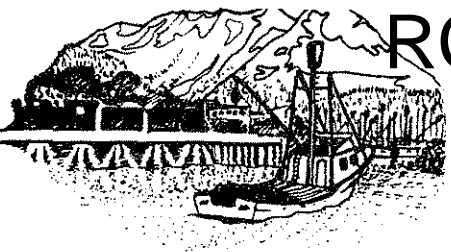
AS 16.05.300(b)(4) directs the BOF to hold regular meetings within PWS so as to provide better stakeholder access to the Board process as well as an opportunity for Board members to better acquaint themselves with the dependent communities and fisheries. Cordova offers the ideal combination of facilities, accommodations and hospitality to achieve these important goals.

Thank you for your consideration.

Sincerely,

Rochelle van den Broek  
Executive Director

# CITY OF CORDOVA



March 16, 2011

Mr. Vince Webster, Chairman  
Alaska Board of Fisheries  
c/o Alaska Department of Fish and Game  
P.O. Box 115526  
Juneau, AK 99811-5526

Dear Chairman Webster:

The City of Cordova would like to invite the Alaska Board of Fisheries (BOF) to conduct their December 2011 Prince William Sound meeting in Cordova.

Cordova has a long history of successfully hosting BOF meetings. Since our last BOF meeting in 2008, Cordova has completed renovations and expansion of the Mt. Eccles Elementary School and it is now an excellent facility for activities such as a BOF meeting. Our new gymnasium/auditorium was designed for multiple uses including large public meetings. It offers a capacity of 450 people, which is fully ADA compliant, has excellent acoustics and a sound system with wireless networking and additional rooms for committee meetings.

As you recall, Cordova continues to be easily accessible and is served by Alaska Airlines, both north and south bound daily flights, as well as twice daily ERA flights in the morning and evening. In addition, our fast ferry the M/V Chenega provides multiple trips each week to Whittier and Valdez and the south-central road system.

Cordova's combination of hotels, lodges and B&B's continues to expand and is of ample capacity for the expected influx of visitors and participants associated with a BOF meeting. With some advanced planning, we can also ensure that sufficient dining and entertainment is available during the meeting.

AS 16.05.300(b)(4) directs the BOF to hold regular meetings within PWS so as to provide better stakeholder access to the Board process as well as an opportunity for Board members to better acquaint themselves with the dependent communities and fisheries. Cordova offers the ideal combination of facilities, accommodations and hospitality to achieve these important goals.

Thank you for your consideration.

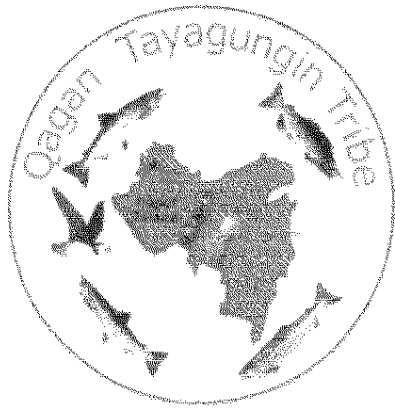
Sincerely,

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

James Kallander, Mayor  
City of Cordova

Cc: Jim Marcotte, Executive Director, BOF  
Cora Campbell, Commissioner, ADF&G  
Martin Moe, Cordova Chamber of Commerce  
Jim Nygaard, Superintendent, Cordova School District  
Tom Carpenter, CR/PWS Advisory Committee  
John Renner, CR/PWS Advisory Committee





**QAGAN TAYAGUNGIN TRIBE**  
**P.O. BOX 447**  
**SAND POINT, ALASKA 99661**  
**PHONE (907) 383-5616**  
**FAX (907) 383-5814**

March 16, 2011

Mr. Vince Edwards, Chairman  
Alaska Board of Fisheries  
PO Box 115526  
Juneau AK 99811-5526

Dear Chairman Webster:

The Qagan Tayagungin Tribe supports the decisions of the Sand Point Fish & Game Advisory Committee regarding their selection of proposals that were made pertaining to the up-coming Alaska Board of Fisheries meeting regarding shell fish decisions that will be considered for Area M.

This tribal government represents over 700 tribal citizens of which most live in Sand Point or within the region that will be impacted by decisions made by the Alaska Board of Fisheries during the shell fish meeting March 22-16, 2011. We are very concerned that the Tanner fishery that has once again become a viable way of earning a living for our citizenship has regulations in place that will positively affect all user groups. The fishing fleet that participates in this fishery ranges in vessels that are from 36 feet to 58 feet. Our desire is that all of those vessels need to have the opportunity through fishing time, pot limits, and reasonable quota to participate.

Dick Jacobsen, President of the Qagan Tayagungin Tribe, and David O. Osterback, a member of the tribal council, will be representing our interests during the Statewide Shell Fish meeting in Anchorage.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dick Jacobsen".

Dick Jacobsen, President

Homer F&G Advisory Committee Meeting Minutes of February 1, 2011

Meeting began at 6:00 pm at the NERRS building.

Members Present: Marv Peters Chair, Trina B. Fellows Sec, Tom Young, Joey Allred, Tabor Ashment, Skip Avril, Michael Craig, Thomas Hagberg, Dave Lyon, Lee Martin, George Matz, Jim Meesis, Gus Van Dyke, Pete Wedin, Jim Gladish.

Marv Peters Chair left early. Tom Young Vice took charge. Michael Craig came in late. Due to prior commitment.

Excused: Cliff Calkins & Gary Sinnhuber

Att: Shannon  
AC Comments  
UCI BOF

**BOF UCI Proposal comments**

Proposal 173 vote on amendment 12 favor 0 oppose 1 abstain  
Change to just read a \$15 dipnet permit will be required. This would help with enforcement & accurate creel survey data.

Vote on Proposal with amendment. 12 favor 0 Oppose 1 abstain

Proposal 174 0 favor 13 oppose 0 abstain  
This is a not a good proposal-waste of time and paper.

[FEB 11 11:44 D]

Proposal 189 10 favor 3 oppose 0 abstain

Proposals 197/198/100 2 favor 9 oppose 2 abstain

Proposal 216 1 favor 12 Oppose 0 abstain

Proposal 223 13 favor 0 oppose  
Do what ever is needed.

Proposal 239 0 favor 13 oppose 0 abstain

Proposal 240 13 favor 0 oppose 0 abstain

Proposal 241 7 favor 4 oppose 2 abstain

Proposal 262 0 favor 14 oppose 0 abstain

RECEIVED  
FEB 04 2011  
BOARDS  
ANCHORAGE

Proposal 315 Did not adopt - committee things this proposal need clarification -its muddy.

Proposal 316 0 favor 13 oppose 1 abstain  
Close personal use until crab rebound completely

Proposal 317 14 favor 0 oppose 0 abstain  
These are the dates the committee wanted before.

BOF King/Tanner crab comments