UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

January 31, 2007

Mel Morris
Alaska Department of Fish and Game
Boards Support Section
P.O. Box 115526
Juneau, AK 99811-5526

Dear Mr. Morris:

This letter contains NMFS' comments and concerns regarding Proposals 182 and 183 which are scheduled for consideration at the Board of Fisheries (BOF) February 2007 meeting. These proposals would set a guideline harvest level (GHL) for Pacific cod in the South Alaska Peninsula that is 50 percent of the Federal acceptable biological catch amount (ABC) for Pacific cod in the Western Gulf of Alaska (WGOA).

The total allowable catch (TAC) for the Federal Pacific cod fishery in the WGOA has historically been reduced to allow for the State-managed harvest of Pacific cod in this area. For 2007, the WGOA Pacific cod TAC is based on the ABC minus 25 percent allowance for the State-managed Pacific cod fishery. The Federal WGOA Pacific cod fishery is divided 90 percent to the inshore and 10 percent to the offshore sectors. Under the Steller sea lion protection measures, the TAC also is seasonally apportioned 60 percent to the A season and 40 percent to the B season. The majority of the harvest is by trawl and pot gears with about the same amount harvested by each gear type (See enclosures Western Gulf Inshore Pacific cod Catch by Week and Gear for 2005 and 2006).

The rate and amount of Pacific cod harvest is dependent on the time of year, gear type, and level of participation. The features of the Pacific cod harvest in the WGOA during 2005 and 2006 are as follows:

- The inshore sector fully and rapidly harvested its allocation, with the A season fishery closing before or during the first week of March each year.
- The WGOA Pacific cod inshore sector harvested 85 percent and 75 percent of the annual TACs, respectively.
- The A season Pacific cod apportionment was fully harvested.
- The inshore Federal Pacific cod trawl fishery maximum daily harvest rates were 304 mt and 217 mt, respectively.
- The inshore Federal Pacific cod pot fishery maximum daily harvest rates were 219 and 258 mt, respectively.

The State of Alaska limits Pacific cod harvests in the South Alaska Peninsula to pot and jig gears, with the majority being taken by pot gear. The Alaska Department of Fish and Game (ADF&G) report to the BOF for Proposal 180 states that the pot harvest capacity of the fleet in the South Alaska Peninsula Pacific cod fishery is approximately 1.1 million pounds (500 mt) per day and is difficult to manage within the GHL under current reporting requirements.

Implementation of Proposals 182 and 183 would result in two significant concerns. The first concern is the current harvest specifications for Pacific cod in the WGOA. If either Proposal 182 or 183 were adopted by the BOF and implemented in 2007, NMFS would need to take immediate action to specify a reduced WGOA Pacific cod TAC to prevent exceeding the ABC and the A season apportionment required under the Steller sea lion protection measures. This would be difficult to achieve because the Pacific cod A season apportionment will be mostly harvested by the time of the BOF action. As with any State action that may affect a Federal TAC, we recommend that the BOF action be delayed to allow integration with the Federal harvest specifications process. NMFS will propose harvest specifications for 2008 and 2009 in October 2007, and could propose adjusted WGOA Pacific cod 2008 and 2009 TACs at that time to account for the proposed additional harvest in the State-managed fishery. This would allow for public comment before implementation of any changes to the Federal TAC and allow the BOF to work with the North Pacific Fishery Management Council (Council) in managing the Pacific cod fisheries.

The second concern is shifting Pacific cod harvest from fisheries that are managed under the Steller sea lion protection measures to the State-managed fishery, which has limited protection measures based soley on 3 nm closures around Steller sea lion rookeries. The South Alaska Peninsula Area contains 12 rookeries and 28 haulouts which have various Federal closures to Pacific cod fishing depending on the gear type used (Tables 5 and 12 to 50 CFR part 679, See enclosed maps). By shifting Pacific cod harvest into the State managed fishery, 57 percent of the area closed to Pacific cod trawling in the Federal and State parallel Pacific cod fishery would be open to the State managed Pacific cod pot fishery. In addition, 22 percent of the State waters currently closed to the Federal and State parallel Pacific cod pot fishery would be open to the State-managed Pacific cod pot fishery. Shifting the harvest to the State-managed fishery likely will result in a reduction in the amount of Pacific cod harvested by trawl gear and an increase in pot and jig gear harvests. Because of the pot harvest capacity in the State-managed fishery described above, there may be higher rates of Pacific cod harvest in State waters during the State-managed fishery compared to rates seen during the Federal and State parallel fishery.

In addition, the Steller sea lion protection measures that are applied to the Federal and State parallel Pacific cod fisheries would not apply to the State-managed Pacific cod harvest. The harvest of Pacific cod subject to Steller sea lion protection measures has decreased since the 2000 and 2001 ESA consultations (table below). Shifting half of the ABC into the State-managed fishery would result in a 26 to 37 percent reduction in the amount of harvest that was expected to be conducted under the Steller sea lion protection

measures when the 2000 and 2001 consultations were completed (based on 1997 through 2000 data in the table below).

Harvest of Pacific cod in the South Alaska Peninsula Area. ADF&G landings data in pounds
Source: ADF&G Comments on BOF Proposals for February 2007

Year	Federal Waters	State Parallel	State-Managed	Total	Percent Harvest Under Steller Sea Lion Protection Measures**
1997	53,748,347	9,850,571	9,524,706	73,123,624	87%
1998	44,784,981	8,596,111	8,630,512	62,011,604	86%
1999	39,664,603	8,643,758	11,821,979	60,130,340	80%
2000	33,961,964	12,641,670	15,044,104	61,647,738	76%
2001	23,017,093	6,080,637	13,455,619	42,553,349	68%
2002	26,176,698	7,242,899	12,746,106	46,165,703	72%
2003	17,538,284	13,429,949	11,560,663	42,528,896	73%
2004	17,008,135	14,271,554	12,442,442	43,722,131	72%
2005	16,030,828	9,753,948	11,436,172	37,220,948	69%
2006*	10,254,385	13,323,190	11,715,820	35,293,395	67%

* Through Oct. 1, 2006.
**50 CFR part 679

Shifting half of the ABC into the State-managed fishery also would result in half of the WGOA harvest occurring with no seasonal apportionment. This temporal concentration of harvest inside State waters near haulouts and rookeries may affect the Steller sea lions critical habitat by disrupting fish aggregations and may decrease the foraging ability of Steller sea lions.

The effect of either Proposal 182 or 183 is that half of the WGOA Pacific cod ABC would be harvested without most of the Steller sea lion protection measures. The potential increased harvest rates, concentrated fishing in State waters with no seasonal apportionment, and minimal Steller sea lion protection measure closures likely would result in cumulative adverse impacts on Steller sea lions and their critical habitat that were not considered in previous consultations on the Alaska groundfish fisheries.

In January 2007, the ADF&G requested additional public review and comment on the draft Steller Sea Lion Recovery Plan. The recovery criteria described in that plan are important considerations in the groundfish fisheries consultation. We agree that additional review and public comments would benefit the recovery plan. Therefore, we have delayed release of the draft biological opinion until late 2007 after the recovery plan is completed. As requested by the Council in their September 26, 2006, letter to the BOF, we also recommend that the BOF postpone any action that would affect the State-managed pollock, Pacific cod or Atka mackerel fisheries until the consultation on the Federal groundfish fisheries is completed.

The BOF should continue its good working relationship with the Council and provide any proposed changes to the State-managed pollock, Pacific cod or Atka mackerel fisheries to the Council's Steller Sea Lion Mitigation Committee. The Committee is scheduled to begin review of proposed changes to the Steller sea lion protection measures at its April 2007 meeting, and their deliberations would be enhanced by considering proposed State-managed fisheries changes. This would give the Council a complete picture of fisheries effects to be considered in the consultation process as it makes recommendations for any changes to the Steller sea lion protection measures.

If the BOF implements Proposals 182 or 183, NMFS would need to shift resources away from completion of the recovery plan towards addressing the Endangered Species Act concerns of the State's action, further delaying the completion of the groundfish fisheries consultation. By working together, we can ensure robust fisheries without risking adverse modification of critical habitat for Steller sea lions.

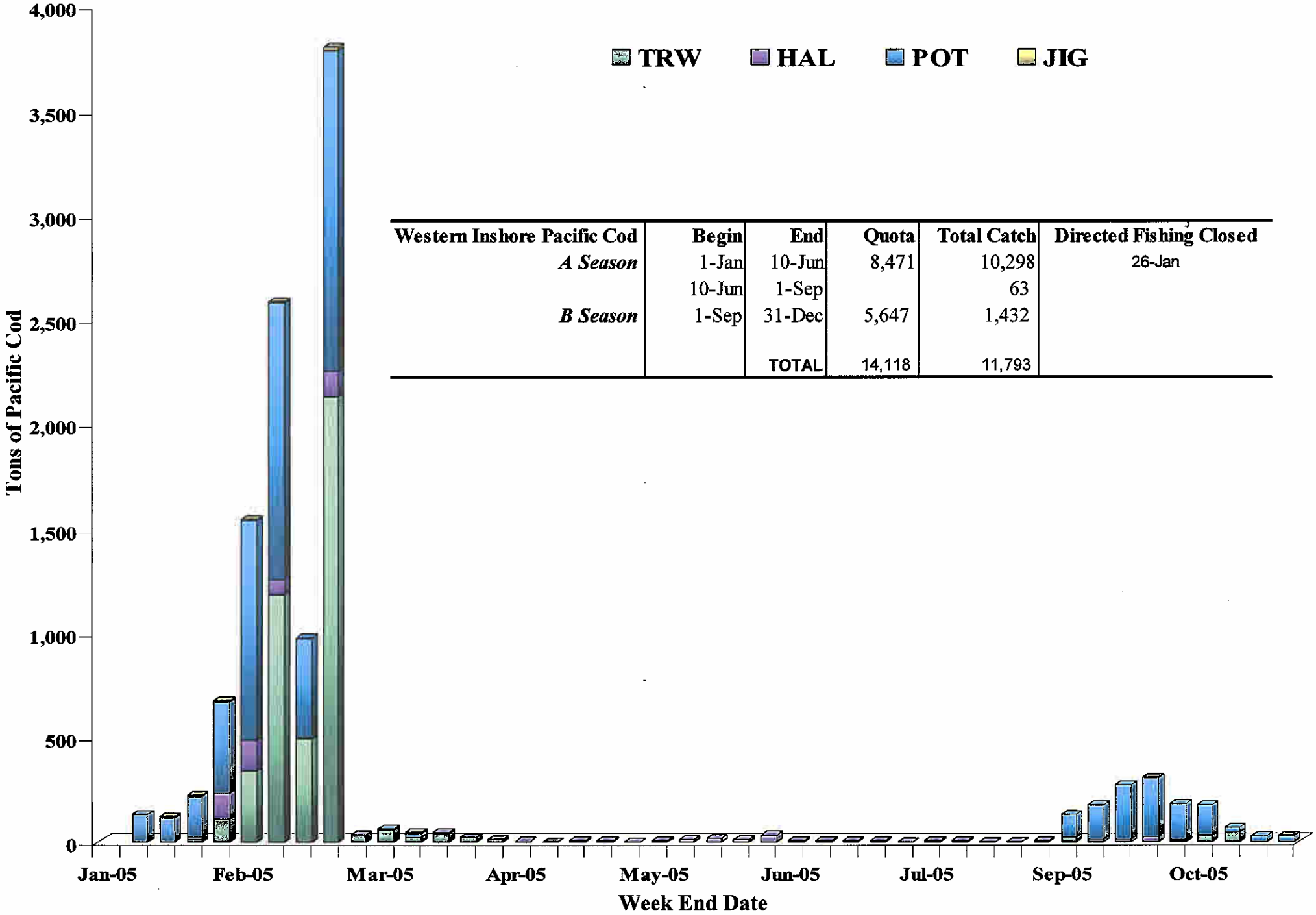
Sincerely,

for Sue Salveson

Robert D. Mecum
Acting Administrator, Alaska Region

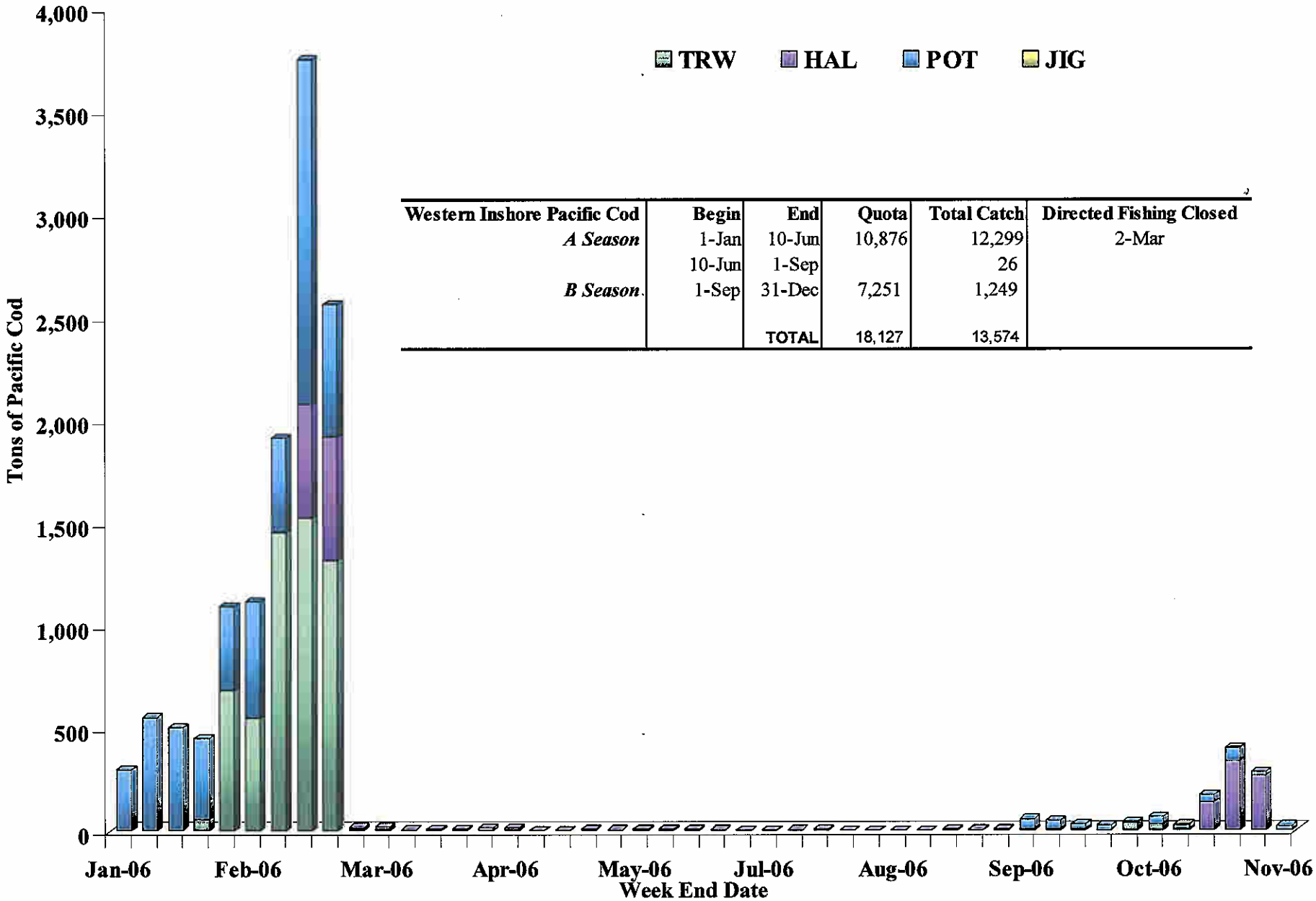
cc: Denby Lloyd, ADF&G
Stephanie Madsen, NPFMC

2005 Western Gulf Inshore Pacific Cod Catch by Week and Gear

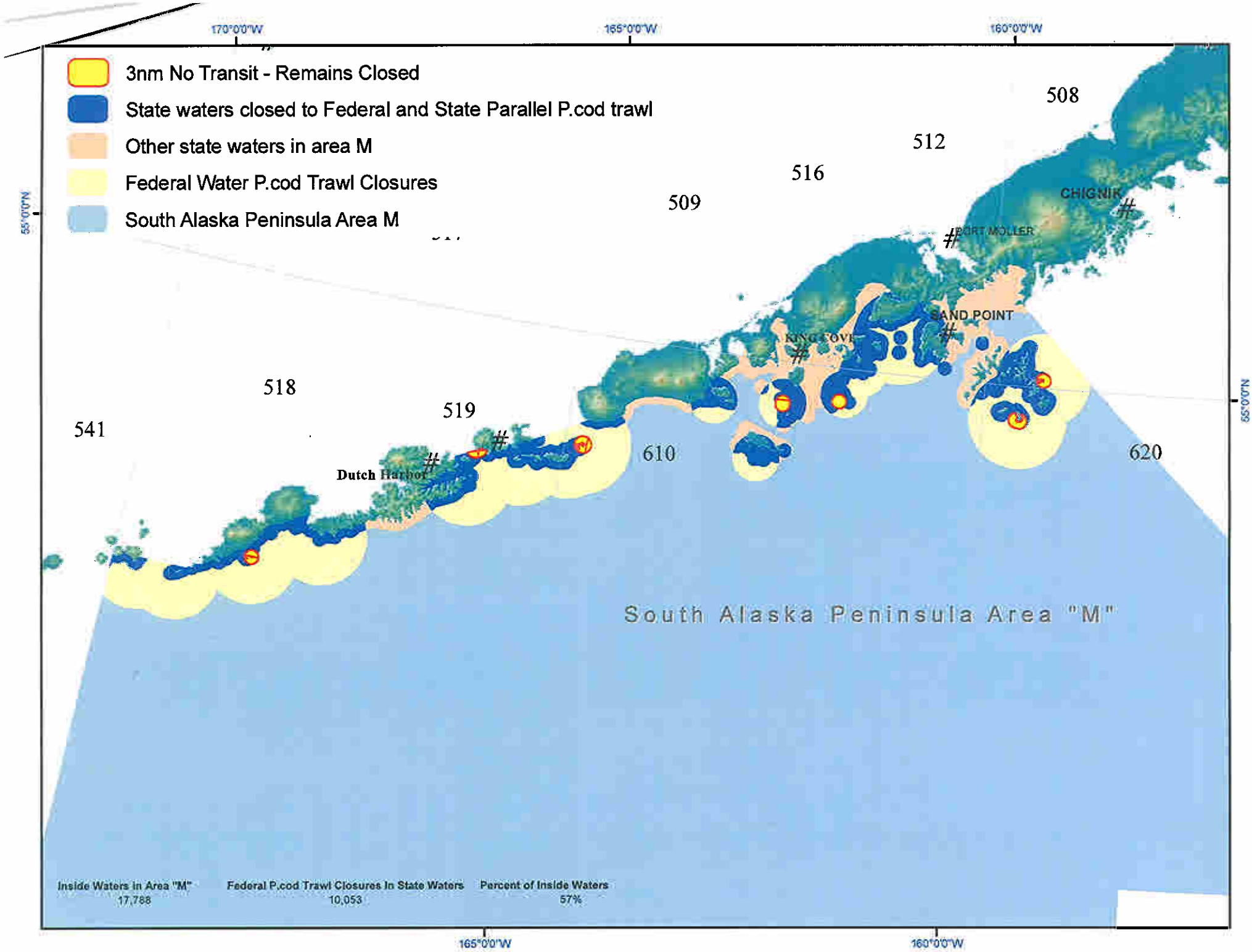


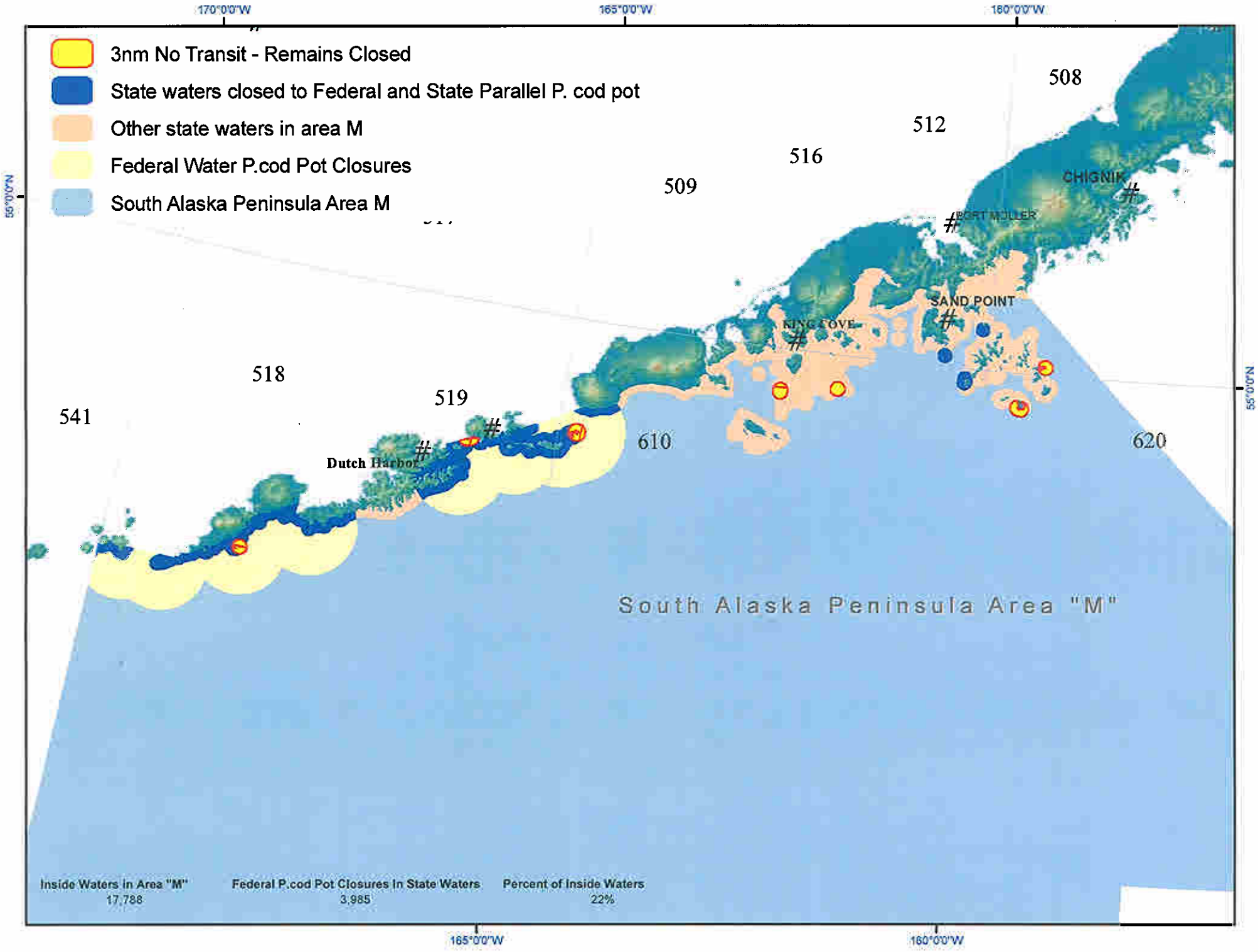
Western Inshore Pacific Cod	Begin	End	Quota	Total Catch	Directed Fishing Closed
A Season	1-Jan	10-Jun	8,471	10,298	26-Jan
	10-Jun	1-Sep		63	
B Season	1-Sep	31-Dec	5,647	1,432	
		TOTAL	14,118	11,793	

2006 Western Gulf Inshore Pacific Cod Catch by Week and Gear



Western Inshore Pacific Cod	Begin	End	Quota	Total Catch	Directed Fishing Closed
A Season	1-Jan	10-Jun	10,876	12,299	2-Mar
	10-Jun	1-Sep		26	
B Season	1-Sep	31-Dec	7,251	1,249	
		TOTAL	18,127	13,574	


170°0'0"W
165°0'0"W
160°0'0"W
55°0'0"N
3nm No Transit - Remains Closed
State waters closed to Federal and State Parallel P.cod trawl
Other state waters in area M
Federal Water P.cod Trawl Closures
South Alaska Peninsula Area M
508
512
516
509
CHIGNIK
PORT MOLLER
SAND POINT
KING COVE
518
519
541
610
620
Dutch Harbor
South Alaska Peninsula Area "M"
Inside Waters in Area "M"
17,788
Federal P.cod Trawl Closures In State Waters
10,053
Percent of Inside Waters
57%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State waters closed to Federal and State Parallel P. cod pot
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Federal Water P.cod Pot Closures
South Alaska Peninsula Area M
508
512
516
509
518
519
541
610
620
CHIGNIK
PORT MOLLER
SAND POINT
KING COVE
Dutch Harbor
South Alaska Peninsula Area "M"
Inside Waters in Area "M"
17,788
Federal P.cod Pot Closures In State Waters
3,985
Percent of Inside Waters
22%