



**American Seafoods Company**

Robert D. Mecum  
Acting Administrator, Alaska Region  
National Marine Fisheries Service  
P.O. Box 21668  
Juneau, Alaska 99802-1668

February 23, 2009

sent via mail, and email to:  
[salmonbycatcheis@noaa.gov](mailto:salmonbycatcheis@noaa.gov)

Re: Comments on the Bering Sea Chinook Salmon Bycatch Management Draft Environmental Impact Statement

Dear Mr. Mecum:

I am writing on behalf of American Seafoods Company to comment on the draft Environmental Impact Statement on Chinook salmon bycatch in the Bering Sea pollock fishery, a document that evaluates various proposed management measures designed to limit the amount of Chinook salmon taken as bycatch in the Bering Sea pollock fishery. American Seafoods is one of the largest participants in the Alaska pollock fishery; our roughly 2,000 employees and their families are directly dependent on their income from this fishery. We are also partners with two Community Development Quota (CDQ) program groups, Coastal Villages Region Fund (CVRF) and Central Bering Sea Fishermen's Association (CBSFA), that collectively have ownership interests in American Seafoods of approximately 50%.

We fully support the comments submitted by Ms. Stephanie Madsen on behalf of the At-sea Processors Association (APA) and by Mr. George Mannina of the Nossaman, O'Connor & Hannan law firm on behalf of the Bering Sea pollock industry. Rather than reproduce those comments in whole, we are highlighting some of their comments and adding a few additional comments of our own. First of all, we clearly understand the importance of the economic, social and cultural significance of Chinook salmon to the fishermen and residents of Western Alaska, and the need to limit bycatch of salmon in the Bering Sea pollock fishery to the extent practicable. The record of the catcher-processor sector in the pollock fishery, of which American Seafoods is its largest member, demonstrates that we have already made significant progress in our efforts to reduce Chinook bycatch (at no small cost, as we will discuss further below). As a result of those efforts, the bycatch rates of the pollock catcher-processor sector are the lowest of any sector in the pollock fishery. Nevertheless, we recognize that more needs to be done and we have committed ourselves to the task of exploring other measures to further reduce Chinook salmon bycatch.



## **American Seafoods Company**

In reviewing the DEIS, we have concluded that, in its current form, it is wholly inadequate to support informed decision making insofar as the alternative management measures it evaluates. The document fails the adequacy test for a number of reasons, including: its failure to rigorously evaluate the costs and benefits associated with the alternative measures under consideration; its reliance on erroneous assumptions about ownership and investment patterns in the Bering Sea pollock fishery; its failure to consider the full range of impacts that some of the proposed measures would have on economically disadvantaged communities in Western Alaska; its failure to consider a number of potentially critical factors affecting Chinook salmon runs in Western Alaska; and its failure to correctly depict the bycatch profile of the catcher processor fleet. Detailed comments on these issues follow below.

### **I. The foregone revenue analysis does not adequately inform the Council as to the costs associated with management measures that could result in premature closures of the pollock fishery**

Using foregone revenue as a measure of the economic impact of the premature closure of the BSAI pollock fishery is a gross oversimplification that significantly understates the economic consequences of the proposed alternatives under consideration. It fails to inform the Council, the agency and the public of the true distributional and other impacts that such closures would have on: seafood production, international trade and the U.S balance of payments, jobs, markets, consumers, support industries (e.g., banks, fuel suppliers, shipping companies, equipment manufacturers, cold storages, airlines, travel agencies and other such vendors who supply goods and services to the industry), invested capital, and a host of other consequences that would flow from such a closure.

Furthermore, "foregone revenue" does not include any consideration of the economic multipliers that are associated with revenue generated from the fishing industry in Alaska--multipliers that are estimated to be on the order of 1.6, with "every \$1 million of wholesale value in the seafood industry generating an additional \$600,000 in indirect and induced output. (See, *The Seafood Industry in Alaska's Economy*, a recent report by Northern Economics, Inc, January 2009, at p. 44).

Nor does "foregone revenue" capture the impact that unanticipated interruption in the production of pollock-based products would have on the market for the products produced by the nation's largest fishery or on the role that Alaska pollock currently plays as the "whitefish of choice" in seafood markets around the world.



## **American Seafoods Company**

**In terms of food production alone, every one thousand tons of foregone pollock catch equates to approximately 2.4 million meals of low-cost seafood that would otherwise be available to U.S. and other consumers around the world.** Based on recent catch and bycatch rates as depicted in the DEIS, the difference between a “hard” bycatch cap of 68,392 and a cap of 47,591 Chinook could result in hundreds of thousands of tons of foregone pollock harvest. **To put that in perspective, each hundred thousand tons of foregone harvest represents enough food to provide every man, woman and child in Alaska a seafood dinner once a week for more than seven years.** The foregone revenue analysis fails to disclose that such a stunning reduction in seafood production would result from the choice of one cap over the other. It must be remembered that seafood production is one of the most important objectives insofar as National Standard #1 of the Magnuson Stevens Act is concerned.

Further, the costs and lost revenues that have been incurred by the pollock fleet over the years, and the costs and lost revenues that will be incurred to avoid and minimize Chinook bycatch in the future, to comply with whatever action the NPFMC takes in April have not been adequately characterized in the DEIS. These costs and lost revenues have been and will continue to be huge. For example, we estimate that in 2008, the cost to American Seafoods in lost pollock roe revenue alone, from the area closures of the rolling hotspot closure program was roughly \$10 million. The cost to the entire pollock industry for this and other Chinook avoidance measures is likely to be many times greater than this amount, but there is no effort in the DEIS to either measure or describe these costs. They need to be thoroughly analyzed for any meaningful decision on the impacts of additional salmon bycatch measures.

Finally, if our sales experience is representative, the product market values used in the DEIS to calculate foregone revenues greatly understate recent pricing and consequently, even the limited foregone revenue analysis makes projections that are far below predicted actual losses.

For these reasons, the “forgone revenue” test is simply inadequate to inform the NPFMC of the economic consequences that would flow from the adoption of a cap that the industry cannot practicably accommodate (the “practicability” test imposed by National Standard #9’s bycatch reduction requirement.)



## **American Seafoods Company**

### **II. The effect of Chinook protective measures on individual fishing companies and vessels has not been analyzed**

The DEIS has not analyzed the impact of possible Chinook salmon protective measures on individual fishing companies or individual vessels. Historically, Chinook bycatch has varied dramatically from one year, and even one season, to the next, as well as among different vessels and companies, so that Chinook protective measures that may not appear to have serious impacts to a fishery or sector as a whole will have severe impacts to individual operators whose pollock fishing operations are prematurely shut down. As a result, any analysis of costs that examines only industry-wide or sector level consequences is certain to grossly underestimate aggregate costs incurred by individual operators.

### **III. The DEIS significantly understates the level of Alaskan investment in the Bering Sea pollock fishery**

The DEIS states that “less than 1% of the Bering Sea pollock catch is harvested by vessels owned by Alaska residents”. This is a stunning misstatement of fact, and one that casts serious doubt about the credibility and adequacy of the DEIS’s treatment of potential impacts in the Regulatory Impact Review (RIR) and other sections of the DEIS. It is a well known and fully documented fact that Community Development Quota (CDQ) communities in Western Alaska are heavily invested in the Bering Sea pollock fishery, the catcher–processor sector in particular. Indeed, the level of investment that CDQ groups have made in the Bering Sea pollock fishery has increased significantly in recent years.<sup>1</sup> **At the present time, CDQ interests own approximately 33% of the offshore catcher-processor pollock fleet, a fleet that, when CDQ catch is included, harvests nearly 50% of the Bering Sea pollock quota each year. CDQ groups also have ownership interests in at least one mothership (the M/S Golden Alaska), and in numerous pollock catcher vessels as well.**

The RIR correctly observes that, with regard to fishery dependent communities in Western Alaska “there are very few economic opportunities available as an alternative to commercial fishing related activities....” and that “[f]or many of these communities (and especially the CDQ communities), unemployment is chronically high, well above the national average, and the potential for economic diversification of these largely remote, isolated, local economies is very limited” (RIR at p. 705). What the RIR doesn’t say is that these very same communities

<sup>1</sup> At the present time, the Coastal Villages and Central Bering Sea CDQ groups own a combined 49.5% of American Seafoods—the largest of the at-sea processing companies; Norton Sound Economic Development Corporation (NSEDCC) owns 37.5 % of Glacier Fish Company; the Aleutian/Pribilof Island (APICDA) CDQ group owns 20% of the FT Starbound; and the Bristol Bay Economic Development Corporation (BBEDC) owns 20% of the FT Arctic Fjord.



## **American Seafoods Company**

are now deriving tens of millions of dollars per year from their investments in the pollock catcher processor fleet (in addition to the royalties they derive from leasing their CDQ allocations), investments that are at risk under the more onerous options identified in the DEIS.<sup>2</sup>

There are two significant consequences that flow from the RIR's failure to recognize the level of investment that the CDQ communities have made in the Bering Sea pollock fishery. First, the document fails to evaluate the potential impacts that the proposed management measures will have on the heretofore profitable investments that these otherwise economically deprived communities have made in the Bering Sea pollock industry. Such an evaluation is critical because, as the DEIS notes, the "the potential for economic diversification" is otherwise "very limited" in the CDQ communities. The lack of such an evaluation is, we believe, a fatal flaw in the analysis and could result in serious unintended consequences to these fishery-dependent communities.

Second, the RIR fails to provide any specific information about what the CDQ communities have been doing with the revenues they are receiving from their investments in the pollock fleet, even though those activities are prominently described in reports and/or other information posted on the web sites maintained by various CDQ groups (see the 2007 Annual Report for the Coastal Villages Region Fund (CVRF); excerpts from the Norton Sound Economic Development Corporation's (NSEDC) web site; the 2007 Annual Report for Yukon Delta Fisheries Development Association; and the 2007 Annual Report for the Aleutian Pribilof Island Development Association (APICDA).

To a very significant extent, the investments, jobs, scholarships, infrastructure projects, fishery development activities and other economic benefits described in these materials are directly related to the monies generated from investments these CDQ communities have made in the Bering Sea pollock fishery, primarily in the vessels and other assets owned and operated by these pollock fishing

---

<sup>2</sup> Coastal Villages reports in its Annual Report for 2007 that it had approximately \$24 million in revenue from "its crab and pollock investments" in 2007—that is in addition to the \$13.6 million it had in CDQ royalties. Indeed, the above-referenced report by Northern Economics, Inc (The Seafood Industry in Alaska's Economy, January 2009), notes on pg. 64 that "[i]n 2004, CDQ earned income exceeded royalty revenues for the first time in program history, and **earned income doubled royalty revenues in 2005**. As CDQ groups continue to make investments in various fisheries assets, capacity for earned income will continue to increase in future years" (emphasis added). The Northern Economics report goes on to note on page 67, that "[n]o other mechanism has been as successful as the CDQ program in promoting involvement of Alaskans in the harvest and processing of offshore Bering Sea fishery resources".



## **American Seafoods Company**

companies. **Indeed, various estimates contained in the report indicate that revenues derived from the pollock fishery and/or in investments made in that fishery generate anywhere from 85-90% of the monies used to support the above-referenced projects.**

Pollock-based investment revenues also enable CDQ communities such as CVRF to help support other local fisheries, including salmon fisheries in their respective areas. A list of pollock-funded in-region projects designed to enhance salmon and other local fisheries is posted on the Coastal Villages Regional Fund's web site and in its Annual Report for 2007. Of particular note are the activities of the CDQ group's subsidiary, Coastal Villages Seafoods (CVS), described on pages 10-11 of their Annual Report. Those activities involved the operation of halibut and salmon processing facilities throughout the region, including CVS's salmon processing plant in Quinhagak and its buying station in Bethel that provided a salmon market for 350 resident fishermen; as well as the construction of a new \$30 million Goodnews Bay regional plant in Platinum, Alaska that will begin operations this year and that represents the "largest onshore project in the 15 year history of the Western Alaska CDQ Program".

Again, these projects are funded exclusively with monies generated by CVRF through its ownership interest in American Seafoods and the pollock harvesting and processing activities in which our company is involved. These projects, too, could be severely impacted by some of the salmon bycatch measures under consideration by the NPFMC, even though such impacts are not evaluated in the DEIS.

The examples cited from the CVRF Annual Report are only part of the picture. The other CDQ groups also derive the vast majority of their revenues through investments they have made in companies that participate in the Bering Sea pollock fishery and/or in the royalties they generate from their share of the pollock quota. The failure of the DEIS to thoroughly evaluate the impact that the proposed salmon bycatch measures would have on the "economic engine" that is driving development and economic opportunity in the various CDQ regions is a major flaw in the document, making it totally inadequate insofar as its role in "informed decision making" is concerned.

#### **IV. The treatment of sectoral bycatch patterns in section 5.3.1.1 is confusing and misleading**

Section 5.3.1.1 is a short, but important section of the DEIS. It presents historical Chinook bycatch information for each of the three sectors involved in the Bering Sea pollock fishery. Unfortunately, the information is presented in a confusing



## **American Seafoods Company**

and potentially prejudicial way. In our view, the text of the entire section should be rewritten. For example:

1). Seasonal bycatch levels by sector. Figures 5-36 and 5-37 show A season and B season Chinook bycatch by sector for each of the years 1990-2010. The resulting charts show widely diverging salmon “catch” patterns over time between the three sectors. Nowhere is there any explanation that the differences in “catch levels” between sectors in any given year and/or over time are, to a large extent, simply due to the amount of pollock each sector caught during the year(s) in question.

This is complicated further by the period covered during the charts 1990-2008. That period covers times of the open access “race for fish” when each of the pollock sectors competed with each other for a share of the common pollock quota pool (1990-1992); the period of inshore/offshore allocation measures that created and then changed sectoral shares of the annual pollock quota periodically (1993-1999); and the years in which the fishery has operated under the allocation provisions of the American Fisheries Act (AFA), from 2000 to the present. Thus, to a great extent, the changes in salmon bycatch shown in Figures 5-36 and 5-37 simply reflect different allocations of the pollock quota that were imposed in the sectors’ respective shares of pollock over time.

Simply put, any depiction of salmon bycatch levels without some adjustment for the amount of pollock caught by each of the sectors during the period in question paints an extremely erroneous picture, a picture that is irrelevant to any determination about how to address salmon bycatch and potentially prejudicial to the sector(s) that happened to catch the most pollock in any given year. For this reason, the charts and graphs shown should be limited to comparative rates of salmon bycatch (by sector) over time. Figures 5-36 and 5-37 should be removed from the analysis.

2). Figures 5-38 and 5-39 should indicate if CDQ catch and bycatch is included in the bycatch rate calculations. These figures show relative rates of salmon bycatch (Chinook/1000 tons of pollock). For that reason, these figures are more informative than figures 5-36 and 5-37. The text that accompanies figures 5-38 and 5-39, however, does not indicate whether or not CDQ catch is included in the comparative rate lines shown for the catcher/processor and mothership sectors. In our view, the preferred approach should be to include CDQ pollock catch and related salmon bycatch along with the non-CDQ catch and bycatch in the same rate calculations for those sectors and vessels engaged in the harvest of both CDQ and non-CDQ pollock. In practice, a vessel with CDQ pollock normally harvests both CDQ and non-CDQ pollock as part of a normal fishing trip. It is the same boat, the same skipper and the same crew, fishing in the same places that



## **American Seafoods Company**

harvests both CDQ and non-CDQ pollock, on the same trip. Any attempt to distinguish CDQ from non CDQ tows (and the salmon bycatch attributed to such tows) would be arbitrary at best. At worst, it could be unfair and prejudicial.

### 3). Tables 5-22 and 5-23. These tables need clarification as well.

- a) First, the symbols used in these tables (and elsewhere in the document) to depict the three pollock sectors are somewhat confusing. There should either be a legend indicating what M, P and S mean; or symbols that are more familiar to the public should be used: CP for catcher processors; MS for motherships; and SS for shoreside processors.
- b) Second, the rate of bycatch should be shown in the metric most commonly used to depict bycatch, a “rate per ton” instead of the rate per 1,000 mt. as used in the tables;
- c) Third, the “mean” and “deviation from the mean” values used in the tables is not a familiar way of showing bycatch. Simple “rates per ton” with an average over time at the end would convey the message in a more meaningful way to the reader.
- d) Fourth, the text that accompanies the tables should indicate if CDQ catch and bycatch is included in the data series. We think it should be.

### **V. The range of alternatives is not adequate**

The analysis contained in the DEIS describes four alternatives for consideration in connection with a possible revision to the current Chinook salmon bycatch management regime in the Bering Sea pollock fishery. Those alternatives are as follows:

- Alternative #1---maintain the status quo salmon bycatch measures;
- Alternative #2---adopt a hard cap that, once met, would close the fishery;
- Alternative #3---adopt a hard cap that, once met, would close a predetermined area
- Alternative #4---the council’s Preliminary Preferred Alternative—the “PPA”

In our view, this is an awkward and inadequate range because the status quo alternative really represents a hybrid which, under different scenarios, imposes entirely different and distinct bycatch rules and regulations.



## **American Seafoods Company**

Scenario #1 involves a pre-determined closure area that is triggered whenever total Chinook bycatch in the pollock fishery reaches 29,000 fish. It is the management system currently imposed by Amendment 58 to the BSAI FMP and codified at CFR 679.21(e)(1)(vi). It was the extant Chinook bycatch management system at the time the U.S./Canadian salmon treaty was signed in 2002 and clearly complies with both the letter and spirit of that treaty that requires the U.S. to “maintain” efforts to reduce bycatch of Yukon River salmon.

Scenario #2 involves an entirely different approach to Chinook bycatch management. The underlying concept was embodied in Amendment #84 to the BSAI FMP, which provides for a waiver of the cap and closure imposed by Scenario #1, as long as the industry has agreed to and is operating under what is known as a Voluntary Rolling Hot Spot Closure Program (VRHSCP). In order to qualify for such a waiver, the VRHSCP must have been implemented via an Inter-coop Agreement (ICA) that closes pre-determined “hot-spot” areas to those vessels failing to comply with bycatch limits and rules embodied in the ICA itself.

Both Scenarios represent legitimate bycatch management alternatives, with Scenario #1 known to be compliant with U.S. treaty obligations under the U.S./Canadian salmon treaty. Bycatch levels experienced in those years that Amendment 58 was in place were significantly lower than the bycatch levels experienced recently. Whether or not the increased bycatch levels experienced since Amendment 58 was implemented represent a failure of the VRHSCP or simply some other set of dynamics that have resulted in higher Chinook encounters remains to be seen. Nevertheless, some have argued that current bycatch levels have been too high and that the current system violates the spirit if not the letter of the U.S. obligations under the U.S./Canadian treaty.

In our view, the hybrid nature of the status quo alternative makes an analysis difficult and confusing, complicating efforts to compare it with the other competing measures. For this reason, we believe that the analysis and decision making process would be facilitated by treating the cap and closure provisions of Amendment 58 and the VRHSCP/ICA provisions of Amendment 84 as two separate and distinct “stand alone” alternatives. Each of those alternatives could then be evaluated on their own merits and each could be compared and contrasted with the other competing alternative systems contemplated in Alternatives 2, 3 and 4.

For these reasons, the 29,000 triggered closure provisions of Amendment 58 should be analyzed as a separate and distinct alternative, separate and distinct from the provisions embodied in Amendment 84 dealing with the VRHSCP.



**American Seafoods Company**

**VI. Miscellaneous issues affecting the adequacy and/or utility of the DEIS**

1) Observer costs. Monitoring of hard caps on an individual vessel by vessel basis will require additional observers. The analysis should evaluate the number of extra observers needed to monitor vessel-specific salmon bycatch numbers and the costs associated with such extra coverage.

2) Water Quality, pollution, habitat damage caused by mining, dredging and cumulative effects of same on Chinook stocks are not discussed in the DEIS. Nor are management practices that may be harmful to selected stocks (e.g. those that increase bycatch of Chinook in in-river fisheries). These factors need to be identified as additional sources of potential harm to Chinook runs and need to be addressed in the DEIS.

In conclusion, we reiterate that, in our opinion, the DEIS is woefully deficient for all the reasons cited above. Because of these shortcomings, the document is incapable of adequately informing the Council or the Agency insofar as the economic, environmental and other consequences that would flow from the proposed action. Thank you for your consideration of our comments on this important issue.

Sincerely,

Jan L. Jacobs  
Director of Government Affairs  
American Seafoods Company