

Transcription
Council Discussion and Final Action on License Limitation
June 15-16, 1995

[NOTE: To save time and space, the formalities of seeking recognition of the Chair and being recognized by the Chair have been omitted.]

Tape 32, June 15, 1995, beginning approximately 10:30 a.m.

Chairman Rick Lauber: Council will come to order. I have a suggestion. Normally at this time, traditionally Mr. Mace has made his AP framework type motion. However, as you recall in the AP report, they indicated there were several items that they didn't cover because of various reasons. One, of course, they couldn't come to an agreement on, a couple of those. And others they just didn't cover because it looked as though we had narrowed it to a single option or whatever. What I'm going to suggest we do, if you think this is okay, we'll follow it. If somebody's got a better idea, no pride in authorship. I suggest we start out with the agenda item C-2(a)(1) in the book which starts out with License Classes, Nature of Licenses, and so forth. Just basically in order, take up those as an issue, and at that point, for instance the first one would be License Classes, someone could then move one of those three options and then that would be subject to amendment or whatever and we would then tentatively adopt that one. Then we would move on to Nature of Licenses, and then following that motion and so forth, we'd move on to the next item. Then at the conclusion of all of that, all of that would then be subject to a motion to approve. I guess we could probably take groundfish as a unit and adopt that, whatever we have voted on, then move on into crab and follow the same procedure as we go through crab, and then adopt that. I think at the end of each one of these or at the end of the total, there may be other items that Council members would like to have included or some other language or legislative intent or whatever, you could then make those motions at the end of either the groundfish or crab. It wouldn't matter to me and I don't think it matters, but probably not right in the middle of it unless it's something that directly affects that particular agenda item. If you understand that idea and that's acceptable or does somebody have another suggestion? No objection to that? Before we start into this, is there any need to generally have staff be . . . questions or I guess probably the best thing to do is as we come up to that agenda item and if you have any questions of staff, we would do that.

Dave Benton: Mr. Chairman, I just have a question. Well, actually two questions. One is then what we'll be working off of is the telephone book that the Council staff has provided for us. Is that correct?

Lauber: That's right. It's the document is the book; mine is dated June 2, 1995 and it says agenda item C-2 (a)(1).

Benton: Thank you.

Bob Mace: I assume this last copy of the AP minutes included the up-to-date crab information. It would be helpful in my view to have someone from the AP here to sort of lead us through some of those problems when they come up.

Benton: I had a second question along the same line as Mr. Mace. My copy of the AP minutes have groundfish. Have we gotten an updated version of crab yet?

Executive Director Clarence Pautzke: You should have 7:30 p.m. down in the lower right hand corner of the front page and at the top it goes through 10/14(?).

Benton: I need to get a copy of that Mr. Chairman.

Lauber: I thought that was passed out. Somebody filched it from . . . anyone know if Beth Stewart is still around? Okay, particularly when we get to crab, but there may be other items, if not, Dave Fraser's here. With that, let's start out with groundfish license. The first one is License Classes.

Wally Pereyra: Mr. Chairman, I'd like to make a motion, so at least, I win one. I make a motion for the groundfish license plan that we have a single class of license.

Lauber: Is there a second?

Clem Tillion: Second.

Pereyra: It seems to me that the overwhelming testimony that we've had is in support of this. I think it's the most direct method of going about implementing a license plan. I think it's appropriate in this case.

Lauber: Is there any further discussion? Is there any objection to the motion of a single class of license? Hearing none, that is adopted. Nature of Licenses. Anyone care to move?

Linda Behnken: Mr. Chairman, I would move the option from the non-severable area endorsements for the following areas: Aleutian Island/Bering Sea, Western Gulf, Central Gulf, West Yakutat combined, East Yakutat/Southeast Outside.

Tillion: Three million, huh?

Lauber: I didn't get that. Are you reading from the staff document? Is that the one with the arrow?

Behnken: I'm going back and forth between the two, but 300,000 is the number on that.

Tillion: Yes, the one with the arrow.

Lauber: Okay, 300,000.

Tillion: Second.

Pereyra: Question. We have two options here. I think regarding whether the Bering Sea/Aleutian Islands and Gulf of Alaska are separate or whether they're together. I think we need some discussion on that particular issue don't we?

Lauber: What was that?

Pereyra: You've got GOA, BSA or GOA/BSAI as part of 300,000.

Mace: Ms. Behnken, I'm looking at the AP's minutes in which they discuss this and they add a qualification with respect to landing dates. It would appear to me that would be the appropriate condition to add to this, because that particular motion is not complete without the AP's qualification, I don't think.

Behnken: I'm sorry I couldn't hear you.

Mace: I'm suggesting that you include the AP's qualification with respect to endorsements on page two.

Benton: Mr. Chairman, if I understood the procedure that you outlined, we would be following the framework the staff provided for us, Endorsement Qualifying Periods and General Qualifying Periods would come next. Mr. Chairman, if I might, I would speak in favor of the motion for item 300,000. The Council staff, over the past couple of meetings, pointed out problems with just having a General License umbrella in

either the Gulf or the Bering Sea. The analysis showed that there could be increases of capacity and unanticipated consequences that would come about because of that kind of a split because some vessels fish both in the Gulf and the Bering Sea. In response to that, the Council developed this option. The option would provide an umbrella for the Gulf of Alaska for vessels that simply fished in the Gulf of Alaska. It would provide an umbrella for vessels that fished strictly in the Bering Sea/Aleutian Islands, and it would provide a separate kind of an umbrella which would be non-severable for vessels that fished between the Gulf and Bering Sea/Aleutian Islands. I think that the analysis that we had before us, particularly at the September meeting, and which was further considered I believe it was in January, reinforced very strongly using this kind of a system for the General Licenses. I would support the motion. Thank you.

Behnken: Thank you, Mr. Chairman. I'm sorry for the confusion. I guess I didn't speak to my motion. I think Mr. Benton's covered most of it. I would add only that I believe the licenses, as reflected in this motion, reflect the current nature of the fleet and the areas in which it operates in a consistent manner.

Ron Hegge: Thank you, Mr. Chairman. In the AP on page two, they address the Southeast designation as fixed gear only. Is that part of your motion, Linda, that that would be in there?

Behnken: If I could, Mr. Chairman. My understanding was that we were working off of the Council document. That comes under the Council document under License Designations, so I think we were getting to that later.

Tillion: Let's stick to one document. It's less confusing.

Lauber: Further discussion? Ready for the question? The motion is the non-severable which is contained in the staff document opposite the arrow, 300,000. Is there any objection to the motion? Hearing none, it passes. Alright, the next is License Recipients.

Mace: I move that we adopt Current Owners, category 1,000 for License Recipients. Or 10,000 excuse me.

Lauber: Is there a second?

Tillion: Second.

Lauber: We're having trouble. The motion as I understand it was that we adopt for License Recipient, current owners, number 10,000. Is that correct, Mr. Mace? And it was seconded. Also, I note that is the AP recommendation as well. Is there any further discussion on this item? Hearing none, it passes.

Benton: Could I ask a question before we go on. This is a question for Counselor. Counselor, we have discussed these matters many, many times, many of these options during the course of deliberations by the Council starting well over a year ago. The question for you is do we need on each one of these individual items to have a bit of discussion of rationale at this point, or are we proceeding in a manner that's acceptable to you, if at the end we summarize our views on the elements and options that have been chosen.

Lisa Lindeman: Mr. Chairman, there's a lot of discussion in the analysis already on each of these options. . . **[change to tape 33]** . . . but, from General Counsel's standpoint, we would prefer to have rationale for each of these elements, and then again, rationale for the overall package that you come up with. You know, the record as to why you're adopting what you're adopting.

Lauber: You said for the overall package.

Lindeman: For each element and then for the overall package. Whatever rationale you can put on the record to justify what you're doing. It takes time, but you need to build a record and I've got some comments about the record as it is now that should be addressed later.

Lauber: In doing this and in case that one or more members of the Council cares to attempt to summarize that would be considered only that. In no way, the record is the complete record and justification. Sometimes when we're trying to summarize, maybe not significant reasons, but leave out reasons that accumulatively might be important so that would not be any problem. We're still going to use the whole record, testimony, staff documents, analysis, and so forth, correct?

Lindeman: Correct, Mr. Chairman.

Lauber: So if we get the high points and I don't want to carry this saving time to the point of ridiculousness, certainly not to jeopardize the package. Again, I don't want to have people go on and on and on trying to get everything in here either.

Lindeman: Well, Mr. Chairman, it's up to the Council to build the record and if people can do that in a few words that's great.

Benton: Counselor, you said you had some general comments about the record that needed to be built. Could we have the benefit of that now so that we could know what our requirements are?

Don Collinsworth (Alternate for NOAA Regional Director): I'll certainly allow General Counsel to address that issue. What we're dealing with now is the bits and pieces of putting together a qualifying program. It's as though we have a pile of tinker toys out in front of us and we're selecting this piece and sticking it into that piece and we're going to put another piece on. We're going to build something here at the end of this qualifying program. What we build is going to need to be justified and supported on the record. It's difficult to do incrementally when you pick up the little round piece that has a bunch of holes in it and say how that's going to fit in the overall whatever it is we build. So to the extent that there is, as incrementally as we go through this, there is justification for option 10,000, then it should be addressed. But fundamentally the justification needs to look at the pieces. Like any one increment here, I can't tell what the impact is going to be on Gulf or the Bering Sea/Aleutian Islands. Just one piece, by selecting size isn't going to tell me what the program's going to look like. Size of a vessel for example. I do have, when we get to the general debate, on the over-arching motion once we've made these incremental selections, I have a number of issues that I wish to debate. I think at that time, I will tell you about my concerns about what the record is so as we go through again to the extent to which we can enhance the record by pointing out the vessel size classes or single permits or endorsements have merit should put it on the record. We really have to focus on building that record when we put those pieces together.

Benton: I thought Counselor was going to answer some of that too.

Lindeman: Mr. Chairman, I think my concerns might be better addressed when the Council, as Mr. Collinsworth was saying, puts together these pieces . . . [tape fades out for a moment] possibly before the Council goes into . . . [tape fades out again] . . .

Lauber: Okay.

Mace: Does the testimony before the AP, would that be considered valid and legal backup to this? That would . . . at great length if we were to include that by reference, I think we might help our cause.

Collinsworth: Mr. Chairman, public testimony, oral/written comments from the members around this table during debate, the input that we have from our Advisory Panel and other advice this Council receives, it is that. It's advice. The record is built, not by referring to what the AP might have done, but the record is built by what is convincing to the members of this Council that vote. When you vote, you have to say to build the record, why you support either the majority or minority report from the AP and the rationale you use in making your decision to say yea or nay. Simply because there's a body of testimony does not. I've heard

testimony from every point on the compass on this issue. Simply referring to the record of public testimony does not build a record unless you say it was that public testimony that convinced you to cast your vote.

Lauber: In other words, it's the testimony that you feel is compelling that causes you to vote this way that is important. You therefore and likewise as I recall we've been told that we can also rely on our own personal knowledge and experience in fisheries as well that may not necessarily appear on the record.

Collinsworth: Mr. Chairman, it's perfectly legitimate to say that based upon the AP's report and the position recommended by the AP, I found that convincing particularly A, B and C, therefore, I cast my vote such and so. I guess you're referencing the AP's work, but you're saying what part of it has compelled you to your position.

Tillion: We can wait in many of these issues until we've put this log cabin together before we state why we pick all these other options. It's very confusing to take it option by option, why you're doing it. In many cases, we've argued this before and are on record. It might not be on this little tape that you can reach, but we are on record over and over and over, a number of us. We go through it, through all those headings at the end on why we went that way would be adequate, wouldn't it? Because otherwise, you're talking about the building while you haven't even set the foundation yet.

Lauber: Okay, that's enough on that. Let's move on. We move to License Designations. Someone have a motion?

Benton: Mr. Chairman, I'd move item 9,000. This would establish License Designations for catcher vessels and catcher processors by vessel length. Vessel lengths would be less than 60 feet, 60-124 feet, and 125 and above. Mr. Chairman, this would also add a gear designation to the Eastern Gulf, the new area for the Eastern Gulf, the East Yakutat and Southeast Outside, for the use of legal fixed gear only.

Behnken: Second.

Benton: Mr. Chairman, as we've gone through this process, we have discussed many different kinds of options. This round before the Council to put the finishing touches on a license limitation program started well over a year and half ago, almost two years ago. We have discussed any number of issues with regards to the problem statement, in terms of preemption, in terms of coastal community impact, in terms of need for stability in the fisheries, in terms of the need to come up with proposals that deal effectively with bycatch and waste. Mr. Chairman, no single approach to fisheries management is going to answer all of the problems that are identified in the CRP problem statement. There are 14 specific items that are identified. There are two general over-arching approaches to the problem and the problems facing this fishery, or the various fisheries that are under the jurisdiction of this Council. The reason that I chose this designation is because as we've seen through the discussion we've had over those numerous Council meetings, the use of vessel size categories had some utility in dealing with the number of problems that are identified in the problem statement. These designations will allow us to deal with preemption; conflicts both between areas and vessel categories; it will allow us to focus attention within fisheries and to prevent unnecessary and undue movement of capital between categories of vessels; it will allow us to differentiate between catcher vessels and catcher processors, and it will provide a basic foundation for any future steps we might take in the CRP process. I think those are all consistent with the debate that has occurred at the Council, certainly since January of last year and throughout the debate and discussions on CRP. When the Council was looking at an IFQ program, and only an IFQ program early on, these designations were an integral part of that IFQ program. These kinds of designations are very similar to the designations in the halibut/sablefish IFQ program. I think that these will provide the Council the ability to more accurately focus attention on the management problems that are identified in the problem statement. The reason I chose the item 9,000 instead of item 5,000 is based on public testimony that we've heard from residents from southeast Alaska; based upon the concerns that have been expressed regarding preemption in southeast especially given the reconfiguration that we've done in the management areas; the potential impacts that preemption could have on the fleet and fisheries in those

communities; the amount of discard waste that is occurring in the fisheries off southeast, which I believe are undue and unnecessary; and I think that if we employ this that it will not result in any undue burden on the trawl industry or on any particular gear group, but will indeed address some of the major problems that face the southeast fisheries. I'm specifically referring to preemption conflicts between gear types that are identified in our problem statement; allocation preemption conflicts between and within industry sectors; bycatch loss of groundfish; economic loss and waste associated with discards; and associated problems that have been identified in the problem statement. Thank you.

Morris Barker: I guess I would speak against this particular motion. I also listened to the public testimony and read the documents that were provided. This proposal does not provide for any opportunity to harvest Pacific ocean perch stocks or pollock stocks. I see a direct impact to the national economy and I guess by subsequent action, the analysis does not directly deal with those kinds of impacts. We have viable fisheries that are being precluded. We have some of the issues you did raise about the category of the fishers participating that are handled in other options. I think that this particular motion is not to the best benefit to the nation or the fisheries that are involved in this fishery.

Behnken: Thank you, Mr. Chairman. I'm speaking in favor of the motion. I think Mr. Benton has done a fairly adequate job of covering the reasons for most of it. I would add only that I believe the designation for fixed gear only in Southeast speaks directly to the problem statement of this entire comprehensive package and supporting the stability, economic well being, diversity of the seafood industry, social needs of the communities dependent upon that industry. There's a number of places within the SIA that characterize the Southeast fleet. In particular, I would cite page 237, speaking in reference to Southeast, "Groundfish stocks are not nearly as large as for areas further west. The sheltered nature of much of the fishing grounds has fostered the fleet composed primarily of relatively small boats which do not use trawl gear. Local boats catch P. cod and rockfish primarily with longline, some with pots as well. Local processors are set up to handle this amount of catch but could not accommodate larger landings for trawl vessels." I cite this because the potential impacts of not designating this area fixed gear only would accrue not only to the catcher vessels that operate here, but the shorebased processors and the communities they're a part of as well. I think the AP did a really exceptional job for us back in April of saying we've got some very different fisheries here between our industrial fisheries and our artesional fisheries. They broke it down for us and I think with the steps we have taken at the last meeting of sort of starrng our preferred options, we started to address that. We've taken steps for Western Alaska. We've taken steps for this area by looking at jig exemptions. We've taken steps for Central and Kodiak by saying West Yakutat is where you've usually fished, West Yakutat is an area you'll still have access to. What Southeast needs is what Southeast is asking for and that's protection from the potential preemption east of 140, which is the historic grounds of that fleet. In response to Mr. Barker's concerns, in re-examining the biomass of the fisheries or the species in the Eastern Gulf, some 40 to 80% of the species you mentioned - pollock, flatfish, Pacific cod have been reallocated to West Yakutat which is where they have been historically caught and trawled for and will still be accessible to that Central Gulf fleet. I don't believe there'll be very much of these quotas that go unharvested. What's left is some rockfish species that have been taken, some of them by both gear types; Pacific ocean perch is in a rebuilding stage. Some of the other species are depressed and are available in only very small quantities. Targeting them with trawl tends to cause some high discard and waste problems. I think, as is mentioned, if we see the kind of rebound in the Southeast area that would really leave some significant amounts of fish on the table, in a limited sense, in a careful sense, maybe we can make that accessible. So with that Mr. Chairman, I'm in support of the motion.

Pereyra: I have to speak in opposition to the motion as it's presently configured. A total ban on trawling east of 140 in my mind is neither appropriate or acceptable for a number of reasons. First of all, this argument of preemption I have a real problem with, because these fisheries are separated by species to a large degree. There's no so-called artesional fisheries that take place on POP; as has been stated, no one's been able to demonstrate yet that ocean perch will in fact bite on a baited hook. So fixed gear really is not an appropriate form of gear for those species. The same with pollock. You can probably catch some pollock on a baited hook, but I dare say it probably would not be an economically attractive fishery. Maybe make a sport fishery

out of it or something when they come up to the surface at night. I think that is probably a hollow statement that in fact there is a preemption argument. As far as dependence of communities on these resources, these communities are not depending on the ocean perch, not dependent on the pollock, in fact, by this amendment you are precluding the opportunity that maybe ocean perch and pollock might go into some of these communities. I mean I can see in the future where there could be an opportunity to process these species on shore so there would be some benefit to be derived and this, I think, really works in the opposite direction. But more important than that, Mr. Chairman, I'm concerned that this particular motion as it's presently configured violates, as I see it, at least six of the seven national standards. This measure does not prevent overfishing while achieving optimum yield on a continuing basis, is national standard number 1. National standard number two, it's not based on the best scientific information because the best scientific information from our SSC would argue against this particular amendment. In my mind, it does discriminate between residents of different states, which is national standard 4, and that's in violation of it. I don't think it promotes efficiency. It promotes inefficiency - national standard 5. A sixth national standard, it doesn't take into account or allow for contingencies in variations among fisheries. And lastly, I don't think it minimizes costs. In that regard, I think that any measure we have that violates national standards as severely as that particular measure does, I think is something we should reject and maybe look at another way of addressing this particular issue.

Tillion: If he hadn't so spoke about Pacific ocean perch, I intended to be silent. This is a species with a life expectancy of about 90 years, doesn't spawn until it's 12. It's at 1/16th of its former strength and I hear a fleet thirsting to get at their blood already. I think we're a little early. I think it's going to take a long time to rebuild the stock and for somebody to say you're closing off an area to the harvest of this species, I say bully. We should close off the whole Gulf of Alaska to the harvest of this species at least until they're about 35% of their former strength which is all our rebuilding program ever asked for. I'm definitely going to be voting in support of this.

Behnken: In response to Wally's comments, there are two kinds of preemptions. There's preemption that's head-on competition for the same species and there's the kind of preemption that's occurred in Southeast repeatedly which has been sometimes competition for grounds. More recently, it's been through bycatch and the bycatch of one species by one or two trawl vessels who come through on their way to the Central Gulf shutting down a local fishery that's absolutely essential to about 1,000 boats in Southeast Alaska when that's all they've got, when they're not mobile to go to any other areas. The boats in Southeast, the information shows, qualify, I think, the average is 1.3 endorsements which basically rounds down to 1. This is the area that they have to fish and preemption for them, that's life or death. The way National Marine Fisheries Service has handled this over the past couple of years is if something goes wrong and they've taken a step to try and correct it. Boy, there's a long list of the things they've done. We've put a 1% bycatch allowance on to keep that preemption from occurring. We still have more bycatch. We still have more waste. We've taken species out of demersal shelf and we've moved some into pelagic. We've moved them into other slope. There's been all kinds of things to try and keep up with this, but that threat is still there and until something, maybe somewhat proactive, but I'd almost say it's just finally time. That threat's going to remain. The concern from the people in Southeast, unanimous concern, there's nothing that concerns them more. It's going to be there.

Pereyra: I'd just like to briefly as I can respond to Mr. Tillion's comment in due respect to Mr. Tillion's thinking on ocean perch. I think that particular concern is better addressed through the annual TAC setting criteria, not through some sort of draconian measure that would just automatically close an area and foreclose any possibilities for vessels to operate in that area for species which might be appropriately taken by them.

Fluharty: I think we're losing sight of license limitation as the purpose of this regulation. We're sort of piling on a number of other things that may have certain merits. They may be better done in other ways like has been mentioned. So I think that in just thinking about what this measure does and what this particular license designation does, does very little with respect with the interest in limitation. If we look at the analysis, particularly the analysis for the potential for expansion of this particular fleet under this situation, there's a

huge potential that I think is going to essentially swamp out any community stability in that area. I'd remind us that we're trying to deal with license limitation, not all the other things that potentially should and could be addressed by the Council.

Benton: A couple of comments. I believe this is quite germane to license limitation and to the comprehensive planning that we're engaged in. This is, as I believe I said a little earlier, this program is one component of an overall approach that the Council is using and I believe that this is appropriate to employ at this time. If you look at the analysis, the trawl fleet concentrates generally in deeper waters, on the deeper side of the 200 meter contour. If you look at the analysis, there's roughly five species that are found in this area. These are generally POP, shortraker rougheye, other slope and thornyheads. Public testimony and the analysis that's been provided to us, indicates that the fixed gear fleet overlaps generally with all those species except for POP. But it is in the prosecution of that POP fishery and a couple of other directed fisheries that the preemption begins to occur because of bycatch and subsequent discards. Mr. Chairman, I was particularly interested in public testimony that spoke to targeted fisheries like northern rockfish, other rockfish species that those were the target species and yet it was the high value species that were being retained to pay for the trip. I'm looking at some of the data that was provided to us and I see an 88% discard in the target species and a 76% retention of a bycatch species. I think that's indicative of a problem in this area with these fisheries. It's a problem that can be addressed by this action. I wanted to refer just briefly to the scientific advice as provided to us by the SSC and also it's in the analysis. Something that did cause me some concern when I saw this proposal in April and at the time I was not persuaded that this proposal would be a good way to go, that concern had to do primarily with survey design and whether or not the stock status could be segregated out because of the reconfiguration. The subsequent analysis that we have indicates that indeed that can be done for the majority of the species and that if we take action now instead of waiting that we can work with National Marine Fisheries Service to have the Gulf survey redesigned so that we can collect that data if we need to approach the problems of TAC setting that Dr. Pereyra has pointed out. That has persuaded me that that is probably quite manageable and do-able. I think that with that problem behind us that we can move forward with this. The comment that the SSC made on this, I found also quite interesting, the SSC referred to the problem statement that the SSC believes that once a problem is defined, they could look at the impacts. They did not say that they had a problem statement at the time. I questioned the SSC representative whether or not they had even bothered to review the problem statement for CRP and the problem statement that we are . . . **[change to tape 34]** . . . operating under here today and the answer to that was "no." Mr. Chairman, again I call our attention to the problem statement we're operating under and there are numerous items in there as I've already spoken to that I believe are germane to the motion and support adoption of this motion. Thank you.

Lauber: Any further discussion? Are you ready for the question? Call the roll on the motion on the 9,000.

Pautzke:

Benton	Yes	
Fluharty	No	
Hegge	Yes	
Mace	No	
Collinsworth	Yes	
Pereyra		No
Samuelson	Yes	
Tillion	Yes	
Barker	No	
Behnken	Yes	
Lauber	Yes	

Pass.

Lauber: Alright, we'll move to . . .

Samuelsen: I'd like to make a motion to allow compensation once an ITQ program is in place to compensate the displaced boats of the Gulf and Bering Sea.

Lauber: Could you restate that again?

Samuelsen: I'd like to offer a compensation package for the displaced boats in the Gulf on this motion that just passed the Council and that would be to compensate those vessels that are displaced that qualify under license limitation program and once we go to an ITQ program that those vessels will be compensated in the Gulf for their loss of fishing opportunity or in the Bering Sea for the loss of fishing opportunity in the Gulf.

Lauber: Okay, I understand it. Is there a second to that motion?

Tillion: Second.

Lauber: Would you care to speak to your motion?

Samuelsen: Although I voted for it, I wasn't totally convinced through public testimony we've heard that on reports of bycatch the trawls fisheries are 100% observed, the other boats are not. Under the license limitation program, it was pretty convincing to me that we might be increasing the problem in the Gulf by allowing more boats in than are presently participating in there. Staff has presented data that showed two vessels were in there. I think we've set precedent. We've compensated the CDQ groups in the halibut fishery; I believe that compensation was in the Bering Sea from the Gulf so I think we've set the precedent.

Lauber: Any further discussion?

Mace: We're assuming of course that we're going to have an IFQ program. This is going to bite someone else. You're taking away from someone to give to them and I'm not sure that this is the appropriate time to cover this.

Tillion: As the second, I'd like to speak in favor of it because if we don't flag it fairly early, we might not go to an ITQ program. We might stay in limited entry in which case it doesn't come up, but it should be known that those people that were displaced have the right to some compensation in the Bering Sea for being displaced from the Gulf. I think it's only fair to flag it now. I don't think it's a big item, but I think it gives a little security to some of those that are being squeezed at this time. I think it's a good thing to have.

Pereyra: I think this certainly is a noble gesture, but I'm not so sure if it's really going to be that effective. For example, shortrakers, rougheyes, northern rockfish, so forth, you'll find those in the Bering Sea for example. So, I have a difficulty with seeing with how you come up with some kind of compensation scheme that is transferrable that way. I do think it's a noble gesture and maybe it's one to make us feel better that we've now, after we've hurt a particular group, we're having some pangs of our action, so we want to do something to give them some help. I think it's a nice idea, but I think we should have thought of that before we voted in the last motion and maybe made some adjustments that would have been more appropriate to take into consideration some of their needs.

Benton: I have no problem with the motion and I would support the motion. The only question I have is whether or not we want to do that at this time or whether we want to do it towards the end under General Provisions because it strikes me that we may have some discussion of the relationship of licenses to future actions and what that all means. With that question just sort of hanging there, I don't expect an answer. I guess I'd vote in favor of the motion.

Samuelson: I have no problems waiting until General Provision time and institute that.

Lauber: Yeah, that's where it would be placed anyway. I think Ms. Behnken is next.

Behnken: If we're going to withhold the discussion . . . I guess I'd just raise one question and we're coming back to this, people are going to be thinking about it, but the motion we passed on 9,000 said that anybody who had earned a license east of 140 would still get that license, but it would be designated hook-and-line. If we compensate people, I'm not quite sure how you do that. I mean you still have the opportunity to fish hook-and-line and I recognize some of those species are pretty difficult to catch. So far, we haven't really figured out how to do it . . . maybe pots or whatever . . . but I mean if we're coming back to that it's something we could be thinking about.

Lauber: Let me ask Counselor a question. I don't know that the motion was worded this way, but it's my understanding the effect of this would be to notice the public, so to speak, that it would be the Council's intention to do this when we at such time as we adopt an individual fishing quota in the Bering Sea. However, that could only be that. Wouldn't the Council and the Secretary at that time have the authority to do or not do this?

Lindeman: Mr. Chairman, maybe if the Council just said that they would consider whether or not to provide compensation. The public could interpret maybe a statement that the Council intends, that the Council is somehow committing themselves even though you'd have to have a record, maybe analysis of how many vessels etcetera. If the Council doesn't want to bind itself or the Secretary then you might just say "consider."

Lauber: You have a different Council and my concern at this point is that we don't have a record built for it and if you would accept that as intent that the Council would consider at such time as it adopts an ITQ system in the Bering Sea that consideration be given for persons displaced. I would assume that the answer to that is like we've done before, we've converted one fish into another fish many times. That could be done even though it would not be the same species, it could be a similar value or something like that. Anyway if that's acceptable then the motion would be to that effect that Council at some future time would consider doing it. Is there any further discussion on the motion? Is there any objection to the motion? Okay, better call the roll.

Pautzke:

Fluharty	No
Hegge	Yes
Mace	No
Collinsworth	Yes
Pereyra	No
Samuelson	Yes
Tillion	Yes
Barker	No
Behnken	Yes
Benton	Yes
Lauber	Yes

Pass.

Lauber: Why don't we take our lunch break. We will reconvene and move into Qualifying Periods resuming at 1:00 sharp.

Lauber: Council come to order. We move on to Qualifying Periods.

Mace: I'd sure like to visit with the AP for a moment with respect to this June 15 date and the impact it has upon number of vessels.

Lauber: Mr. Mace would like to have the AP representative for a moment. He has a question.

Mace: We have a June 15 date involved in a cut-off for area endorsements and also for crossover and I'm interested in the impact in the way of number of vessels involved in this additional time.

Lauber: Can staff answer this question? Of course do you understand, Marcus, what the question was?

Mace: Did you hear the discussion at the AP?

Marcus Hartley: Yes, I heard a great deal of the discussion in the AP. And we advised the AP that although we would not be able to give them exact numbers on the impacts of that, the analysis provided information up through the 31st of December. The number of additional boats that actually would come into the fishery would have to have been those boats that hadn't participated in any of those previous three years. We would anticipate that wouldn't be a huge number of boats, but would not be able to say with certainty whether it would be 5 or 1,000.

Pereyra: What? One thousand?

Tillion: What? Not a huge number?

Hartley: Well, I mean any vessel that was qualified under the moratorium, the 3,500 some boats, could have entered into the fishery in that six month period and then they would be qualified. We don't anticipate that that's what happened, but we really don't have any information to say whether that happened or not. We don't think that it would be that many.

Mace: How about the crossover provision from groundfish to crab on the change of the date from December 31, 1994 to June 15, 1995, the same six month period. Do you have any reading on that?

Hartley: Well, those boats would have had to have been moratorium qualified in order to meet that quote "crossover" provision. The crossover provisions that we had in our moratorium are not changed under this. It just recognizes that at 6/15 any additional crossovers that are allowed under the moratorium wouldn't get you a license. Right now that date is 12/31 under the analysis.

Benton: So there's no cut-off in the current moratorium for crossovers, correct?

Hartley: That's correct to a certain extent. On your action on the moratorium on December 11, you voted to say that any vessel that has not crossed over into groundfish from crab by this date would only be able to enter into groundfish using pot gear.

Benton: Correct, but there's nothing in the moratorium that would prohibit, say next year, that occurring if we didn't adopt a close-out date here, correct?

Hartley: Right and in the document that close-out date was the 31st, then there was that . . .

Benton: Right, but they could crossover using pot gear. They just couldn't crossover and use trawl gear, for example. They couldn't crossover.

Hartley: That was the 11th date, yes.

Lauber: I see Beth Stewart has come in if you had a question, Mr. Mace.

Mace: Well, I just was interested in the testimony and the background for the reason for this change, Beth, before I made a motion.

Beth Stewart: Mr. Chairman, the AP had quite a bit of discussion about what was meant by current participation and I think this discussion was generated because of what we went through on the rejection of one set of moratorium rules and when we came back one of the problems apparently was that current participation wasn't in the Secretary's view, adequately addressed. So because groundfish fisheries continued on at this meeting right up until this meeting, we chose to use 6/15/95. There was a motion to say date of final Council action, but there was a lot of concern that this meeting might not be the date of final Council action on license limitation and we didn't want to encourage people to think that somehow you could just keep going and going. So we chose 6/15/95 as a proxy for final action at this meeting.

Benton: Beth, when, aside from that sort of general interest and concern, did you have discussions regarding crossovers and any information from the industry approximately how many vessels may have crossed over from the crab to the groundfish fisheries or how many vessels may have entered the fisheries or specific fisheries for area endorsements after December 31, 1994? Was there any general discussion about that?

Stewart: It was general discussion. We didn't have a specific number presented to us by anybody that I can recall. Certainly, the staff was unable to give us that and I think we knew they would be unable to because of the lag time in processing all the data.

Benton: Do you recall whether or not there was testimony that registered support or objection to this kind of a provision and the nature of the support or objection, generally speaking?

Stewart: Not specifically. I think if we'd held a public hearing after we took this action we might have gotten more specific testimony about that. I think I can say, taken as a package, we put other things into our license limitation package in an effort to squelch benefits that were derived solely from speculative participation. So, we tried to balance the need for current participation against speculative participation and dealt with that in other sections.

Benton: If I could follow up with one more, briefly. I'm looking at the AP motion and also I note that they adopted the provisions of the moratorium regarding vessel exemptions. What was the nature of the discussion on that?

Stewart: The under 32 and under 26?

Benton: Correct, yes.

Stewart: The AP had a lot of discussion throughout this process about entry level participation under a license limitation system and there was a general feeling that that ought to be allowed, that there ought to be some way for people to get into the fishery. I think that discussion certainly played a role in our jig fishery exemption which we ended up limiting to the Bering Sea.

Benton: Did you discuss also the idea of people operating under the rules of the moratorium as being sort of a reasonable way for people to pursue their business during this interim period while we're trying to put something else together?

Stewart: People who were exempted, the 32 and 26 or . . .

Benton: The rules of the moratorium, the 20% rules, you know the replacement rule, that kind of thing.

Stewart: Yes, and in fact the AP generally felt there should be a two-part test for benefits deriving from license limitation and that is participation during the moratorium and recent participation. That was pretty

much our focus so that if you were only moratorium qualified, but you were no longer in the fishery, we didn't see any reason for you to benefit from a license. But if you were just recent into the fishery and ignored the moratorium, we also didn't see any reason for you to benefit from the license systems. We looked at this as a two-piece test that you had to have paid attention to the moratorium and you had to still be a current participant.

Lindeman: Point of clarification. I'm not arguing here for or against this 6/15 date.

Lauber: I won't cut you off. Go ahead.

Lindeman: I just want to clarify [a few words unintelligible] . . . moratorium when it was considered by the Secretary on the issue of present participants and 303(b)(6) factors in the Magnuson Act. 303(b)(6) only requires that the Secretary take into account, you know, consider present participation. It doesn't say that he must or that the Council must include present participants, but one point is that in considering or taking into account present participation in the fishery, the Council should have whatever information is available on present participation in front of it. Maybe a range from 1 to 5,000 is enough, I don't know, but the Council should have some idea of who they're considering, whether to include or exclude.

Stewart: I think that because I came in a little late I may have missed the point of some of these questions. If, what I think is germane here for crossovers in particular under the moratorium, we felt that we specifically allowed people to crossover and that by not extending to the 6/15/1995 date it may have been an empty promise that they would not make the license limitation standards as we were going through this, if they weren't able to count participation both in 94 and 95 and that may be what you were trying to ask me and I apologize for not understanding that.

Benton: It was that and also whether there was just general testimony about any sense from the industry regarding the magnitude that that extension, magnitude of number of vessels that would come into the fishery that extension might entail. In conversations I've had with people in the hall, it's been indicated to me that it's somewhere in the neighborhood of maybe 30 to 40 vessels, not a thousand. I was just wondering if the AP had heard anything in testimony or had any discussion about that?

Stewart: That's the ballpark numbers. I mean there was no way to verify those because we don't have the catch data, but I don't recall that we had any testimony where someone said this is going to let in 200 or 300 or 400. People thought it was a relatively small number.

Benton: Thanks.

Captain Bill Anderson: Beth, on the issue of the jig exemption, you said there was a lot of discussion on it. I was just wondering what the main reasons were why it didn't fly in the Gulf and it did in the Bering and whether vessel safety was considered in that discussion.

Stewart: We had sort of two different discussions that are germane here. One is whether either one of those exemptions, the 26' in the Gulf and the 32' in the Bering Sea, were wise in terms of vessel safety. I think there was a general feeling that in the protected waters of Southeast that a 26' exemption might be useful but for most of the other communities in the Gulf, 26 was pretty marginal. There was some discussion about that in the Bering Sea side as well. In terms of the jig exemption in the Gulf, I think the 2% allocation of cod and the underharvest of cod because of other problems in the Bering Sea, basically bycatch problems, people felt that there was cod available for someone to start an entry level fishery on, even though this is not specific to cod. In the Gulf, a lot of the discussion centered around the fact that cod is fully taken already. There isn't a special set-aside for a particular gear type like there is in the Bering Sea. There was a little bit of discussion about rockfish species, most of which are also pretty fully utilized and while I'm always a little uncomfortable trying to pass on other people's personal opinions about why something was a good idea or not, I think that's a reasonable characterization of why we felt differently about the Gulf than we did about the Bering Sea.

Lauber: We still don't have a motion.

Mace: Mr. Chairman, I move that the Council adopt Qualifying Periods for General Licenses number 900 as altered or adjusted by the AP. Do you want me to read that?

Lauber: Yes.

Mace: The General Qualifying Period is January 1, 1988 to June 27, 1992 with the additional provision that any vessel which crossed over to groundfish from crab under the provisions of the proposed moratorium by June 15, 1995 would also qualify for a general license. For vessels under 60', the General Qualifying Period is extended through December 31, 1994 for groundfish caught with jig gear. Recipients must choose one FMP subarea if qualified for multiple areas. For area endorsements, the qualifying period is January 1, 1992 to June 15, 1995.

Lauber: Stop there?

Mace: Yes, I'm stopping there because this is another . . .

Benton: Second.

Lauber: It's been seconded.

Pautzke: Is the use of the term one FMP subarea, is that just kind of like a typo you meant FMP area like the Gulf or the Bering Sea/Aleutians, but not the Bering Sea or the Aleutians Islands. I notice in the document that we worked off of from April, it speaks to areas for your general license. Is this just, did they really mean subareas?

Darrell Brannan: In the AP discussions, they basically did away with the FMP area licenses so the only thing left was a general North Pacific license or a FMP subarea endorsement. It was our feeling that you couldn't make a choice if it wasn't a North Pacific license so that only left FMP subareas as a reasonable choice. I think that's what the AP had meant.

Hartley: That language applies only to the 60' vessels. They would have a choice of endorsements essentially of any that they qualified for, they would actually have to choose one of them. That was consistent with the earlier analysis, although in that case, we looked at forcing them to choose one FMP general license if indeed they had qualified for two.

Behnken: Thank you, Mr. Chairman. It seemed to me that we had testimony from a few people that said there were a couple more people in this box of having their general license in one place and their endorsement in another place. What the AP did under their . . . where we put 3,000 they didn't see that Nature of Licenses with that umbrella was to take care of those people. If we didn't do what they did under this, those people are out, is that correct? So, if we're going to include those people, we're going to need to do something different here. Okay.

Mace: I have to ask a question here with regard to the additional information in the AP report with respect to the 32 and 26 foot exemptions, is that a part of this?

Benton: Mr. Mace, as I understood your motion, you stopped before you got to that second paragraph.

Mace: I sure did and I'm not sure it was the correct thing to do.

Benton: If the second would certainly consider that a friendly amendment . . . **[change to tape 35, beginning of tape missed the balance of Benton's comments and the beginning of Mace's motion]** . . .

Mace: . . . this action contains the following exceptions to the license limitation program: (1) the vessels that were exempted from the proposed moratorium would also be exempt from the license limitation program (26' in the Gulf of Alaska and 32' in the Bering Sea/Aleutian Islands) and, (2) vessels in the Bering Sea/Aleutian Islands using jig gear that are less than 60' in length using a maximum 5 machine, 1 line per machine, and a maximum of 15 hooks per line. Thank you, sir.

Pereyra: Is that an amendment or . . .

Mace: That's an addition. That's part of the motion.

Benton: That was part of your motion? The second understands that that's part of the motion.

Pereyra: I thought I seconded the motion.

Benton: You did? I thought I did. Okay, fine. I won't speak for you no more.

Pereyra: You better let him second though because I won't go along with it.

Lauber: The motion was made Mace and seconded by Benton.

Morris Barker: Yes, I have a question back to Mr. Mace on the June 15, 1995 period. As I understood the motion for area endorsements from January 1, 1992 to June 15, 1995 as part of the AP, and then I'm confused with the motion to extend the qualifying period to 6/15/95 failed? Where at in the AP is . . .

Mace: No, I simply moved the AP recommendations with the June 15th date.

Lauber: For everyone in our audience and so forth, it's the AP recommendation.

Hartley: We may want to clarify some of the dates.

Lauber: Okay, go ahead.

Brannan: The AP specifically voted on whether to extend the qualifying date for pot and jig vessels past the December 31 cut-off date that had been in place previously. I believe it was that vote that failed 10/10. The extension of the general endorsement qualifying period and the moratorium qualifying cut-off date for pot vessels were two that passed and were extended.

Lauber: So where does that leave us? What effect does that have on this motion?

Hartley: It leaves you with the motion as you've read. That's what that additional line in there means that it's the extended base qualifying period for those pot and jig boats under 60' that is still 12/31/94.

Lauber: Okay.

Pereyra: Mr. Chairman, I'd like to hear from Captain Anderson, if we could, on what the safety concerns might be regarding these exemptions, the way in which this is put together.

Anderson: We have some concerns. We recognize that the moratorium as proposed is moving forward and has exemptions for 26' vessels in the Gulf of Alaska and 32' in the Bering Sea. The motion here as proposed does allow some flexibility in the Bering Sea for those who would choose to use jig gear with certain gear limits on it. Therefore, people who would operate in the Bering Sea would not be fully constrained by a 32' vessel if they so had the option to use that gear and abide by those gear restrictions. However, the motion as proposed now for the Gulf of Alaska says if you aren't in and you're not in the program and you want to

play, you've got to do it on something less than a 26' vessel. That causes me a lot of concern. From the Coast Guard standpoint, I would certainly rather see some other flexibility there similar to what is in the Bering Sea so that if people so desired to participate, they could do it on a safer platform with similar gear restrictions. For example, using jig gear in the Gulf of Alaska, and whether it's a 60' vessel or a 50' vessel or whatever size, something that does not give me the same pucker factor as something under 26'. Because if we create a framework whereby people say my only way to participate now, since I'm not in on the program, is to do it on a 25' boat. We don't want to be picking those people up at sea. I think that's putting us in a bad situation.

Tillion: I understand Captain Anderson's problem. We had this in the moratorium. Let's leave it alone. We have an awful lot of fishermen that do use these small craft. They cruise at about 40 mph. They're out there outside that 3-mile limit pretty quick. You can only be your brother's keeper to a certain point. I understand your problems, but if you want an entry level fishery, the bulk of these are going to start off in skiffs, regardless of what your law says, because that's the way most of us started out. That's all you can afford. So, we wanted an entry, Congress wanted us to have an entry level fishery. This is the one that won under the moratorium. Let's leave it alone. We have a fully utilized resource in the Gulf of Alaska. You start letting large vessels come and it's almost like the hand-troll exemption that we left when we did limited entry on trolling. We ended up with 3,600 of them. So you leave an exemption where they can go to the larger sizes with smaller gear and then you'll have the whole bunch up here complaining about the fact that we can't make a living with this gear. We've made this big investment in the boat and we're off on another losing run. That just opens up and defeats much of what we've had done. Let's leave it alone. It was in there in the moratorium. Let's not take it away from them, but let's not give them any more.

Pereyra: I'm pleased to hear Mr. Tillion's remarks because I concur with his concerns about further expansion into already fully utilized fisheries or resources. I think what we're doing is we're creating that very situation. Again, granted in the Bering Sea that the resources may not be fully utilized for bycatch reasons or otherwise, but it's not going to be too many more years before we get a handle in the way in which we're using bycatch and we're going to more efficiently utilize the resources. That resource block will be fully utilized. At that point in time, the way this motion is worded, it would continue to be further entry into the fisheries. I just think that's going to exacerbate the so-called overcapitalization problem that we are trying to get our arms around in this comprehensive rationalization process. I don't have a problem with providing maybe some exemptions in here over some defined period of time. I don't think it should be a forever exemption. I think it makes more sense to put some limits on it, maybe you put some limits on it until such time as the resources are fully utilized, at which time, the exemption would no longer pertain. I do think there's got to be some limits on it. The way it is now, I think we're only creating a very large problem for ourselves down the road. I think that's very important for us to look at as to where we are going and where this is going to lead us. So, I've got some reservations with it the way it is now. I may want to propose an amendment to this motion at some point in time before we vote on this.

Behnken: I guess I'm going to propose an amendment despite what everybody said to this and then speak to it. My amendment is that we allow an exemption in the Gulf for vessels under 50' and attach the same provisions of maximum of 5 machines, 1 line per machine and 15 hooks per line and if I get a second, I'll speak to it.

Benton: I'll second it.

Behnken: Thank you. Despite all the comments about overcapacity, I think that we would be really remiss if we don't pay attention to the warnings about safety and if we don't in some way provide a meaningful entry level to these groundfish fisheries. We're seeing mandates from Congress to make sure we have entry levels. Looking at the people out there, the people are testifying; we don't know what these licenses are going to cost. There has to be some way for people to stair-step in. I picked 50 because I went through the SIA last night. There's some comments in there from, they're called impact . . . the people that sent us the letter that did the SIA anyway saying that from their interviews on trawl vessels, there's a big break at 50 feet on the

capacity that a trawler would have. They say that vessels approximately 50 to 54 feet were unlikely to be able to trawl for pollock for capacity reasons. I know the longline limit seine fleet, there's a big difference between a 58 foot limit seiner and their capacity and the vessels 50 feet and under. They're much smaller vessels, much more limited in what they can hold. I think this would be something people would have that would be a safe way to start an entry into this fishery, a stair-step in. In the Gulf, they're going to be competing against longliners and trawl vessels at a time of year when small boats, a real little boat, is not going to be safe to be out there in. I think what you can catch with a jig boat is not going to be a huge threat to the people who are already out there in terms of what's harvested. I think there's got to be an entry level. I think this is a reasonable entry level, not too much, not too little and it's safe.

Lauber: Could you clarify for me where this amendment is inserted, where it would go in the . . .

Behnken: In the second paragraph here where it says number two. There's one exemption for the moratorium under 26' in the Gulf, under 32' in the Bering Sea. Number two says, vessels in the BSAI using jig gear that are under 60, then it gives the provisions; I would also add vessels in the GOA using jig gear that are under 50 maximum 5 machines, 1 line per machine with 15 hooks per line.

Lauber: You're striking 60 and inserting 50.

Behnken: No, no, no. In the Bering Sea it would still be 60, in the Gulf it would be 50 by my amendment.

Lauber: I see okay, so you're adding 50.

Tillion: I'm going to have to object to this and vote against it. We've got a substantial fleet of small boats out of my part of the country that are hammering the rockfish already and if she wants to kiss hers goodbye in Southeast Alaska, I hope she goes on record as doing it, but I don't want to wipe out everything along our coast. What you do with those larger vessels is that they would be there. They'd be there in the winter months when the smaller vessels are hammering them for all they can take now in the summer months have been forced into port. I think that what you're doing is suicidal for long-lived species and I'll have to oppose what you are doing.

Pereyra: I find myself in agreement with Mr. Tillion on this one because the EA does not address the total fleet that's available. It talks nothing about the fleet that's available in the Gulf of Mexico, for example. There's a huge shrimp fleet down there; a lot of small vessels that would meet this criteria and they're having some real resource problems down in the Gulf of Mexico. I wouldn't be at all surprised if, in the not too distant future, there aren't some severe restrictions put on operations down there. These boats, a lot of them, are not very expensive vessels. They could come up to southeastern Alaska, or wherever, and put jig gear on and probably catch a lot of fish. I think this is probably an inappropriate amendment and I oppose it.

Mace: Mr. Chairman, I can't support this. I'm stretching my limit to begin with. If the license limitation thing is going to fly, we've got to impose some limits and this looks like to me it's opening up Pandora's box. The testimony we had dealt with the Bering Sea/Aleutian Islands and I simply can't support this. I think we could end up with a number of vessels there that would really frighten us so I'm going to vote against it.

Lauber: That it for discussion? Are you ready for the question? Call the roll on this Behnken's amendment, 50 foot in the Gulf of Alaska.

Pautzke:

Hegge	No	
Mace	No	
Collinsworth	No	
Pereyra		No
Samuelsen	No	
Tillion	No	
Barker	No	
Behnken	Yes	
Benton	Yes	
Fluharty	No	
Lauber	Yes	

Fails.

Lauber: Now we're back to the original motion. Mr. Benton.

Benton: Mr. Chairman, can I propose an amendment to the main motion?

Lauber: Sure, there's just the motion on the floor.

Benton: Alright, Mr. Chairman, looking at the AP's proposal and the provisions regarding crossovers, I still remain a little bit concerned about the June 15, 1995 cut-off for crossovers into the groundfish fishery from the crab fishery. While I understand from what we learned from the AP representation as it was sent to the AP that this might not result in a significant amount of number of vessels or amount of capacity moving into the groundfish fishery, I am concerned about the level of information we have available and I am concerned that even 30 or 40 vessels could represent a fair amount of capacity into those fisheries. I would propose to amend the main motion to change the June 15, 1995 date to 12/31/94 for the crossovers from groundfish to crab. If I could have a second.

Samuelsen (??) Second.

Pereyra: Groundfish to crab or crab to groundfish?

Lauber: Crossovers.

Benton: I mean from crab to groundfish, sorry. Thank you. The AP represented it might be in the order of between 30 or 40 or up to 100 vessels, I don't know. This could still be a fairly significant amount of effort into this fishery. I thought it would be more appropriate, given the level of analysis we've had, to go and use a number we're more certain about and something that wouldn't provide for that increased capacity in this fishery.

Lauber: Is there further discussion on the Benton amendment?

Hegge: Mr. Benton are you talking about vessels over 60 foot now or all vessels or what?

Benton: My motion would be to any vessel, Mr. Hegge.

Hegge: This would be for a provision of getting a general license?

Benton: No, as I read this, the oh no, you're correct - this would be for a general license.

Hegge: And then we'll deal with it again when we get to the endorsements?

Benton: If we went with the AP recommendation or our recommendations for endorsements, there's a number of different options that would apply there, that is correct. It could include this period of time. My reading of this is that if a vessel crossed over between June 27th, actually June 28, 1992 and December 31, 1994, they would receive a general license but if they did that after that December 31st date, they would not.

Chris Oliver: Mr. Chairman, there's two ways you can get general qualification. One is to have made a groundfish landing during that January '88 to June 27, 1992 period, or to have crossed over to groundfish from crab either by June 15, 1995 or December 31, 1995. You could change that date, whichever you like, but you still have the question of which ending date you want to use for the area endorsement. I guess Mr. Benton's motion was in reference only to the crossover provision but not to the area endorsement provision.

Benton: That's correct. General License.

Lauber: Let's start down the list here. I've got Behnken, then Pereyra, Barker.

Behnken: I'm having a little trouble with this - supporting this motion. It seems to me that we were allowing these crossovers for reasons of what's happened with crab stocks, the time it takes for someone to change over a vessel; I guess I'm still a little unconvinced about why we're changing, going against what the AP recommended on this and the people it's going to affect.

Pereyra: I think as we go through the various sections here, I'm going to be concerned first about the resource and secondly about taking, making sure we're fair and equitable with national standard 4. I think it's very important here. I don't want to inadvertently cut somebody out of a fishery because they went ahead and followed the provisions of the moratorium and then we all of a sudden come along and decide to do something different. I fully understand the concern about the increased capacity and that's always a concern for me too, but in this case here, I think in order to be fair and equitable, I think that the date that is in Mr. Mace's motion is probably the correct one. That's why I have to oppose the motion.

Barker: Yes, I guess my viewpoint is similar to Dr. Pereyra's except that the document that did go out for public review did say December 31st of 94. Where these vessels are going to be going in terms of crossover, if there is a growth in the fishery, is into potentially a Bering Sea fishery that pretty much has fully exploited stock on cod fish.

Lauber: Any other discussion? Counselor.

Lindeman: Mr. Chairman, a concern we would have is along the lines of the fairness and equity issue. The Council for the record somewhere would need to address how it's fair and equitable to further cut back people who made business decisions in reliance on what the Council did under the moratorium with the crossover provision and justifiably relied on what the Council had done. You need to address someplace in the record if you do cut those people out, how that meets the fairness and equity standard. We're not saying you can't do it, we would just need some rationale in there. How is that fair and what about those people who justifiably relied on your earlier actions; how further reducing or adopting a date that would cut those people out; how is that furthering the Council's problem statement; and what is the effect on capacity in terms of the Council's problem statement; those kinds of issues. The justifiable reliance is a big concern of ours.

Samuelson: Yes, Mr. Chairman this is my comment. The document we shipped out had a date in it - December 31, 1994 and with the AP's motion of 6/15/95, based on what Lisa says, between December 31, 1994 and now has never been considered by the public. It wasn't in our document being shipped out for public comment. I think the only ones we need to consider is the ones from December 31, 1994 prior. Is that correct based on your statement?

Lindeman: Marcus, do you want to address . . .

Tillion: I think I'm getting confused here between Robin and the Counselor. She was saying you have to have a real good reason for taking something away from somebody that you already offered in every document that you've printed. To add something additional, like bringing it up to the present, would not run into the same problems, I do not believe. Is that correct?

Lindeman: Yes, Mr. Chairman.

Pereyra: In response to Mr. Samuelsen's comment, I would certainly agree with him if that was in fact the case. But I think if we look at the various options we've had before us, there's several of them that would look to the date of final action. It just turns out that the one which was the so-called preferred option that we've identified had that kind of a limit in there. We certainly, I think, are totally justified if we feel so to go all the way as far as the date of final action. That's why I think if someone is going ahead and making these kinds of decisions, I think they're making decisions not based upon what the Council's preferred option was, but the only thing they know for sure is that the moratorium is in place and there are various options the Council may consider in the license limitation. So I think to be fair and equitable and to properly consider the recent participants, I think it's appropriate in this case that the date of final action is going to be this week sometime. I hope that we go ahead and put that in as the date. I think otherwise we're being just a little bit capricious.

Lauber: I don't think that Council was saying that you can't do something that would be more restrictive than the moratorium because obviously the moratorium, in fact we've been told the moratorium is not a permanent solution. We have to. We just can't say we've got a moratorium now we're going to forget about it. We have to move on to something else. This by its title, "limited entry" is restrictive and probably going to be, in many cases, more restrictive than the moratorium. All she's saying is that under the fairness doctrine, you have to justify why you're doing it which really is saying not a lot because we have to justify everything we do. If you want to make it more restrictive, I'm not arguing one side or the other. I just want to make this clear that obviously I think the intent in fact is going to be hard for us to argue that this document is not worthwhile if it does not address at least portions of the problem statement in overcapitalization or whatever. It's just that we're not arbitrary and capricious in doing this. I think that's the basic notion saying I wouldn't back it one way or the other. Go ahead, Mr. Hegge.

Hegge: What's in front of us right now.

Lauber: The motion in front of us was to move the date for crossovers from 6/15 to 12/31/94. In other words from yesterday to New Year's eve.

Hegge: The problem I have with this, and I'm just reading this proposed moratorium, up until I guess it was our December Council meeting, they're all running together. The proposed moratorium said that anybody that had fished in that period was going to get a license, was going to qualify for everything. It was only at the December meeting that we put the crossover provision in, that we put a new set of rules in. We accommodated the group of people in there that we were trying to encourage to go fishing. The people who would crossover from the crab fishery to the pot groundfish fishery. But by adopting this data, it seems like we cut them off again before they would have even had a chance to accomplish what we're trying to allow them.

Lauber: In a way, you remind me that when the moratorium was kicked back and we were asked to be more restrictive, no one raised the issue of fairness doctrine at that time. We have before us the amendment, Mr. Benton's amendment to changing the date in crossovers to 12/31/94. I think we need a roll call.

Pautzke:

Mace	No	
Collinsworth	No	
Pereyra		No
Samuelsen	Yes	
Tillion	No	
Barker	Yes	
Behnken	No	
Benton	Yes	
Fluharty	Yes	
Hegge	No	
Lauber	Yes	

Fails.

Lauber: Alright, we're back to the original motion unamended. What's your pleasure?

Pautzke: Just a quick clarification for the record so when we're writing up the proposed rule we don't get into the same box we were with the moratorium. If a vessel comes under an exemption, is within the exemption criteria, but could have had a license because they qualified otherwise, do you want them to have a choice or do they get a license?

Benton: I'm sorry Clarence, do that one again.

Pautzke: In the moratorium, the vessels under 26 feet in the Gulf and under 32 feet in the Bering Sea may have been qualified to get a moratorium license because they performed. They had the landings and so on, but when we went back and checked the record on it, and the way the rule is written right now is that they will not get a moratorium license. They will be exempt for their area because we went back and looked at the record and checked what was in the documents. What was in the documents said that we did not want to give out that many more licenses because it would be too many administrative costs and so on. So now, if a vessel is under 60 feet and is fully qualified for a license which may have value, but there is an exemption there for that type of vessel under 60 feet for jig gear, do you want him to have a choice of having a license or being exempt?

Benton: I guess it was my understanding that, well there's two situations. One is those vessels that were exempted under the moratorium previously . . . **[change to tape 36]** . . . 26 and 32. So they're exempted in any case so they would not get a license.

Pautzke: They won't have a moratorium license.

Benton: Correct. For the BSAI under 60 foot jig exemption, in the instance where a vessel would qualify for a license, they would receive that license and not qualify for the exemption if this is a vessel that did not qualify for a license, then they could qualify for the exemption only. That's my understanding. In other words, if you qualify, if you're 60 feet or 58 footer and you got a license, you could not use a license and the exemption on the vessel. You'd have to go with the license. If you were a 58 footer that did not qualify for a license, then they would be able to operate under this jig exemption. That's my understanding.

Pautzke: Now let's get back to the 32 and 26 footer.

Benton: Well, let's make sure that even my understanding is correct.

Pautzke: Is that what you want? They get a license if they qualify?

Behnken: I would think that would be fair. I mean anybody who has earned a license should certainly get a license. If you were operating a vessel that was under 60 feet and you got a license, you earned a license and received a license, you could go out and use 10 jig machines if you wanted to, right? Because you're not operating under the exemption, you're operating on your license. For someone under 26 who has earned a license, I would think they should certainly get a license because they may be able to upgrade within the limits of what we do here to a larger vessel and they shouldn't be denied the privilege of the license. Maybe they can upgrade over 26 feet.

Pautzke: There's certainly permutations there that maybe Marcus could walk you through it between the Bering Sea and the Aleutians because of . . .

Hartley: Mr. Chairman, one of the concerns that was raised by National Marine Fisheries Service is this whole kind of . . . are moratorium vessels exempt or qualified was that a vessel that is licensed, say he's a 26 foot boat, meets all the requirements, gets a license, could then sell his license and then function as an exempt vessel and get the benefits of both worlds. He would sell it, and I don't know what a 26 foot license would sell for, but then could function under the exemption. That was a concern certainly it was one brought up by the general counsel that this is kind of a doubling kind of effect. I think there are ways to take care of that if you say that they are exempt, or if they transfer then they don't get their exemption kind of a deal if you wanted to do something like that.

Benton: Mr. Chairman, let me make sure I know what you said. Correct me, Marcus. You're saying that a 26 foot vessel would qualify for a license and then that, well, it would be a 25 foot vessel let's say, then they would qualify for a license and then they would sell that and operate as an exempt vessel. Correct? And then that's how the doubling occurs?

Hartley: Right.

Benton: Right. Under my understanding, they would not qualify for a license. There would be no licenses issued to vessels exempt under this exemption. They are just exempt.

Pereyra: This seems to me to be a non-issue though. If somebody is under 26 feet, they're exempt so why the hell would they go out and buy a license? That doesn't seem to be . . .

Pautzke: They might be granted one because they qualify.

Behnken: Right, but he's saying who would buy it.

Pereyra: But they're exempt.

Lauber: What's the value of it.

Hartley: 20% upgrade. You could upgrade your boat to 35 feet and 32 foot vessel is really good for 35, 36, 37 feet and so you get that not only 32 foot boat, but a 37 foot boat.

Lauber: 25 could go to 31.

Hartley: Yes, that kind of an issue.

Behnken: I think that anybody who earns a license should get it and, as Mr. Pereyra pointed out, it's pretty limited who's going to want to buy it. I don't think it's a big problem, but I do think someone who's earned a license should get it because it does give them a few options that they wouldn't get if we say anybody under 26 feet doesn't get a license. I'd say they should get it if they earned it. I just don't think the sale and then taking the exemption is likely to be a big issue.

Lauber: That's all I want. You wanted a clarification and we complicated it. We're back to the main motion.

Pereyra: Mr. Chairman, I have an amendment to the main motion. I would make a motion for an amendment that the exemption for 60 foot jig vessels would expire two years after the resources in the Bering Sea are fully utilized.

Benton: I'll second that for discussion.

Pereyra: Thank you. There was some discussion earlier about the reason for not providing exemptions to vessels in the Gulf of Alaska and one of the arguments was that the resources were fully utilized and you don't want to have more boats coming in and so on and so forth. The same argument could potentially pertain to the Bering Sea. You get to the point where the resources are fully utilized, and you're allowing continuing vessels to come in, is only going to exacerbate an overcapitalized situation. You provide for two years thereafter, I think it gives people the opportunity that had made plans to go into the Bering Sea with a 60 foot exemption and they ordered some jigging machines from Iceland or something - you know for those machines to arrive and get them on the boat and for them to get up there and get into the fishery, so you're taking that into consideration. But I think that we want to have some limit, at some point in time. That's the reason why I put that in there. It's to provide opportunities at this point in time, but at some future date there would be a limit on this exemption.

Behnken: Thank you, Mr. Chairman. I have a question. Right now, my understanding is that if the jig fishermen don't take all their quota, it's reallocated. Is that correct? So do you consider that fully utilized?

Pereyra: No.

Behnken: You're saying when the jig fishermen are able to take all of their 2% allocation, two years after that?

Pereyra: When in fact the National Marine Fisheries Service advises us that the resource has been fully utilized at that point in time, the quota such as happens in the pollock fishery now, that those resources in the Bering Sea is fully utilized - we've hit the two million ton cap in terms of utilization. That point in time, I think we should consider putting some sort of a lid on further exemptions.

Behnken: Mr. Chairman, could I ask that question of Dr. Collinsworth then. I mean do you consider Pacific cod fully utilized if we reallocate the jig allocation to the longliners or to someone at the end of the year?

Collinsworth: That was the question I was going to ask of Dr. Pereyra was how we would measure that. I mean to say fully utilized, I'm not sure how we would measure that if this were to come into effect.

Pereyra: Take cod for example. If there's a 100,000 ton quota and 5,000 tons allocated to the jig fishery, 95,000 tons to the other fisheries, the line fisheries and trawl fisheries. The 95,000 tons is totally utilized but the remaining portion is not, then I would consider that it hadn't been utilized. If 2,000 of the 5,000 had been utilized, then I wouldn't consider that it had been utilized.

Tillion: When we get done with most of this reading, we still come down to the sunset provision. Wouldn't this be better addressed in that area than now? If we vote for a sunset, and that's unknown at this time, that takes care of all these problems. You've addressed again whether you roll it over like we did with inshore-offshore or whether you make any changes.

Pereyra: I think that's an appropriate suggestion. I could offer an amendment at that point in time to the sunset because I suspect that the motion will be that there be no sunset and I can always offer that as a motion that the 60 foot would sunset at that point in time.

Lauber: Do you want to withdraw your motion at this time?

Pereyra: I'll withdraw it.

Hegge: I just wanted to comment on it. All our testimony has been about cod but there's nothing in there that says this jig exemption is just for cod. It just says it's a jig exemption. So it could be other fisheries besides cod.

Collinsworth: Again, I spoke as we began this process about the difficulty of going at this incrementally without having the ability of looking at what the package is going to be. I think there are going to be a number of issues that we will want to revisit when we get this tinker toys that we're starting to put together now. Mr. Tillion thinks we're building a log cabin. It may look like a spaceship when we get finished. Then I think we're going to need to have the opportunity to come back and revisit these incremental decisions to the extent that we want to get it cleaned up with a rationalized package of some sort. I just want to make sure that the process that we engage here will accommodate that. Another thing that I think is very important when we finish this process, I would surely hope that the staff could tell us what we have done in terms of the number of vessels we have qualified into these various fisheries. I don't know how we could take a vote without some understanding about the number of vessels that we're going to have in the Bering Sea and the Gulf and in the endorsed regions. I don't know how we can make a rational decision on whether this is a marginal improvement over what we have already. I don't know if the staff will be able to do that. They may not be able to get it down to a vessel, but I think they should be able to get it down to 1 or 2%.

Benton: I concur with Mr. Collinsworth in that regard. I have reviewed fairly extensively the tables that have been provided to us with regard to the options that we chose in April. Without going into a lengthy discussion about the . . .

Lauber: Is this germane to this motion?

Benton: Yes, it is sir. Well, wait a minute. He withdrew his motion so I'm speaking to the main motion, correct?

Lauber: Right. We got side-tracked by the observation which was interesting but since the motion wasn't on the floor it was no longer . . . and Dr. Collinsworth was reinforcing what he said before and I was just suggesting that maybe what you were going to launch into . . .

Benton: It is germane to Dr. Collinsworth's comment regarding the main motion.

Lauber: Well, since Dr. Collinsworth's statement was very interesting but not absolutely necessary to this motion then . . .

Benton: We can wait.

Lauber: Okay. You know I was thinking when the gentleman from the Yukon Kuskokwim Mental Health Clinic was testifying, I was asking if he couldn't wait around. We might need his help after we get through with this thing, for a little counseling. Anyway, we have before us the main motion which is the Qualifying Periods, AP recommendation. No amendments passed. It's in its original form. Are you ready for the question? Okay, call the roll on the main motion made by Mr. Mace, which is the AP recommendations.

Pautzke:

Collinsworth	No	
Pereyra		Yes
Samuelsen	Yes	

Tillion	Yes
Barker	Yes
Behnken	Yes
Benton	Yes
Fluharty	Yes
Hegge	Yes
Mace	Yes
Lauber	Yes

Passed.

Lauber: Well, let's see, why don't we take a break before we go into the next one.

Lauber: Council's back in session. Alright, we now move to Landing Requirements for General License Qualifications.

Mace: I move that Landing Requirements for General License Qualifications be one landing in the general qualification period or qualified moratorium crossover vessel period, number 60 for this category.

Pereyra(? two persons seconded simultaneously): Second.

Lauber: That was what, our preferred option?

Mace: Mr. Chairman, I don't think this is controversial, that's why I made the motion.

Lauber: Good, considering the last one. Okay is there any further discussion at this time?

Benton: Thank you, Mr. Chairman. Just a brief statement that this has been our preferred alternative for quite some time, I believe, and the AP has recommended it at this meeting and at previous meetings. We have heard a fair amount of public testimony regarding this particular measure and I'm going to vote for it because of that.

Lauber: Is there any further discussion? Ready for the question? Is there any objection to the motion? Hearing none, it passes. Alright, next is Landing Requirements for Endorsements Qualifications.

Pereyra: Mr. Chairman, since we appear to be headed in the direction of having different qualifying periods for the Bering Sea/Aleutian Islands separate from the Gulf of Alaska, it might be helpful if we bifurcated the discussion so that we looked at each of them separately. I think it would tend to facilitate things a lot better that way if that would be alright.

Lauber: That could probably be handled if you had a motion. Put one of them up. Of course, I guess somebody could come along and amend it and that wouldn't solve that necessarily. I have no objection to bifurcating. Do you want to take the Bering Sea/AI separate from the Gulf of Alaska.

Pereyra: Yes.

Lauber: Is there any objection to that? Hearing none, let's start with the Bering Sea/Aleutian Islands. Anybody have a motion on Bering Sea/Aleutian Islands Requirements for Endorsement Qualifications?

Pereyra: Are we talking about periods or are we talking about areas?

Hartley: We've adopted a period through 6/15 for endorsement qualifications already.

Pautzke: This is the landing requirement, right?

Lauber: Yeah, landing requirements. It's in the AP minutes on page four if that's any help to you.

Benton: Point of clarification, if I can. Presently, just to summarize where we're at, we have determined that the general qualifying period is January 1, 1988 to June 27, 1992 with a provision that vessels that crossed over up to and including June 15, 1995, would qualify for a general license. That would apply to both the Gulf and Bering Sea, correct, any general license configuration.

Lauber: That's right.

Benton: So what we're talking about with Dr. Pereyra - what his motion would then facilitate is that we're going to talk about endorsement qualifications for the Gulf and endorsement qualifications for the Bering Sea. Is that Dr. Pereyra's intent?

Lauber: That's right. And I suggested we start out with the Bering Sea.

Hartley: Not to dispute Mr. Benton at all, but you've also included in the AP's motion endorsement qualifying period 1/1/92 through 6/15/95. That's already included in the action that you've taken. So, you've already dealt with that.

Benton: Yes, correct, I misspoke. Thank you.

Tillion: We actually had our eyes open when we did it.

Benton: So what we're dealing with really is landing requirements. So we're going to do that for the Bering Sea first. Mr. Chairman, for landings requirements for the Bering Sea and Aleutian Islands, I would move that we have a requirement of one landing in an area during the endorsement qualifying period.

Behnken: Second.

Tillion: Question.

Lauber: The chair takes notice of the fact that every time anybody makes a motion, you will say "Question," so you don't need to do that anymore.

Tillion: As soon as you start calling for the vote . . .

Lauber: Okay, Mr. Benton, speak to your motion.

Benton: When we embarked upon this process, we were looking at various proposals that dealt with the Bering Sea and the Gulf of Alaska as sort of a one-size fits all kind of approach. In that, we were going to apply the same criteria to Bering Sea/Aleutian Islands as we'd apply to the Gulf of Alaska. I think over the course of the year and a half or two years that we've been engaged in this process, it's become abundantly clear that there are significant differences in the way that the fisheries evolved in the Gulf and in the Bering Sea, and in the kinds of fisheries that are prosecuted, and the nature of those fisheries in those two areas. With regard to the Bering Sea, Mr. Chairman, which is the one we're dealing with in this particular instance, Bering Sea fisheries became fully utilized, or not fully utilized really, but fully Americanized relatively late in the game. They are large industrial fisheries; some of the species are not even today . . . there's some question as to whether or not they're fully utilized, and those fisheries have not become as mature, for example, as the fisheries in the Gulf of Alaska. Because of the differential kinds of entry into the fishery that has occurred over the past few years, it seems to me to be appropriate to use a more simple landing requirement for the Bering Sea and one landing in the endorsement qualifying period would meet that test.

I think it shows willingness on the Council to recognize that people that go and engage in fisheries in the Bering Sea by its very nature have expended a fair amount of capital, and a fair amount of time in getting into a difficult and dangerous fishery; one that is not entirely as overcapitalized, perhaps in some ways, as the Gulf of Alaska. Wally might dispute me on that. Anyway, I believe the public testimony we've heard in this regard supports this. I believe it's supported by the AP, or has been in the past, and I would support this. Thank you.

Behnken: My reading of what the AP recommended actually would be different and that was that they were imposing some minimum levels -- 20,000 pounds and multiple landings. While I certainly appreciate their desire to try and reduce speculative entry or people that just dropped in in the Bering Sea, I think the problem that putting a minimum landing, from my discussions with National Marine Fisheries Service, is that it leads to a pretty outrageous appeals process of people saying well I was just under or what PRR was used and that's really problematic. With requiring multiple landings for an endorsement in the Bering Sea, I understand vessels that have recently crossed over under the provisions we allowed in the moratorium probably have just had one landing up there and all these efforts we've made to include them, give them that opportunity since the crab stocks are in such bad shape, would then be precluded. While I understand what the AP did, thinking it through for the Bering Sea, this seems like the most appropriate motion.

Lauber: Is that in favor of this motion?

Behnken: Yes.

Lauber: It is in favor.

Mace: Of course the AP suggested multiple landings and minimum poundage on the vessels over 125 feet. I'm sort of curious of the impact of this upon participation. Could someone go out there now and make a landing? What's the date today.

Lauber: It's today - they have to do it by midnight tonight.

Mace: Midnight tonight or in the last few days and qualify a large vessel. Is there any reading as to the impact of this on increasing the pressure as opposed to what the AP recommended. It looks like an open-ended . . .

Oliver: Mr. Chairman, I was going to say of course they still would have to have made a landing in that base qualification period. It's possible that there could be vessels that qualified in the base period and never made a landing in the endorsement period up until the first half of 95 or in the last week. That would then be additional vessels beyond what you otherwise would have had. It's more likely that you would have simply additional area endorsements as opposed to additional vessels, but again, you're only talking about two subareas, Bering Sea and Aleutians. So it may not be that huge of an impact.

Hartley: The potential is there for everybody that qualified in the moratorium to have been there, but we don't have any evidence that that actually occurred.

Mace: Mr. Chairman, the motion was for Bering Sea only as I recall . . . **[change to tape 37]** . . . we're not including the Aleutian Islands.

Tillion: You can't have those numbers of everybody in the moratorium. You merely look at the count of who fished the maximum number of vessels in the last few years. It can't be anything like a thousand boats, they weren't there.

Hartley: Technically, Mr. Chairman, if a vessel is moratorium qualified, he qualifies for this base license. We don't know if he fished only in the Gulf or only in the Bering Sea under that moratorium. And we also

have crab vessels that have crossed over potentially following the Council's moratorium actions into the fisheries, particularly pot crab or pot boats perhaps into the Bering Sea pot fishery during that six month period. Those would be additional vessels than we charted in our analysis. Again, I don't know how many have done that. I don't have very good feel. The public has indicated, I believe, that it's probably not terribly high. It's not a thousand boats, but I don't have any data to tell you how many it would be.

Pereyra: It's my understanding that 300,000 which was the non-severable area endorsements and we have the general umbrella licenses, that you got either one of two situations. Either a boat is qualified in both the Gulf of Alaska and the Bering Sea, or in this case, the boat is qualified for the Bering Sea/Aleutian Islands. Correct? So first they've got to qualify for the umbrella license which includes both areas and then they could have for example, one landing up there and qualify for the umbrella license, but they would have to have had a landing in the Bering Sea to qualify for that area and a landing in the Aleutian Islands to qualify for that area. That's the way I read this, is that correct? The areas are separate.

Hartley: The areas are separate, but if a vessel has not participated in this fishery since 1989, 1990, 1991 and during the last six months fished in the Bering Sea - it had fished the Bering Sea prior during the general qualifying period - then that vessel would not show up in our analysis and under our extended qualifying dates would be given a license and would be given endorsements based on the areas that it fished in 1995. Now, your debate earlier said that you wanted to do that because they were following the moratorium.

Benton: I think it's somewhat illustrative to look at the tables staff has put together for us. First I would like to point out that in the analysis from September that of the 25 harvesting vessels longer than 125 feet, in this particular part of the analysis, only two made catches less than 10,000 pounds. The poundage limitation that the AP put in is not particularly useful if you want to address overcapacity because overcapacity generally has been shown in the analysis provided to us generally in the over 125 foot category and in catcher processors. If you look at the numbers of vessels, and these are not explicit configurations in terms of what we've adopted, but they're very close. One landing in an area in the endorsement qualifying period for the BSAI, generally you have a total of about 425 vessels that would qualify. These are for BSAI-only license or BSAI/GOA license. Out of that, if you look at catcher processors over 125 feet, there are 92 that would qualify for BSAI only or BSAI/GOA. If you look at a different configuration, it's the same exact configuration except that four landings now are used during the EQP for the BSAI, total vessels drops to 380 vessels. The number of catcher processors over 125 feet remains at 92. The landing requirement does drop the number of vessels, and I think this is probably most important in the Bering Sea and Aleutian Islands, large catcher processor numbers remain the same. So it seemed to me to be appropriate to go ahead and use the one landing because we're not going to be addressing the major capacity problems in that manner in the Bering Sea.

Pereyra: Mr. Chairman, I'd like to concur with Mr. Benton's remarks, and also point out that in none of these analyses do we know whether the vessels that are counted are the same vessels. So it's hard, in some cases, to determine what the actual individual vessel impacts are. I think that sometimes we can be misled by looking at just numbers and for that reason, I'd prefer to go the more general route here to make certain we don't inadvertently disadvantage some vessel that we didn't know anything about.

Lauber: Any further discussion? Ready for the question? Any objection to the motion, one landing Bering Sea/Aleutian Islands? Hearing none, the motion passes. Alright, now we move to the Gulf of Alaska. [long silence - members quietly conferring] There's no interest in that I guess, we can move on to the next one.

Benton: We're having a little conference here Mr. Chairman. Can we have an at-ease for a moment?

Lauber: Yes.

Lauber: Council is back in session. Council come back to order. Can we have it quiet in the room? I would hope that this time has allowed you to put together a motion that we can all just leap forward and support here.

Benton: I'm not sure about the leaping over part. I would move the AP's recommendation with the following changes for landings requirements for the Gulf of Alaska and it would read thus:

For vessels greater than or equal to 60, a vessel must have made a landing in two of the four calendar years from 11/192 to 6/15/95 period, which is the endorsement qualifying period. For vessels less than 60' except in the East Yakutat, Southeast Outside, and those using jig gear, the vessel must have made one landing in the EQP.

Lauber: Everyone get that?

Tillion: Second.

Lauber: My understanding is that it's the AP recommendation but on the third line, there's a period after 95 and you struck "and must have made 20,000 pounds, etc..."

Benton: Correct.

Lauber: Then you picked up the next line, "for vessels under 60' . . ." that stays the same except on the last line you struck "3,000 pounds of" and inserted one landing - you strike the "s" off of landings and made it singular. Is that correct?

Benton: That's correct.

Tillion: Did I understand that when we checked the statistics, there were only three vessels that hadn't made landings larger than that. Is that what I read . . . sometimes it's just irrelevant to have it there.

Benton: Mr. Chairman, I wanted to get this motion on the table. I wanted to ask staff to provide us with some additional information. I believe that given all the work the AP has done on this, that this is a good place to start. I think I've already voiced my concerns regarding poundage as a way to deal with qualification under the endorsement period. I am particularly concerned when you look at using poundage as a standard for endorsement qualifications, about the quality of data that might be used to make that determination. Discussions with the National Marine Fisheries Service in the past when we were going through this indicated that there was some uncertainty as to the quality of the data and that that uncertainty could lead to numerous situations where there would be contested poundage landings and that would then cause difficulty with making the determination of whether or not a vessel met this requirement. I think it's better from a management perspective to keep this as relatively simply as we can and not get tangled up in terms of a poundage requirement. With that in mind, I would like to ask staff to provide us with some information to the best of their ability recognizing that this is a slightly different variation from the options that the Council had presented or come up with in April, but I would like to know from them what this means in terms of numbers of vessels that would be authorized to fish in the Gulf. So if I could ask staff to get some . . .

Pautzke: Could I get some numbers from you. Dave, in the third line down where it says period, you crossed that out, it says, "for vessels less than 60'" - so don't you also want to delete that "except" exception in between the commas there. That's no longer operable because you no longer have the 3,000 pounds, so it's just one landing for any vessel under . . . the exception shouldn't be there anymore.

Benton: That's correct. Yeah, that would be correct actually.

Lauber: The fact of that for the audience is that after “vessels less than 60’,” strike except in the EY + SEO and those using jig gear.

Benton: That’s correct. Thank you.

Lauber: So in reading a vessel less than 60’ must have made one landing in the entire endorsement qualifying period. Now, you had a question of staff.

Benton: That’s right.

Brannan: Mr. Chairman, the analysis that was provided to you looked at one landing for vessels less than 60’ in the GOA and vessels greater than 60’ and greater than 125’ in the Gulf of Alaska having made landings in each of three calendar years, 1992 through 1994. What Mr. Benton has proposed is extending the qualification period by approximately six months and reducing the minimum number of landings from 3 in three years to 2 in four years. The table that Chris has put up on the board is vessels greater than 60’ making 3 landings in three calendar years and vessels less than 60’ making one landing in that qualification period. If you read across the bottom three rows in the FMP subarea endorsements you can see that in the central Gulf, plus west Yakutat, there were 714 qualified, in the eastern Gulf as it’s defined, 889, and in the western Gulf, 189 vessels in the small category.

Lauber: Is that . . .

Brannan: That’s on page 37 of your document.

Lauber: Okay, thank you.

Benton: If I could, what part of the table are looking at Chris?

Brannan: Those are the small catcher vessels in Alaska.

Benton: Oh, okay, gotcha.

Brannan: If you look at the total number of vessels - the bottom of the page, far right - you’ll see that 1,048 vessels would qualify in the central Gulf; 1,080 vessels would qualify in the eastern Gulf, and 293 would qualify in the western Gulf. Comparing that to the number of vessels that would qualify if only vessels greater than 125’ were required to make three landings in three years. That table can be found on page 40 of your document. If you look at the large vessel categories, the catcher processors for example greater than 125’, you’ll see that the numbers are pretty much consistent; for catcher processors in the 18 category, they increase from 18 to 29. So that’s the vessel category that’s impacted by this change. The difference between those two tables is in that medium size category. If those vessels weren’t required to make the three landings in each year in this table and they were required to make three landings in each year in the previous table so it’s those vessels that are going to be impacted between the two tables that we’re showing. You’ll see that this increases the number of vessels that qualify from 33 to 119 in that medium size category. You can see that the . . . 33 to 34, I’m sorry, in that category, but the number of endorsements that they qualify for in the central Gulf decreases significantly.

Hartley: The 119 here was 185 in the previous set. This number was 33 in the previous so that’s the difference.

Brannan: What it’s saying is that vessels are still qualifying in the Bering Sea because they would probably only have one landing in that time period, but the number of endorsements in the Gulf of Alaska you can see decreases in the central Gulf from 29 to 18; in the eastern Gulf from 6 to 3, and; in the western Gulf from 28 to 8 by requiring a landing in each calendar year as opposed to one landing . . .

Mace: Mr. Chairman, this is the medium size . . .

Brannan: Yeah, this is . . . the difference between the two tables is that the first table requires that vessels over 60' make a landing in each calendar year. This table restricts that to just vessels over 125', so it's only the change in the 60 to 125 foot category that we're really interested in between the two tables.

Hartley: Again, Mr. Chairman, it needs to be pointed out that this is a three landings in three year criteria and the one you have on your table is two landings in each of four years. I'm sorry, two landings in any of four years and so, therefore, these numbers would be higher generally.

Pautzke: This would bound it, though wouldn't it?

Hartley: This is the lower bound that you see here. The higher bound, the upper bound, would be a little bit more difficult to determine. You could get a general idea if you looked at table 2.9 which is on page 35, and it requires that two landings during the period must have been made. Clearly, a vessel must have made two landings in order to get in, but your requirement would require them to make them in different years.

Mace: I'm concerned. We've got a lot of pot vessels for example and a lot of medium class vessels in the Homer and Seward area and Kodiak that are going to be impacted by this and I'm not sure that is a very wise move. I can see it for the 125' plus group, but I'm a little uncomfortable with that 60-125 arena. A lot of longliners could be involved in that. I don't know. I'm not very comfortable with it.

Pereyra: I'd like to provide a little balance to Mr. Mace's statement there. I find it difficult to accept that it's fair and equitable to impact those that are over 125, and it's not fair and equitable to those under. I think the impact is the impact. There are real individuals involved here, you've got families involved and so forth. I don't think that that kind of distinction is warranted. Despite what ulterior motives may exist, I think that we've got to look at this in a much broader context. I would hope that we could come up with some sort of qualification structure here that would recognize we've got people that have made investments and people who have been operating up there in good faith and that we want to make certain that we don't do something that's inappropriate in that regard.

Hegge: Thank you, Mr. Chairman. I'd like to try making an amendment to the motion if I could. That would be on vessels 60 foot and over. At the end of the motion put, "or have made four or more landings in the FMP area between 1/1/95 through 6/15/95."

Lauber: Repeat that again.

Hegge: Or have made four or more landings in a FMP area from 1/1/95 to 6/15/95.

Pereyra: I'll second it.

Hegge: Mr. Chairman, if I can speak to the motion. It somewhat mirrors the one that was debated in the AP and came up with a tie vote. I think one distinctive difference is that now we're talking about just the Gulf of Alaska in a FMP area in the Gulf. Again, I'm moved by people that have come to us that are moratorium qualified and, in their mind, followed all of the criteria that we set out and yet by our actions might be taken completely out of the fishery.

Lauber: Any further discussion on the motion, the amendment to the motion?

Benton: Mr. Chairman, could you read the motion again?

Pautzke: It can be either - the amendment is for vessels 60 feet or over that you allow a second qualifying landings requirement of four or more landings in a FMP area between 1/1/95 and 6/15/95 . . .

[change to tape 38 - a substantial amount of verbiage is lost in changing tapes]

Pereyra: (tape 38 begins in mid-sentence) . . . motion is an appropriate motion. I think it's consistent with the kiss principle which I would hope we would follow in this regard and not have these things become too complicated. Also I think it is in recognition that we want to, on one hand, recognize boats that are moratorium qualified and on the other hand are recent participants. That's the part that I think is very important here. It does recognize recent participation and I think that is fair and equitable on what we should be doing here, so I support the motion.

Lauber: Mr. Hegge, would the four or more landings - what your intent is - that would mean the person is serious, not someone who made a dip in order to qualify.

Hegge: Yes, Mr. Chairman. That was why I was seeking recognition. I wanted to explain that the four was for that purpose. It actually is a greater requirement than the other requirement that would give a person an endorsement, but it shows the serious participation and not just taking advantage of possibly getting a permit.

Benton: Mr. Chairman, just a procedural question. Does adoption of the amendment doesn't carry the main motion, correct?

Lauber: No, no. It's in addition to it. Is there any further discussion? Is there any objection to the amendment of Mr. Hegge's? Hearing none, it passes. We have before us the amended main motion.

Behnken: I guess I'm still looking for a little more input from our Council members on this. To me, it's quite reasonable to have different qualifying criteria where the larger vessels, which are very recognizably where our capacity or overcapacity problem lies, from the smaller vessels. What I'm still struggling with a little bit is where the appropriate break is, whether it's 60 feet or 125 feet. If we put it at 60, we definitely are cutting back capacity. I look at these charts here and it seems to me the effect is going to be disproportionately high, at least very significant in some of the western Gulf communities particularly and also some of the central Gulf. I just call that to people's attention and ask for a little more discussion.

Mace: This is a major move that could be a meat axe move and I'm not really familiar right now with what it's going to do. If I can get away with it, I'm going to move to get away with this until morning and go on with other items that don't have quite this much significance. Could I ask if I could to make a motion to table until 8 am.

Lauber: It's been motioned to table until a time certain. As you know, this chair has ruled that normally tabling motions are not debatable, but that's created problems in the past. I would allow debate, not encouraging it, if there's not discussion on it. Was there a second?

Behnken: I'll second it if I could ask a question?

Lauber: Go ahead.

Behnken: You're tabling just this discussion, not the whole CRP. We're going to go on with . . .

Mace: Specific discussion of landing requirements and I'm saying go on with the other items, but this particular discussion, I'd like to . . .

Lauber: My understanding of the motion is to table the . . .

Mace: Gulf of Alaska landing requirements.

Lauber: It's actually the motion because it's amended and so we only have before us one motion . . . the motion to table this Landing Requirements for Endorsement Qualification motion until tomorrow morning.

Collinsworth: I certainly have some sympathy with the motion to table. On the other hand, I was hoping that we could finish putting our tinker toys together today, then ask the staff to provide us some information in the morning about the total number of vessels in the areas and perhaps getting the full motion written up into a single document so we could evaluate and then make appropriate adjustments. There are a number of other areas that we've taken action on that isn't going to be complete until we understand this piece. Whether we can come back and modify this as is appropriate, but I don't know how we're going to be able to analyze the total number and other implications . . .

Lauber: I'm glad you made the comment that you hoped that we would get this done tonight. You've been away from this for a long time Mr. Collinsworth. I understand that when you were the chairman that's probably the way we would have done it, but we're going to go out of here about 5:30 and that's about two hours from now and we've got a break in between and it looks like we've got a lot to do. I don't think we're going to get that far. Now, I'm not trying to tell you what to do on the tabling motion - we can labor through. I don't think we're going to get through the next . . .

Benton: I sort of concur with Mr. Collinsworth. I don't know if we'll get done tonight or not. I think we're going to get very close. I think this is probably the last thorniest issue we may have. I may be totally wrong. I would not support tabling this at this time if we can work our way through this and then have as many of the pieces put together as possible, I think it's a real advantage to moving the process and getting done.

Lauber: The parliamentarian reminded me what we could do is we could go through the whole package and withhold the final vote until tomorrow. That would then, with agreement from Mr. Mace if he would remove his tabling motion, mean any action we took we would not have to reconsider our action, because there would be a final vote tomorrow and we could amend, as I previously announced we were going to do before, would be subject to amendment before we took the final vote.

Pereyra: I'm trying to get a feeling for the concern here. Is the concern that maybe 60' is too low here, that we should have 125 or something like that we need more information on it?

Mace: Need more information. I'm not as smart as you are.

Pereyra: I'm just following your lead on this one.

Mace: I don't know what the numbers are. We could have some major impacts on a lot of people. This is a major decision, this particular one here, who has an endorsement and who hasn't and I want to do a little more soul-searching and visiting before I'm comfortable with it.

Tillion: Could I ask a question? If we were to amend it to 125 would you feel more comfortable to move on Mr. Mace?

Mace: Yes, I would.

Tillion: If you withdrew it I would be willing to put that amendment . . .

Lauber: Withdraw your tabling motion. You could put it back on.

Mace: Yeah, okay.

Tillion: I'd like to amend Mr. Benton's motion to bring it to 125.

Lauber: So in place of "over 60" it would now read 125, I mean 60 would now read 125 in both places.

Benton: I would accept that as a friendly amendment if the second concurs.

Lauber: Okay, no objection.

Mace: Does the qualification that we come back and vote on this finally still stand. . .

Lauber: Yes, unless there's objection, we will try to go as far as we can. Hopefully, you're correct and we can get through all of this but we'll do it incrementally then the final vote will be tomorrow morning on it to give you time to amend it if you care to.

Barker: Just for clarification, I want to make certain that I understood what the motion was. So instead of saying for vessels greater than 60 feet, or 60 feet and greater, it's now 125. Is that correct?

Lauber: That's right.

Pautzke: And for those less than 125 it's one landing.

Pereyra: Mr. Chairman, to be consistent with our previous motion was on vessel length, I think it has to be greater than 125. . .

Barker: That's what I said.

Pereyra: . . . and we also have a problem with what we did before, but greater than 125.

Benton: That would leave the question of what happens to the 60-125 category somewhat up in the air because of the second sentence about one landing for vessels under 60 feet.

Lauber: My understanding was that we changed both of them. One would say greater than and the other would say "less than."

Benton: If that's the case Mr. Chairman, may I speak to this?

Lauber: Yes, go ahead.

Benton: I thought that the information that staff presented to us was very useful. I understand those are not exact numbers, but they did give us the sense of where the impacts would occur and the nature of those impacts from the changes in vessel size categories. Those impacts really occur in the central and western Gulf for vessels between 60 and 125 feet. These are moderate size catcher vessels. There's some impact on the catcher processor sector, but not to the extent that there is in the mid-size catcher vessels. Mr. Chairman, I would point out that, in the September analysis that we had and the moratorium analysis as well, it was pointed out to us on a couple of occasions, more than one occasion, that a significantly larger amount of capacity in the fleet is in vessels of larger size categories. I think that we were provided information about potential increases in capacity with this most recent analysis dated June 2nd which seems to bear that out as well. If you look at Figure 3 in the paper provided by Dr. Terry, it projects increases in capacity in the various kinds of fleet configurations that are under consideration and compares those to the total capacity for the fleet as a whole. The important information, at least that's pertinent to this discussion, is what happens with the dotted line in these various graphs. It shows that for longline catcher vessels less than 58 feet capacity can increase dramatically without affecting at all the total capacity in the fleet. That's true for other seine vessels, seine trawl vessels, pot catcher vessels 59-124 feet, less so for factory longliner pot vessels. You can see in this figure that the total capacity starts to leave the zero line and it starts to creep up a little bit as capacity increases in the factory longline pot vessels. That's true also for trawl catcher vessels that are

less than 90 feet but only it's less significant because if you look, it occurs much further down the axis. Where the capacity really starts jumping up is in factory trawl surimi vessels greater than 190 feet and factory trawler head and gut vessels. I think that if you look at this information, we look at the information that was presented to us in the September analysis and public testimony we've heard regarding capacity, I think it justifies making a differential qualifying period for vessels over 125 feet versus vessels under 125 feet. That's why I accepted that as a friendly amendment and that's why I support it.

Hegge: Do I understand that now vessels up to 125 feet need only one landing in the period 92 to June 15th? Is that the motion? If that's the case, I think it should probably be a substitute motion because the amendment that I made that was passed called for three landings in that period and one landing would already qualify them.

Lauber: Your motion was . . .

Hegge: My motion was in the period January 1 to June 15th to have four or more landings. This motion only requires one.

Lauber: But it doesn't have that time. Does it have that time?

Hegge: Yes, because the motion carries up until June 15, 1995.

Lauber: Oh, okay.

Tillion: So it's more generous than yours was.

Hegge: Much.

Pautzke: He's got a 60 footer in his motion. I see.

Lauber: You have 60 feet in your motion.

Pautzke: You don't want to just apply that to the 125 foot?

Hegge: I'm sorry.

Pautzke: You don't just want to apply . . . I just was assuming that you were applying that to the 125 foot vessels, so that any vessel over 125 foot could qualify by having a landing in each of two years out of four or having four landings in one . . .

Hegge: No, my motion spoke to vessels 60 to 125 and that's included in the motion we have right now.

Lauber: I'm glad you brought it up. My understanding was the motion was that we changed "greater than or less than 60 to appropriate 125" in all cases. We were only looking at two instances. In this case, it would be three, including yours.

Hegge: Now I'm getting confused.

Lauber: You're saying it's not necessary to do that? Now.

Hegge: I think that Mr. Tillion's motion now is that a vessel up to 125 foot only has to have one landing in the period 92 to June 15, 1995. That makes my amendment unnecessary and I think that it should be a substitute motion to the amended motion.

Pautzke: It only makes your amendment unnecessary for the 60 to 125 foot class. Everything over 125 foot would they'd still have your . . .

Hegge: What's that? My amendment didn't apply to anything over 125 foot though.

Pautzke: I thought it said to everything over 60.

Pereyra: The net result of this is that any boat that qualifies under Mr. Hegge's amendment also qualifies for the others, so his amendment is redundant is what it boils down to.

Tillion: But you can leave it there; it won't hurt anything.

Pereyra: You can leave it there and scratch it off later when we do the fine tuning.

Hegge: I'd rather remove it if we're going to vote on this one.

Lauber: If we make it a substitute motion, who made the motion, Mr. Tillion?

Tillion: I did.

Lauber: Make a substitute motion would resolve the problem because it would wipe out the redundancy to whatever extent it is redundant.

Tillion: Alright, I just thought what mine did made his redundant. Didn't care whether it was there or not.

Lauber: Alright, so let's consider it a substitute motion.

Tillion: Alright if you wish to write it that way so we can clear the record early, I'll so move with the permission of my second.

Benton: I accepted it as friendly.

Tillion: He accepted it as a friendly amendment so . . .

Lauber: Is that okay?

Benton: Yeah, that's fine.

Lauber: Alright, consider it a substitute motion. Is there any further discussion?

Pautzke: Hold it. I'm lost here. If the 125 foot goes through, which is the substitute motion, won't you still have a dual qualifying landings requirement with Hegge's there, because I thought you said it was all vessels over 60 feet that could either qualify by this way or by having four or more landings in an FMP area between 1/1/95 - where am I missing?

Tillion: It doesn't make any difference.

Pautzke: His applies to over 125 feet, too.

Hegge: Yeah, you're probably right, it did, but in our discussion we mention 125 foot but I didn't make it clear in the motion and I should have and I would have intended to. In our discussion, we mention the 125 foot so it's much better that this is the substitute.

Tillion: Does it make sense yet?

Lauber: Well, it's been suggested if you want to do it, you can move to reconsider your motion and vote it out.

Tillion: It doesn't make any difference whether it's there or not.

Lauber: I would consider a substitute motion. If the motion passes, Hegge's motion goes away. How's that?

Behnken: For clarification, as I understand it now, any vessel under 125 feet just has to make one landing in an area to qualify for an endorsement as long as they have a general license. Is that right? In that endorsement period. And any vessel over 125 feet has to have made two landings or a landing in two calendar years.

Pereyra: It has to be equal to or less than 125, otherwise the vessel that's exactly 125 feet isn't going to get any landings at all.

Lauber: Over 125.

Pautzke: Equal to or greater than.

Behnken: The AP put it in.

Lauber: We're going to take a break.

Lauber: Council come back to order.

Hegge: Since this is a substitute motion, I guess the proper thing to do is speak against it and hope that it prevails, or that my opinions prevail. I just feel like the substitute motion has almost made our efforts meaningless. It's so close to the moratorium and includes so many more vessels that we just are not implementing a meaningful limited entry program. The motion that we had before does restrict it to people that are serious participants and not people that just over the course of four years happen to make one landing. I would speak against the motion for those reasons and hope that we can get back to the other motion.

Lauber: Any further discussion?

Benton: Just a question, Mr. Chairman. If the substitute motion fails, then the original motion is back on the table?

Lauber: No, you'd have to make . . . yes, it is still on the table.

Pereyra: I'd like to speak in favor of the substitute motion. I think, based upon what I've seen here, that the substitute motion is more consistent with what our knowledge base is certainly. I'm not comfortable at all with cutting a lot of people out which is what the original motion would do in that middle category. I just think that the substitute motion is fair and I think that's the way we should go.

Lauber: Any further discussion?

Lindeman: Point of clarification. What was decided with respect to the one landing in two of four calendar years period. Is that greater than 125 or greater and equal to 125?

Hartley: I don't know what the Council's real intent was on that, but the data that we supplied was greater than or equal to 125 feet.

Lauber: I think that's consistent with discussion and somebody kept reminding us that needs to be the case. I think Dr. Pereyra pointed that out.

Pereyra: Well no, that's not what we have before us. The lengths we looked at were greater than 125, not greater or equal to 125. On page 3, the length determinations you have there are less than 60, 60 to 124 and greater than 125. Of course, you've got any vessel that's between 124.1, rather 124.5 and 125.49 don't exist.

Hartley: The tables that we ran, Mr Chairman, are 125 and greater. The numbers in the tables are representing 125 feet and greater up to 125 in the second category and less than 60 feet in . . .

Lauber: Let's clarify what Counselor is asking. All she wants to do is clarify what it is saying. So we . . .

Pereyra: If we follow that classification, then the groundfish regs are going to be inconsistent with the pot regs we put in place which said vessels greater than 125. I think we ought to think about how we want these regulations to flow together here.

Tillion: Mr. Chairman, I understand that Mr. Hegge has objected to the amendment I put in as a friendly amendment to Mr. Benton to satisfy Mr. Mace so we could vote today. If I just withdraw it, would you vote today?

Mace: You can withdraw. [everyone laughs]

Tillion: Would I be allowed to withdraw?

Lauber: Wait a minute, I think he was saying your motion can stay but you can go. [everyone laughs again] Let's clarify what Counsel has asked us to clarify. Were we talking about greater than 125 feet or 125 and greater.

Pereyra: I think the pot regs, correct me if I'm wrong, I think the regulations read greater than 125 don't they?

Tillion: Okay, then it would overlap.

Pereyra: Maybe somebody from Alaska Fish & Game could clarify that.

Lauber: Well, the document reads greater than 125 - keep using greater than 125. Unless I hear further, we're talking about greater than 125.

Tillion: 125 and greater.

Lauber: No. Greater than 125. The motion is vessels, you substituted 60 which is greater than 60 inserted 125 so it's greater than 125 and then it would be 60 to 125 whatever. So it's greater than 165 - I mean 125. I got the 60 in there.

Pautzke: The analysis is different.

Tillion: We can solve the whole thing in a moment.

Lauber: You know there's enough slop in here. I mean how many boats are going to be affected by this?

Benton: I think that we should proceed and what we can do is ask staff to look at the regulations under the moratorium and regulations under the crab program and we can clarify this when we get to the end of this thing. We have a general sense of where we are at.

Lauber: The idea is to make it consistent with the crab regs? Alright, that's what the motion is.

Barker: For the benefit of myself and maybe some members of the public, do we get a read-through of what the motions currently are?

Pautzke: The main motion that was on the floor is Landings Requirements for Endorsement Qualifications in your Advisory Panel minutes. If you want me to read what they took out of that.

Benton: Not what they took out, but how it reads now.

Pautzke: The motion, well then I was going to get **[change to tape 39, beginning of tape misses some of motion]** . . . a landing in two of the four calendar years from January 1, 1992, to June 15, 1995. For vessels equal to or less than 125 feet, a vessel must have made one landing in the entire endorsement qualifying period. Now, what I don't quite understand, and you have to correct me on this, is does Hegge's thing come in here in any way, shape or form?

Lauber: We took him out.

Pautzke: I guess it doesn't because he was 60 to 125 is what his clarification was.

Hegge: As I understand, the Chairman ruled that this was a substitute motion.

Lauber: Yes, it is a substitute motion. So it substituted him out.

Tillion: He's now objecting to my substitute, right?

Lauber: Right. So that's the motion. That's what we'll be voting on.

Barker: Are we voting on Clem's or . . .

Lauber: We're voting on what you just heard. It's a substitute motion and the reason it's a substitute motion was it was a method of accommodating the problem created by the Hegge amendment which passed. If this passes, the Hegge amendment goes away. If this fails, we go back to . . .

Pautzke: . . . we go back to the 60 and the Hegge amendment is still in.

Tillion: Mr. Chairman, if I don't have a second to ask; if I just withdrew the amendment, where would we be?

Lauber: We would be back at 60 feet and the Hegge amendment would be in it.

Tillion: Counsel, I don't have a second because my friendly amendment accepted it, I'd like to withdraw the motion.

Lauber: No objections? The 125 substitute motion is withdrawn. We're now back to the vessels greater than 60 feet and for vessels less than 60 feet will make one landing in the entire endorsement period and the Hegge four landings . . .

Pautzke: Does that just apply between 60 and 125 feet?

Hegge: Yes, that's correct.

Lauber: Between 60 and 125 feet, four landings between January 1, 1992 and June 15, 1995.

Hegge: That's correct.

Lauber: That has been passed and that's in the motion.

Pautzke: Is your intent that it goes from it's greater or equal to 60 feet up to 125 feet and/or less? So you're including that 125 one that Dr. Pereyra was worried about.

Hegge: Yes, vessels over 125 have only the, have to make two landings out of the four years.

Pautzke: Okay.

Collinsworth: We may wish to ask Mr. Berg for clarification, but they passed me a note that says that we should, he recommends that we maintain the vessel classification definition that we used for the moratorium which was vessels greater than or equal to 125.

Pautzke: My only concern is, and I'd like to ask Marcus, Chris or Darrell is that if we change that little equal to some other, does that cause us to just be able to estimate, or do we have to redo the whole database to get it, because you've always had it 125 feet and/or more. Does that little change cause you lots of . . .

Barker: . . .equal to or greater than 125 does include 125.

Pautzke: I know that, but now what we're doing is including it in the next lower rung, 125 foot vessel. I'm just asking, does that cause our database to have to be redone completely?

Marcus: Well, yeah. Our database is by length and we have 124 and 125. All these tables reflect 125 and greater. The moratorium regulations are 125 and greater. Your observer regulations are 125 and greater and the policy has been on that from National Marine Fisheries Service to use a rounding the nearest whole number, 124.5 and greater, is really 125 feet and that is where the inconsistency comes in with the crab regs for the pot limit, in that, their regulations say that a vessel that is greater than 125, meaning that 125 feet and 1 millimeter, they have an extra set of 50 pots. That's where the inconsistency comes in as far as I can tell.

Pereyra: Clarification there. It's 125 feet 6 inches because they round up and round down to the nearest foot.

Pautzke: So what Marcus is saying is that all our previous decisions on the moratorium and now on this and with the observer program 125 feet and up. And so this is just a change in it which . . .

Hartley: and probably inconsistent with the rest of our regulations.

Lauber: Any further discussion? Ready for the question? We're voting on the original motion which is for vessels greater equal to 60 must have a landing in two of the four calendar years from 1/1/92 to 6/15/95. For vessels less than 60 feet they must have one landing in the entire endorsement qualifying period. . .

Pautzke: . . . and for vessels between 60 and 125 feet, you have the dual qualifying thing of Mr. Hegge's.

Mace: This is the AP's recommendation.

Lauber: Basically it is with a striking of the 20,000 lbs and the striking of the 3,000 lbs.

Mace: I'm going to vote for this because I want to be on the winning side and also will have an opportunity to reconsider tomorrow.

Lauber: I've already assured you that we're not going to take a final vote on this tonight.

Lindeman: Considering the stuff that Marcus brought up as far as the classifications that are in the regulations now like the observer regs and the proposed moratorium, in considering enforcement issues with consistency is there some overriding reason, or whatever, or compelling stuff that the Council can put on the record as to why you would want to pass a classification here that is not consistent with what classifications you've had in the past? That's a question that will be raised.

Lauber: I don't think we've got that problem now, do we? [everyone speaks at once]

Benton: I thought that we clarified this so it would be consistent with existing regulations and consistent with other provisions including the moratorium provisions.

Lindeman: Okay, I missed that.

Pautzke: That hadn't been clarified, but now it is, because the only part it comes into is Mr. Hegge's amendment.

Tillion: But now are we ready to vote?

Lindeman: Mr. Chairman, one last time. Could Clarence clarify then what the categories are in the motion? Just for the record.

Pautzke: The operable part is now Mr. Hegge's part which is vessels that are greater or equal to 60 feet, but less than 125 feet, will have a dual qualifying thing and that's the four or more landings in an FMP area between January 1, 1995 and June 15, 1995.

Hegge: Or the two landings in two of the four years.

Lauber: Is there any further discussion? Are you ready for the question? Alright, let's call the roll on this hummer.

Pautzke:

Pereyra	Yes
Samuelson	Yes
Tillion	Yes
Barker	Yes
Behnken	Yes
Benton	Yes
Fluharty	Yes
Hegge	Yes
Mace	Yes
Collinsworth	Yes
Lauber	Yes

Pass.

Tillion: Lisa, I love the explanation given by Mr. Mace, "I'm going to vote for this because I want to be on the winning side." Will that be good on the record?

Lauber: Alright, can we move on? The next one is Components and Alternate Elements Affecting Ownership, Use and Transfer of License. The first one is Who May Purchase Licenses.

Benton: Given all the grief I've given this Council over the years about current ownership and who can own licenses, I'd like to move that we adopt item number one - licenses could be transferred only to persons defined as those eligible to document a fishery vessel under Chapter 121, Title 46, U.S. code.

Lauber: Is there a second?

Pereyra or maybe Samuelsen (?): Second.

Lauber: It's been moved and seconded. Any discussion? Ready for the question?

Lauber: Is there any objection to the motion?

Collinsworth: Object.

Lauber: Okay, Mr. Collinsworth objected. Motion is carried. Next one is Vessel License Linkages.

Benton: I would move that we adopt item number two - Licenses may be transferred without a vessel, i.e., licenses may be applied to vessels other than the one to which the license initially was issued subject to license designations and a 20% rule of the moratorium.

Lauber: Is there a second?

Behnken: Second and I have a question.

Lauber: Go ahead Ms. Behnken.

Behnken: I'm not sure how it's worded in the moratorium, but it seems to me it should be clear that vessels can be, licenses can be taken to smaller vessels if we're looking at reducing overcapitalization, and that the 20% rule only applies to increasing the size of the vessels. Is that the intent of the motion?

Benton: I'm sorry. Come again.

Behnken: My question is whether the 20% rule applies to increasing the size of a vessel and decreasing, or just if someone is seeking to increase the size of the vessel or take a license to a larger vessel?

Benton: It's my intention and my understanding throughout the debate that has occurred over the past several years, that it would be the former, that it would only be subject to increases.

Lauber: Only what?

Benton: Only the increases. In other words, the 20% rule would apply if you're going to increase vessel capacity. It wouldn't apply if you're trying to decrease vessel size.

Hegge: From a practical standpoint, this seems like it presents a little bit of a problem. In the IFQ, we have four licenses, we have an A, B, C, D. In this one, a license is going to have to be registered or issued with an exact vessel length on each license which seems to me as though it's going to be a little bit cumbersome tracking that over time.

Tillion: I don't see why if you've got computers.

Pautzke: We do with the moratorium, didn't we?

Hegge: As trades occur, and if this goes on for a period of years, it seems as though it's going to be somewhat more difficult to track, maybe not. I just wanted to raise the point. We had vessel categories and we've broadened them, perhaps too much, but this looks like from an enforcement point, or even trading point, it would be very difficult.

Tillion: The original size would have to stay and 20% would be above that original size. I don't see that complication.

Lauber: Is there any other discussion?

Pereyra: As a point of clarification. This 20% rule, I'm not totally clear how that relates to the moratorium. Does this mean then that we use the same language as that in the moratorium but the two are not linked? Or does it mean that the 20% rule in the moratorium carries over into the license program. Otherwise, if they are totally separate, it would be possible for someone to be out of compliance with the 20% rule here, but still be in compliance with the moratorium.

Lauber: Why?

Pereyra: Whether this license limitation is in place yet. So that's why I'm curious. I just need some clarification on that.

Lauber: I thought what we were doing was just a short version of telling us what 20% rule you were talking about. Marcus can you help us.

Hartley: I think that what Mr. Pereyra is getting at is when, what the date is that we define the original qualifying length. Am I correct?

Pereyra: Correct. That is much more succinct way of putting it.

Hartley: Our assumption, we really didn't - it doesn't really reflect anyway in the analysis because, of course, none of those upgrades had been taken into account yet. We had always assumed that would mean that the moratorium original language would be maintained in this license program. You have the option certainly to set the date that the original length is and then allow 20% from that, but that might involve moratorium vessels, allowing them to upgrade twice.

Lauber: Do we need to clarify this?

Pereyra: There have been some questions asked of me by some individuals and I guess it's important to clarify that.

Benton: It's been my understanding that what we've been talking about is that the vessel would be, is subject to the 20% rule under the moratorium presently, if the moratorium was approved, and that that would carry through into the license designation. So they couldn't upgrade twice in terms of the 20%. If a vessel under the moratorium upgrades 20%, that's it. That's their upgrade and that would be the size that they would carry through.

Pereyra: And the date of which the initial length is determined is as of the moratorium?

Benton: Correct.

Lauber: Any further discussion?

Lauber: Is there any objection to the motion? Hearing none, it passes. Move to Options Regarding Separability of Species and/or Area Designations.

Mace: I move option 1: Area designations are not separable and shall remain as a single license with those initial designations.

Tillion: Second.

Lauber: It's been moved and seconded. Counselor, didn't you hear?

Lindeman: No, Mr. Chairman, I didn't hear.

Lauber: Moved option 1 which reads, "Area designations are not separable and shall remain as a single license with those initial designations." Is there any discussion? Are you ready for the question? Is there any objection to the motion? Hearing none, it passes. Vessel Replacements and Upgrades.

Mace: Go ahead, we've got a live one.

Benton: I'm going to move number three, "A vessel may be replaced or upgraded within the bounds of the length designations and the 20% Rule defined in the moratorium proposed rule."

Lauber: Is there a second?

Tillion: Second.

Lauber: Moved and seconded.

Benton: This goes back then to the question that Dr. Pereyra raised a little bit ago. In this instance, my reading of this is that under the initial license issuance, under Vessel License Linkages, a vessel that had gone through and upgraded in accordance with the 20% rule in the moratorium period, that's their size and they will not be able to upgrade further. If the license was transferred to another vessel, that vessel had to fall within the 20% rule. With regard to this particular provision, it would be the same situation. It would have to fall within that 20% rule if there was a subsequent replacement and if the vessel had not employed that 20% upgrade previously.

Lauber: Okay, so you can only upgrade one time in either the moratorium or the license.

Benton: And this is an upward upgrade. There is not a restriction on a downgrade. I want to make it clear.

Lauber: Okay, is there any further discussion on vessel . . .

Mace: I don't know whether this takes an amendment or not, but I would like to include the catcher vessel ability to process limited quantities at sea. Is that going to take an amendment?

Lauber: Yes, it would.

Mace: Okay, I move to amend to include the language: catcher vessels would be allowed to upgrade to enable a limited amount of processing at sea. The limit would be set at 5 mt round weight per day for vessels less than 60 feet and 18 mt per day, round weight, for vessels equal to or greater than 60 feet.

(?) Second.

Mace: I offer this amendment because we had a great deal of public testimony to that effect and it seems sensible to utilize some of that product rather than discarding it.

Collinsworth: Those vessels then would become, would fall, under the catcher processor category thereafter? And how are we going to measure that capacity? How do we know what 6 or 18 capacity is?

Tillion: I have a little trouble with this one. Not for the idea that there shouldn't be some capability to do a little processing offshore. Eighteen tons to me sounds excessive. What I kind of thought of is that they would be keeping rockfish they had no market on, you know and a few things like this. I can't vote for 18 tons. That's a pretty good chunk of product every day. If it was a 5-ton overall, I could probably go along.

Pereyra: In response to Dr. Collinsworth's question about how you account for this. It seems to me that it would be a simple extrapolation of using product recovery rates from the processor logs as to how much product was actually processed that particular day, would be an indication, you know, extrapolating back to what the round weight equivalent would be, would be one way it could be done. So a vessel that was a catcher vessel that might have some incidentally caught rockfish they wanted to process, their harvest log for the day would show maybe 100 tons of fish having been brought on board or delivered or whatever and the processing log would show a certain amount that was actually turned into finished product. From that you could determine how much was actually processed. It would make certain that they were within the requirements.

Collinsworth: I had difficulty hearing Mr. Mace's motion. Maybe if it . . .

Lauber: It's the AP recommendation. It says, "catcher vessels would be allowed to upgrade to enable a limited amount of processing. The limit would be set at 5 mt round weight per day for vessels less than 60 feet, and 18 mt round weight per day for vessels greater than 60 feet." I have some serious problems with this hummer. This is a loophole you can drive a mack truck through, and I don't think we've had a lot of analysis on it. I don't have any problem with some of the things I've heard, like Clem said, but there's no limit on this at all - as far as species, or need, or whatever. We're creating a whole new class and I'd rather come back and visit at some later time when it's packaged a little better and people can explain what it's going to do and what impact it's going to have. Anyone else care to speak on this?

Samuelson: I'll be voting in opposition of the motion, of the amended version. We've heard public testimony in previous meetings that this was entry level fishermen. They were catching some bycatch and they wanted to keep it, process it. It was small boats with no available market. I agree with Mr. Tillion, 18 metric tons - they could be targeting that 18 metric tons, so I agree with you also that I think it's a big loophole and I'd like to hear from enforcement on how they're going to enforce it if this amendment passes.

Pereyra: I'd like to speak in support of the motion. It seems to me, we've been criticized, either rightly or wrongly, over the past for not addressing the utilization issue. One of the things that happens is you get a situation where a boat only has a market for the volume species, then you get bycatch and because there's no market for it, you've got to throw it over the side. That looks bad on our record. We have certain groups that keep looking at this North Pacific as being guilty of excessive discard. This is one way that we can start to get at that. I think it's appropriate. Eighteen tons is not a lot of fish for a larger boat that's got a market. It's not enough to create a catcher processor. We've had testimony from people that, one person that upgraded his boat so that he could process cod fish, and questions regarding this - there's no way he could survive at 18 tons. You're not creating a new class of factory trawlers, if that's what the concern is. So I think it's a responsible thing to do and I would hope that we could support it.

Lauber: Any further discussion?

Hegge: I guess I made this motion at the last meeting, and at that time and I'm not sure what the appropriate number is, but again I'd like to reiterate that this is basically status quo. Right now, a limitation of 18 ton is

placed under the inshore/offshore. As far as I know in the three years it's been there, it has not added to the fleet and there has been no restriction on vessels in other fisheries, any other fishery, on their ability to add freezer equipment to their boats. We still have not seen that influx of new freezer vessels. It does however, offer the facility for people to further utilize and keep the species that they catch in their normal operations. Like I say, I don't know if the 18 tons is the right number, and if we do vote for it, I would speak some more to the fact that it's a daily catch because that was changed in our inshore/offshore from our intent, and I think drastically changes the outcome.

Lauber: Any further discussion?

Captain Anderson: There was a comment made about enforceability and I'm not saying that would be very easy. Certainly, I think it's what Wally said earlier, the catcher would have to keep a processing log to be specific enough in order to cross check say during boardings at sea. It's an item that is not easily checked. It's fairly complex, so I don't know how good the quality to monitor it would be. I know, Steve, you may want to make a comment on it as well.

Steve Meyer: As it stands now, the inshore/offshore regulation talks about 18 metric tons a day on average. That's enforceable. As far as saying eighteen metric tons a day, it can't be done on a capacity basis because it has to be a performance based measure. You may be capable of processing 200 tons a day, but you have to stay below 18 so it's a performance thing, not a capability thing. The other thing I would suggest is that to keep the log books, it's a catcher processor log book. Catcher vessels don't keep any processing segment, so I think when you enter into this, you do create a catcher processor vessel.

Lauber: Thank you. Any further discussion?

Collinsworth: We're talking about 5 metric tons round weight and 18 metric tons round weight. So we're talking about the amount of round product that could be processed into processed per day. So if someone processes 5½ metric tons then they are in violation of law. Is that correct?

Lauber: Yes.

Collinsworth: We don't have any - this is not species specific. So we're going to rely on product recovery rates for a variety of species and a variety of product forms to make this determination . . . **[change to tape 40, missing the balance of Collinsworth's comments and begins in the middle of reading Mace's motion prior to roll call vote]**

Lauber: . . . hinges on Mr. Mace's amendment on retaining freezing product, 5 metric tons for less than 60 feet and 18 metric tons for more than 60 feet.

Pautzke:

Samuelson	No	
Tillion	No	
Barker	Yes	
Behnken	No	
Benton	No	
Fluharty	Yes	
Hegge	Yes	
Mace	Yes	
Collinsworth	No	
Pereyra		Yes
Lauber	No	

Failed.

Lauber: Alright, we're back to the main motion which is number three, vessels may be replaced or upgraded within the bounds of the 20% rule defined in the moratorium proposed rule.

Lauber: Is there any further discussion? Are you ready for the question? Is there any objection to that motion?

Collinsworth: I didn't hear the motion, Mr. Chairman.

Lauber: It is for Vessel Replacement and Upgrade and it reads, number three and it reads, "vessels may be replaced or upgraded within the bounds of the 20% rule defined in the moratorium proposed rule."

Pautzke: The intent was that if you did it during the moratorium . . .

Lauber: Yes, the intent was as outlined as the other upgrade within the moratorium, you have a one-time upgrade and can't double-dip. Ready for the question? Is there any objection to the motion. Hearing none, it passes. We move to License Ownership Caps.

Benton: I'll move number two, "no more than 5 general licenses per person with grandfather provisions."

Behnken: Second.

Pautzke: It's different than the AP.

Benton: That is correct.

Lauber: What was that?

Pautzke: It's different than the AP motion.

Lauber: Yours is no more than five . . .

Benton: With grandfather provisions. If you read it, I'm looking at the document that staff has actually provided to us. What I read, well, I'll speak to my motion. I've got a second right? Mr. Chairman, when I look at the AP's motion, it seems to me that, generally, it's very close to being the same except that what they've done is just explain how the grandfather provisions work. I did not move the AP motion. I moved the item number two counsel had identified and it's my intent, and I think Counsel generally will understand that this grandfather provision is very similar to the one we had adopted under the IFQ program for halibut/sablefish, that those persons as defined in U.S. law that receive more than five general licenses would be grandfathered in. They would have their eleven, or seven, or whatever the number would be upon initial allocation of the licenses. They would not be allowed to purchase any additional licenses unless they went below this five general license provision. I think that's important in order to meet the intent of the Magnuson Act that we address the need to ensure that no individual or corporation gets an undo share of fishing rights.

Pereyra: Clarification. What would you define as a person in this regard.

Benton: My understanding as defined in the Magnuson Act is a person or corporation, a natural born individual or a corporation that meets certain criteria.

Pereyra: So that means that any person, pardon me, any corporation . . .

Benton: Counselor could probably provide us with a definition of what a person is under the Magnuson Act.

Pereyra: Would that mean that any individual that are owners or members of that corporation would also - this would mean that this corporation would be subject to the five vessel rule?

Lauber: I think that's what the AP was trying to get to with their less than 10% . . .

Pautzke: Well, isn't the persons above though that we already passed as defined as eligible to document a fishing vessel under chapter 121 title or is that a different definition that what. . .

Tillion: You know, I'll vote for this if the State really wants to. These are unenforceable. They harass for the most part. You merely change a corporation to another group of vessels and under the law, an individual is a corporation or a person. It's a very sticky thing to try and enforce. That's why you have so much trouble on the federal level with monopolies. You know, it's almost impossible to enforce. On the other hand, the Magnuson Act says we should have something to keep anybody from getting too large a piece of the pie. I think this is one of those I'd feel a lot more comfortable if I wasn't voting on, but I intend to vote along with the State and knowing it's a real hollow gesture and wish I didn't even have to vote on it.

Barker: I'm kind of mirroring a little bit of Clem's concerns. Corporations and interlocking subsidiaries, and I don't know how Commerce or Justice Department would ever track any of those issues. A boarding party certainly wouldn't interpret all of them.

Samuelson: Couldn't hear you, Morris.

Lauber: Had trouble hearing you.

Barker: I'm sorry. What I was saying was that interlocking corporations, I don't know how the Justice Department would find that there had been a violation or if a boarding party could ever turn something up like that. That would seem to be a very serendipitous event.

Benton: I hope that we're not hinting that we can't enforce a similar provision in the halibut/sablefish program which has very similar kinds of restrictions on quota share and ownership. I would point out that National Standard 4 requires us to try and take steps to ensure that no particular individual, corporation or other entity acquires an excessive share of such privileges as the limited access programs. While I would agree that in many respects it may have some difficulties with regard to enforcement, I don't know if it would be an at-sea enforcement or it would be some different kind of enforcement mechanism that would be employed. The way I look at it, it's sort of like the 55 mph speed limit. There's a whole lot of vehicles out there that exceed 55 mph, but it is somewhat of a deterrent and even though enforcement is not uniform, it does have some merit.

Lauber: Mr. Meyer were you trying to, oh, Captain Anderson.

Captain Anderson: Yeah, I've heard the words "at-sea"/"at-sea enforcement." We've addressed this one before. This is not something, even under the IFQ program, that is enforceable at-sea. We look at a document. On the reverse side of the document, it doesn't list everybody on the reverse side of the document that personally has an ownership in that vessel. It may list just a corporation. I think if you really want to get to the bottom of this and really put percentages on it, you have to go when people would apply to NMFS for their license. They would have to provide us some self-certification of who owns the vessel if you really want to try to track that stuff. It's not going to be done at-sea, I can tell you.

Meyer: Mr. Chairman, I believe what it does is it gives us a tool to go after someone we suspect. I don't think it gives us something that we're going to spend a whole lot of time researching every single application that comes in. What you end up with is a set of papers that are signed by somebody under the penalties of perjury and it gives us a situation with some of the most difficult corporate regulations to pierce. but it does give us something that we can use if we get information or there's some indication that there's a violation. It's

useful in a way, but as far as up front saying every one of these is carefully and closely looked at, no, they are not and it's something that would take a tremendous amount of time and effort. Where there's suspicion or somebody gives you information, yes, it's a tool that you can go after. But it is not something that practically is going to be looked at everyday.

Lauber: It's been the case, in my other life, that a lot of these cases that you do make come to you from a tip possibly by a disgruntled employee, or a friendship gone afoul or something of that nature. There's a tip comes in that causes you to investigate and make a case.

Barker: I guess a question of Counsel. Are there any pertinent comments here that we should be aware of, in terms of issues of restraint of trade that some people have brought up in terms of license caps?

Lindeman: Mr. Chairman, none that I have now made. This issue's come up before and we can look at it again.

Pereyra: I have a real problem with this particular motion. To say that anyone who has more than 5 licenses is somehow out of compliance with National Standard 4 regarding excessive shares may be a long stretch. Five factory trawler licenses is a heck of a lot different than the five licenses of small longliners. There's no standard here that we're using in terms of determining if five is some magic number. There's nothing in the EA/RIR that speaks to this as to what's excessive and what's not excessive. I think we're on very weak factual grounds to be able to draw any conclusions from that. Secondly, probably more importantly, we have a set of laws in this country, the Sherman Anti-trust Act for example, that's the law of the land. I don't see anything in the Magnuson Act that says that the Council shall redefine what's an antitrust violation from the Sherman Anti-trust Act. I think we're stepping way over our bounds. I certainly understand the intent of not allowing for excessive control of the fisheries but that, I think, would have to be handled through some sort of standard that hasn't been developed yet. So I'm afraid that I'm going to have to vote against the motion because I don't think it's appropriate.

Lauber: Any further discussion on the motion?

Tillion: Question.

Lauber: Ready for the question? I think we'll call the roll. This is ownership caps of five with grandfather provisions.

Pautzke:

Tillion	Yes	
Barker	Yes	
Behnken	Yes	
Benton	Yes	
Fluharty	Yes	
Hegge	Yes	
Mace	No	
Collinsworth	No	
Pereyra		No
Samuelson	Yes	
Lauber	Yes	

Pass.

Lauber: Next was Vessel License Use Caps.

Mace: I move that there be no limit on the number of licenses or endorsements which may be used on a vessel.

Lauber: Is there a second?

Tillion: Second.

Lauber: Is there any discussion on that motion?

Lauber: Ready for the question?

Fluharty: Doesn't that potentially conflict with the action we just took? If there's no limit on the number of licenses that they may use on a vessel, we've put in a five license limit for corporations.

Benton: I don't believe this conflicts at all. In fact, I think that this is a fairly important provision. The ownership caps by general licenses is one thing and really applies more to the future than it does to the present. The vessel license use caps, however, are totally different in that, a vessel - you could stack licenses on a vessel and, in fact, if a company had a wish to do so, they could acquire licenses, and apply them on a vessel or if they have a number of vessels and they wanted to retire some vessels, they could still use those other licenses on that other vessel. In that regard, it can be viewed as a way that some reduction in vessels and some reduction in licenses would occur over time. I sort of look at this as a way that, among a couple of other provisions, as a way that capital can actually be reduced.

Lauber: Any further discussion? Ready for the question? Is there any objection to the motion?

Collinsworth: I object.

Lauber: Dr. Collinsworth objects. Motion carries. Vessel Designation Limits.

Benton: I guess I'm curious. Dr. Collinsworth, does your objection indicate that you believe that there should be vessel license use caps?

Collinsworth: I object because I don't know the implications about this with regard to how it's going to be enforced, how we're going to deal with this when vessel licenses are transferred, how we're going to make determinations in that regard. I don't understand how that's going to work.

Lauber: Ready to move on to Vessel Designation Limits? We've indicated previously that number one is our preferred option and the AP has a . . . [pauses to consult] . . . whether they're catcher processor or . . .

Mace: Let's do the AP recommendation. Mr. Chairman, I so move. I don't understand it, but I move it.

Benton: I'll second that.

Lauber: It's been moved and seconded, the AP recommendation which is . . .

Mace: Do you want me to read it, Mr. Chairman?

Lauber: Yes, go ahead and read it.

Mace: "A vessel which qualifies for multiple designations (i.e., both as a catcher vessel or as a catcher processor) under the use restriction component will be able to participate under any designation for which it qualifies. Vessel designations will be based on activities during 1/1/94 through 6/15/95 or the most recent

year of participation during the qualification period. If a vessel qualifies as a catcher processor only, it may select a one-time conversion to a catcher vessel." That's what they said.

Lauber: I don't quite understand that. Oh, I see. I guess if the vessel qualifies as a catcher processor only, it may select a one-time only conversion to a catcher vessel. That passed 7-6, but with that in there, the main motion passed 10-5, so the whole thing passed 10-5. I think that's what it means.

Mace: We may want to get a member of the AP up here to elucidate.

Hegge: That was the issue that I questioned Beth about and she was going to check on it because I think that was put in there because of the inshore/offshore designations and wouldn't necessarily apply to just a catcher processor operating outside of inshore/offshore. So she was going to get clarification on that.

Lauber: Okay. Yes, Chris, can you tell us about that?

Oliver: Yes sir, I think I can. The Advisory Panel, a couple of things they did with regard to this item. They wanted to extend the period for which we would set the designation. Originally, we had in the Council's April action, it was the end of '94. But we had public comment and letters in your notebooks to the extent that people may have switched over in early '95, for example, the processing ability and they would lose that ability to process if you used 12/31/94. So the AP elected to use basically an 18-month window of time, from the 1st of '94 to June 15, 1995 as the period of time during which you would look at a vessel's activities. If it operated during that time as both a catcher vessel and a catcher processor, the intent was to allow them that same flexibility in the future. However, if they only qualified as a catcher processor, they wanted the ability for that vessel to, in essence, downgrade to a catcher vessel. But once they did that, they wanted them to stay in that catcher vessel category. Catcher vessel would not be allowed to operate as a catcher processor. A vessel that only received a catcher vessel designation couldn't upgrade to a catcher processor, but they'd want to allow that "downgrade."

Collinsworth: I guess this goes back to the previous question and why I objected, because I'm unclear. It says that no limit on the number of licenses or endorsements may be used on a vessel. There's no limitation to the number of licenses. I mean if a person gets on with a license for a catcher processor vessel, then they can use it as a catcher processor when it was a catcher vessel? I can understand if there's no limit perhaps on the endorsement that you make, somewhat like the IFQ system where crewmen can take onboard IFQ, but no limit on the number of licenses, again I don't know what that means.

Lauber: Maybe Chris can tell us.

Oliver: Mr. Chairman, I think I know what it means, at least what the AP meant in their motion. What we've construed this use cap all along to mean - licenses now, as you indicated, are going to be in a nonseverable package where those endorsements are attached. This is in reference to that package of license and area endorsements. It wasn't meant to carry over into the catcher processor or link designations.

Collinsworth: I understand with regard to the issue before us now, but I don't understand it with regard to the previous issue. I mean the one where I objected.

Benton: Well, I think Dr. Collinsworth brings up an important question and it was my understanding and I believe it was within the confines of the discussions this Council's had over numerous meetings about this particular matter, that these licenses would be used within the designation of the vessel. So you couldn't use, for example, let's say you had a catcher vessel that was in the 60-125 category. You couldn't use that vessel and apply a license for a catcher processor over 125 feet. However, for that vessel, if you had let's say a general license with two, like say, Western and Central Gulf area endorsements within that size category. If that vessel wanted to use another license that also had an Eastern Gulf area endorsement attached to it, it

could be applied to that vessel so that it could fish and participate in the Eastern Gulf, within the categories subject to the other rules of the program.

Behnken: I would defer to Dr. Collinsworth because he looks like he still has questions.

Collinsworth: Then the parenthetical clause for endorsements, what does that, I mean I don't . . .

Behnken: I may be misunderstanding, but the AP made some changes with how they handled license and endorsements from what we did. We still maintain that there's a general license and we have endorsements that, at this point, are nonseverable. At some point in the future, they may be severable. We put a limit on the number of licenses a person could have of five. I think we voted that through. We didn't limit the number of endorsements, and I think the AP parenthetical or endorsements - they started handling license and endorsements as one. Is that right? Because they made one sort of umbrella license for the whole North Pacific. We handled them differently. We put a limit on the number of licenses. We didn't, at this time, limit the number of endorsements.

Hegge: I don't understand the last part. A catcher processor can't deliver fresh fish? Is that what this means?

Behnken: I asked that of Beth.

Tillion: We had this in the ITQ argument.

Hegge: Are you saying yes?

Behnken: I asked Beth and I don't know if anybody from the AP is here, but I asked her that question. You know under sablefish and halibut, a catcher processor can either catch or process or, I mean either process or deliver fresh and her answer was we were trying to mirror sablefish and halibut. We kept inshore separate from offshore and you're either catcher processor onshore and that was my understanding of her answer.

Pereyra: Is that satisfactory, Mr. Hegge?

Hegge: No.

Behnken: Maybe someone from the AP can . . .

Hegge: I can understand it under the context of inshore/offshore in the pollock fishery, but I don't understand it in the other. It's nothing that we've even analyzed or talked about is it?

Tillion: Didn't this originate in the offshore/onshore to make sure that a person didn't avail themselves with two seasons?

Pereyra: Maybe we should ask Chris Oliver to see what his interpretation of it is.

Oliver: I'm not sure where it originated, but I can relate to you the AP's discussion. They felt that if a vessel typically operated as a catcher processor, but also made deliveries as an ice boat or what have you, they would show up as having operated as both and they wouldn't lose the ability to do that. You're looking at a year and a half window to gain that dual endorsement, or dual designation. If a vessel during that 18 months had only operated as a catcher processor it would only receive a catcher processor designation. So that was their intent.

Pereyra: Is that clear now?

Hegge: Yes, I wonder if I could strike that part from the, or how do I go about striking that part from the motion.

Pereyra: Have at it if you'd like.

Pereyra: The maker of the motion. . .

Pautzke: You have a motion on the floor, right?

Pereyra: There's a motion on the floor so . . . [brief mumbling between several members, nothing discernable] . . . the AP motion is the one that's on the floor. It's on page 4, the third item down.

Hegge: I'd move to strike that sentence.

Pereyra: Is there a second to that motion?

Behnken: I have a question. I'll second. My question would be then Mr. Hegge, that if a vessel qualifies as a catcher processor, what is that vessel's option?

Hegge: I would say that he would be able to freeze fish if that is his choosing, but he would also have the opportunity to deliver shoreside fresh or in an unfrozen condition.

Behnken: Then I guess, if I could follow up. I would suggest rather than strike that sentence, you make that as your amendment, clarify that.

Hegge: Okay, I can do that.

Behnken: That a catcher processor may either deliver processed or unprocessed product.

Hegge: May either deliver processed product or processed onboard. **[change to tape 41]** Or frozen product, rather.

Pautzke: I thought that's what that said. I thought it said here a vessel which qualifies for multiple designations can use either.

Oliver: Mr. Chairman, if a vessel did both, he'll get both, but that won't necessarily solve Mr. Hegge's issue which is if he only gets a catcher processor designation, he wouldn't be able to do both in the AP's wording. But their last sentence was even a different issue and that was, they wanted a catcher processor to be able to downgrade to a catcher vessel permanently. If you add the amendment that a catcher processor can do both, maybe you've mooted the point of that last sentence.

Tillion: I think it's imperative that your catcher processors be able to deliver fresh product because I think, as you move on to a more rational system, you're going to want to be able to deliver certain products, or certain portions of your catch, to a fresh market, and therefore, to prohibit it with some action we take now would be rather foolish. What we don't want to do is have a whole fleet of catcher boats convert to catcher processors, further disrupting things. I believe Mr. Hegge's amendment adequately does it - that a catcher processor can deliver either processed or unprocessed product and that solves the problem.

Lauber: Any further discussion on the amendment? Can someone tell me what it is.

Pautzke: If you could, at the last part of that sentence, Mr. Chairman, under if vessel qualifies as a CP only, you might rewrite that to say it may select a one-time permanent conversion to a catcher vessel or be allowed to deliver fish unprocessed within season.

Hegge: I'd rather leave it the way I've stated it. If he qualifies as a catcher processor, he may freeze his product onboard or deliver it unfrozen.

Tillion: Yes, I like that.

Lauber: Any further discussion on the amendment?

Pereyra: Could you read it please?

Collinsworth: If a catcher processor chooses to become a catcher vessel under this provision, then the catcher vessel could still, assuming it's greater than 60 feet, can still process 18 tons of round weight product a day?

Hegge: That doesn't have anything to do with it really.

Collinsworth: I mean under our other provisions.

Hegge: That provision failed.

Collinsworth: That's right, I'm sorry.

Behnken: Thank you, Mr. Chairman. I'm still trying to make sure I'm clear on the difference between what the AP moved and what Mr. Hegge's moving. My understanding of the AP motion, and you know Chris can stop me if I still don't have it right, but if a vessel decides they're going to be a catcher vessel, which I assume means that they're not going to process their product, they're going to deliver onshore, can't go back to being a catcher processor. Is that right? But with what Mr. Hegge has moved, a catcher processor can decide to deliver this trip onshore and then process again next trip.

Hegge: That's correct.

Behnken: Is that right? If I could follow up. So from what the AP, their discussions, they were looking at this as a way to bring more product onshore, reduce capacity, I mean is that what we are looking to do by saying a one-time conversion and then you're stuck there?

Oliver: Yes, they didn't want to be able to go across categories, except they didn't mind seeing a catcher processor become a catcher vessel because in many senses, it's a capacity reduction. Though, there was some argument that it could add capacity into certain catching sectors.

Pautzke: Is the intent of Mr. Hegge to not allow a permanent conversion of a catcher processor to a catcher vessel? If someone who is a vessel owner and has that license so chooses to downgrade his vessel, you don't want to allow him to do that? You don't want to allow him the opportunity and then he trades in catcher vessel licenses rather than catcher processors.

Hegge: I'm not sure that he would have to. I mean, I guess processing doesn't necessarily mean freezing either. He should have the option to sell his fish without forfeiting his right to process it. If he really wants to downgrade completely, he can sell the processing permit and buy a catcher permit, I would imagine and probably come out quite a bit ahead. I don't . . .

Pautzke: He may want the same set of endorsements that he can't . . . I just wonder do you really oppose that one-time conversion, or do you just want to allow that, but also allow the ability for a catcher processor who retains that designation to be able to deliver fish?

Hegge: I can't imagine anybody wanting a one-time conversion. Realistically, this processing permit is going to be a heck of a lot more valuable. He'll sell it and buy a catcher permit if that's what he wants to do.

Tillion: I can shed a little light because I know one vessel that has converted back from processing to get rid of the DEC. I mean they are so onerous that the vessel found that it would be better to take the freezing and

processing equipment off and operate as an ice boat. Now I don't know that we necessarily want to take away that person's right to convert back if the DEC was to be unfunded or some other useful - but, I can certainly sympathize when you have an onerous group like that on your back and this is a way to get them off. There might be vessels that do it. They should be able to.

Pereyra: Mr. Chairman, it seems to me that a vessel is designated as a catcher processor based upon what happens to them during this qualifying period. They have that designation. Now, Mr. Hegge's saying they don't have the opportunity to be able to deliver some product, some unprocessed product. If we go forward with that motion, I'm not saying that's necessarily bad, the vessel's not going to lose his catcher processor designation even if he takes his freezing equipment off, he's not going to lose his catcher processor designation. It's still there. So what you're saying then is any vessel which is a catcher processor can also be a catcher vessel. That's essentially what you're saying.

Mace: I have no problem with this - the catcher processor - the delivering fresh product. But twenty minutes ago or half an hour ago we turned over the coin and we said that this catcher could not go both ways. He could only catch and deliver fresh product, he couldn't process anything. If we're going to be consistent, we better fall back and regroup and review that issue.

Tillion: No, I don't want to be that consistent.

Lauber: As far as the DEC is concerned, I don't think they give a tinkers diddley-squat what we say the vessel is licensed as. I think what they are interested in is the form in which the product is delivered. They will say regardless of what we say, they'll say they're a processor if they deliver processed product. It's by their definition of processed product. Quite likely, the catcher processor, the thing we keep thinking about is freezing, but there's other things that can make that processed product other than freezing it. Therefore, I think what we're talking about is delivering probably processed product by maybe State definition. That's what you're talking about. It wouldn't be frozen, but it would be processed.

Hegge: I wish we had somebody from the AP. The vessel would always, under my motion, be considered a catcher processor and when he was out there would have the option to process his fish, he'd catch it regardless. He's a catcher processor so he would catch the fish. It's a matter of his choosing of whether he brings ashore and sells it to the plant or processes it on board and he shouldn't have to lose that opportunity just because he brings it ashore. I don't see where it would affect any existing regulations by doing it or having that capacity.

Behnken: A final comment. What we're saying is catcher processors can process or not process, but the AP said if I have a catcher processor license and I want a catcher vessel license, I can do that once and then I stay in catcher vessels. We could do both. We could say catcher processors can be catcher vessels, change licenses actually, you know buy a license go that way and the catcher processors can process or not process. I mean I think if we do that, I don't know why any catcher processor, maybe I'm missing something, if they can process or not process, why they would ever decide to go catcher vessel license which is maybe why the AP didn't give them that option. I don't know. But, you see what I'm saying. You pretty much take away the incentive for someone to become a catcher vessel if you tell them as a catcher processor - I mean that's what we did under sablefish and halibut - we gave the freezer boats a whole bunch more options than the catcher vessels. If the intent is to bring product onshore, then maybe that's justified.

Lauber: Further discussion.

Pereyra: We've only been talking about product, I mean fish going onshore, what if they wanted to deliver it to a boat that happened to be out there for processing? It should be alright. There shouldn't be any prohibition against that.

Lauber: Say that again.

Pereyra: I'm saying that a boat is a catcher processor and he wants to deliver some fresh fish. The reference has been to delivering it onshore, but all I'm saying is that there should be no restriction on where he delivers his fish. Otherwise, you run into an inshore/offshore debate which I don't think we want to get into. I just wanted to get that on the record.

Lauber: Any further discussion?

Meyer: Maybe a little bit of looking at the definitions here will help clarify this. Under the groundfish regulations, a processor vessel means, unless otherwise restricted, any vessel that has been issued a federal groundfish vessel permit, and that can be used for processing, there is no requirement that it must process. It's been a long-standing policy of ours that a vessel that has a catcher processor vessel license can, in fact, be a catcher vessel because they are not required to process what they have on board. We have vessels out there that for a number of years have done this. At times, they fall into the catcher vessel category and all they have to do is fill out the catcher vessel log book. Now, the definition of catcher vessel means any vessel that is used to catch, take or harvest groundfish that are iced, headed, gutted, bled or otherwise retained as fresh fish product on board during a trip, anything other than that is considered processing. So you're right, it's more than just freezing fish. There's a number of things that make it a processor.

Benton: Could you repeat that Steve, what you just read?

Meyer: The catcher vessel?

Benton: Yes.

Meyer: The catcher vessel definition means any vessels that is used to catch, take or harvest groundfish that are iced, headed, gutted, bled, or otherwise retained as fresh fish product on board. The definition of processing or to process means the preparation of fish to render it suitable for human consumption, industrial uses or long-term storage including, but not limited to, cooking, canning, smoking, salting, drying, freezing or rendering into meal or oil, but does not mean heading or gutting unless additional preparation is done.

Lauber: Now, this point where there is the conflict, my recollection is where the DEC gets involved is the definition - I think is the same except cut the head off and it's processed. So they aren't the same.

Benton: But for the purposes of the motion here, I think we have a clear understanding now of what we're talking about with regard to Mr. Hegge's motion.

Lauber: Are you ready for the question on Mr. Hegge's amendment?

Pautzke: Just to clarify. If your amendment passes, a catcher processor designation will allow it to act as a catcher vessel, but not permanently downgrade. Okay.

Hegge: It doesn't require downgrading.

Behnken: I'm sorry, but I've got to ask this. Part of what got me confused about this and why I was asking questions of Beth is if there's any potential of this to overlap with inshore/offshore, then our definition of catcher vessels is very different, right? I mean catcher vessels can go fish in the CVOA and catcher processors can't. Well, if this is to overlap with inshore/offshore under what the AP said, a vessel could become a catcher vessel and go fish in the CVOA. As I understood your amendment, you struck that and you put instead this about - and that's your intent is to strike that and replace it, or is it something you want both.

Hegge: I would be willing to leave it in if you want. As far as the inshore/offshore, there's very specific regulations written into inshore/offshore about what constitutes inshore and what constitutes offshore. So

after thinking about that, I'm not worried about it. I think you could strike the last sentence of the AP and insert mine if you're more comfortable leaving it in there and just adding mine, I'll do that too.

Behnken: Can I ask some clarification from the AP.

Lauber: We're getting close to winding it up here for the day. Go ahead.

Behnken: Did any of that enter into the AP discussion? I mean does this one-time conversion to the catcher vessel have anything to do with inshore/offshore?

Hartley: That hasn't been our interpretation. Inshore/offshore regs are a completely separate deal and have their own definitions of inshore and offshore.

Behnken: Okay.

Benton: Call for the question, Mr. Chairman. We've thrashed this one around.

Pautzke: Hold it. So the phrase is still in there. The sentence is still in there and you're adding another sentence?

Hegge: Sure.

Pautzke: Good. So your amendment does allow a permanent conversion now?

Lauber: It does allow permanent conversion, but would allow a catcher processor to deliver as a catcher vessel. Is there any objection to Mr. Hegge's amendment? Hearing none, it passes. We have before us now the amended main motion.

Lauber: Is there any objection to the amended motion? You object or you want . . .

Benton: I actually want to speak to the motion and ask a question.

Lauber: I can't hear you.

Benton: I would like to raise a question about the main motion if I may.

Lauber: Okay, go ahead.

Benton: I noticed that the designation was based on activities during 1/1/94 to 6/15/95. The Council's original proposal, if I can find it here, just a moment . . . is for that to have occurred during the most recent year of participation through the end of 1994. I want to ask staff if there's any additional information that we should know about that was brought to the attention of the AP that would have warranted the change from the 12/31/94 to 6/15/95.

Oliver: Mr. Chairman, was the question what information or what rationale the AP had for making the change in that date?

Benton: Correct.

Oliver: Okay, they had some testimony, I believe. We also had some written comment in the notebook with regard to people who may have operated as a processor vessel, for example, for the first time in 1995 and, of course, if you kept the date at '94 they would lose that ability. The general consensus of the AP, and it wasn't unanimous, but the general consensus of the AP was that they wanted to, for both earning area

endorsements and designations, they wanted to reflect the current activities of those vessels and that's basically why they moved that date forward to be a more accurate reflection of the current activities of those vessels.

Benton: If I could follow up just briefly. Do we have any sense of how many vessels converted?

Oliver: We know of three or four for sure that we've heard from that sent us written comment or were here and provided oral comment. I'm not sure we have any information on the exact number.

Benton: And those three or four are in what kind of size category?

Oliver: They were under 125 feet, but greater than 60.

Benton: Okay, and they operate primarily in Bering Sea, Gulf, both?

Hartley: We don't have very much information on that. The letters are in your documents, you've heard the testimony. We don't have information on '95 at all really.

Benton: That's okay. I just wanted to know. I can look in the record myself.

Hartley: I think there wasn't any prohibition in say, April when we set that date for converting so they were trying to be consistent with that.

Lauber: Any further discussion? Ready for the question?

Lauber: Is there any objection to the motion? Hearing none, it passes. Okay, we'll be in recess until 8 a.m. tomorrow morning.

[6/16/95 a.m.: continued with same tape, but the beginning of the morning is missing an unknown amount of time -also misses a motion by Tillion and his second - begins mid-sentence . . .]

Lauber: . . . isn't that what you said? So if somebody wants to come up with a buy-back program, well they could.

Mace: I have a question of semantics. It implies, in my mind at least, that we don't favor a buy-back program as a Council.

Benton: If I might, I think it's - Mr. Mace - I think the situation really is that we can't do anything about a buy-back one way or the other because we'd have to have authorization in the Magnuson Act. So by remaining silent on it, I for one would view this to be neutral, and it is not a statement of either favoring or not favoring a buy-back provision. It's just that at the present time, we can't do anything about it.

Tillion: That's exactly what my motion does. This program will not mention it. The Magnuson Act doesn't give us the authorization to do it, therefore, why should we engage in any discussion on it. Just do not include any mention of a buy-back program in this program and that's all my motion does.

Lauber: I think the answer, Mr. Mace, to your statement why mention it was because there were proposals by some people to have a buy-back program. So now we're saying we don't want to mention it. We're not adopting a buy-back program. I guess we can't, even if we wanted to.

Mace: Couldn't you also say, Mr. Chairman, that we would not oppose an industry-funded buy-back program?

Lauber: I don't know if that's allowed.

Tillion: Why should we mention anything that isn't permitted under the Magnuson Act until the Magnuson Act is amended? They're already discussing it in Washington. If it's in the Magnuson Act, fine. If it's not in the Magnuson Act, let's not discuss it.

Collinsworth: I don't know that the Magnuson Act prohibits some kind of a license reduction program. We can consult with counsel. I guess I had another question. I'm unclear whether or not this license limitation program that we're debating is intended to be a durable program that would seek to reduce the number of licenses that are in the fishery over some period of time, or it's a transitory program, a transitional program, to comprehensive rationalization. That seems to me, if it is a durable program, you would want some mechanism to start to reduce the number of licenses in the fishery if a determination is made that it is overcapitalized. If this is a transitional program, that may not be as important, assuming that we are going to proceed to other mechanisms that will result in comprehensive rationalization. I'm not sure which we're dealing with here.

Tillion: Mr. Chairman, when we're done, you'll know. If we sunset this that means it's transitional, right? You're talking about the logs and the erector set and in the meantime we have a motion that was supported by the AP to leave this out. That doesn't mean that at a future Council action couldn't take this issue up if things change, but right now in the overall program, that's one of the blocks that's been recommended to be left out by a number of people and certainly I agree with it.

Lauber: Any further discussion?

Benton: In reference to Mr. Collinsworth's comments. All I would say is that I believe that this program is at least intended to cover several years. It may be transitory or not transitory, but transitional for certain aspects of the fisheries and the fleets and it may be permanent or durable for other aspects and components of the fishery and the fleets. That decision is something that probably has to wait some time. And we could ask counselor about whether or not the Magnuson Act allows for the Council to put the requirements on the Secretary to institute a buy-back program for licenses or not. I suspect that the answer is that the Magnuson Act with its prohibitions on collecting fees and rents from fisheries is pretty restrictive in that regard. I don't believe that by passing this motion that we are saying that we are limiting this program in a way that would make it not durable, at least in some regard for some components of the fishery.

Lauber: Any further discussion?

Pereyra: Repeat the motion, please.

Lauber: The motion is number one under No Buy-back or Retirement Program or reference to a buy-back program will be included in the . . . any further discussion? Any objections? Mr. Mace objects. The motion carries. Alright. Skipper License Program.

Benton: I would move that we adopt the AP recommendation regarding Skipper Licensing Programs.

(?): Second.

Lauber: Moved and seconded.

Behnken: I know that. . . , I think it's under Other Provisions, that the AP recommended initiating a skipper reporting system to start keeping better track officially of who the skippers are. Is that something that you want to take later or as part of this motion?

Benton: It was my understanding, Mr. Chairman, from previous discussions around the table that the SEA was going to submit a proposal to us and if the Council deemed it worthy to look at, then we would take it on a separate track and look at it in its own light and not as part of this package.

Lauber: Any further discussion? Ready for the question? Is there any objection to the motion of not having a Skipper Licensing Program? Hearing none, it passes. Community Development Quotas.

Benton: I would move that we adopt 7.5% for all groundfish species for the percentage for CDQs under this program.

Samuelsen: Second.

Lauber: It's been moved and seconded. Discussion.

Benton: I think we've heard extensive testimony over the past year and a half regarding the benefits of the Community Development Quota Program and the benefits it's had for western Alaska. We had substantial supporting information in our discussions regarding the inshore/offshore [. . . **change to tape 42 . . .**] amendments and the extensions of amendments 18/23. I would like to incorporate into the record on the license limitation program by reference the documents and testimony that were included in the inshore/offshore debate and discussion on amendments 18/23. I think they were particularly germane to why we would want to include and extend the CDQ program under this license limitation effort. We heard from a number of the CDQ communities and groups and other representatives in the public about the utility and need to diversify the CDQ program in order to reach the goals and objectives of that program and to achieve the benefits of developing a stable seafood-based economy in rural western Alaska. I think all that taken into account warrants continuing the CDQ program as part of this package and diversifying the CDQ program from the pollock CDQs and the halibut/sablefish CDQs include these other species. If we limit access to these other species, as we are doing here with the license limitation effort, those communities and those individuals would be foreclosed from participating in the fisheries or effectively foreclosed. This allows them an opportunity to participate. I think 7.5% is warranted because as we've looked at this program and had some experience in its infancy, that percentage has provided a basis to conduct the program. I think it would be inappropriate for us to use 15%, certainly that would provide greater economic benefits to those communities, but I think that would be excessive and would not be appropriate. Similarly, if we went to 0 or 3%, I don't believe there would be a sufficient amount of quota to execute the program in a manner that it would be successful. That's why I made my proposal. Thank you.

Lauber: Any further discussion?

Collinsworth: Perhaps the Council will enlighten me if you have discussed this issue, but to me it seems a bit incongruous to commingle a quota program with a license limitation program. I'm wondering if the Council has considered if we were to proceed with a CDQ-type program that we consider some way of conveying vessel licenses to the CDQ program versus quota, unless it's the essential intent that the revenues that are generated from the quota will be used to purchase the vessel licenses which seems to me, over the long term, is what really gets communities involved in fishing, is the holding of vessel licenses and endorsements. Is there some way to rationalize that?

Samuelsen: I thought we had that discussion earlier, Mr. Collinsworth. Part of the problem with the management of the CDQ program is they've got to put in management plans to the State of Alaska, then they've got to prove up on the management plans. They set out goals and objectives on employment, infrastructure, development, etc. The allocation award is primarily based on how well you can prove up on your plan. If we do a vessel license designation that will be a permanent transfer into a CDQ group. Hypothetically, if that CDQ group does not comply by the plan that they submitted to the State, how can then the State take away that quota or that license and transfer it to another village or another CDQ entity that had

proven not only that they could fulfill their commitment on their plan, but also that expansion is needed. That's a problem that we've been wrestling with.

Barker: Question to the maker of the motion. Did you include the "without sunset" provision in the making of your motion?

Benton: I'm sorry, Mr. Barker would you repeat your question please. It's a little hard to hear over here.

Barker: The motion that you made, did it include the clause "without sunset" provision?

Benton: No, let me clarify my motion, if I may. I may have made it a little bit briefly. What my motion was, 7.5% of all groundfish TACs in the BSAI including the language that the AP developed which would include a 7.5% prorata allocation of PSC. I did not include a sunset provision in there.

Lauber: Second?

Samuelson: I concur. I'll be in support of the motion. I think that the existing CDQ program has shown the Council and the public that by fishing more efficiently, there's less bycatch and discards. The CDQ groups have instituted a double observer coverage program that shows that bycatch and discard rate is below the industry average. I think that the CDQ program has developed meaningful employment and training opportunities for the communities in western Alaska. Sustainable development is consistent with the Council's intent under the current pollock program. I'll be voting in favor of the motion.

Mace: I can't support this. I am not going to go into all the reasons. We discussed this at great length when the CDQ program first came up. I refer to the AP minutes. They initially voted for 3% allocation, a couple of members left, they reconsidered and couldn't come to a meeting of the minds and ended up with no recommendation. But, in any event, this represents a redistribution and I think that we have a potential here to handle this. You know we've had an artificial cap on the Bering Sea groundfish harvest of 2 million tons for a good many years, not biologically based. It was based upon controlling the supply of the market. I think there is some potential, there are adequate resources there to handle CDQ needs above that 2 million tons and I think we ought to consider revisiting that cap and utilizing the excess ABC, or at least part of it, over the 2 million cap for the CDQ program. If we wanted to do that, I would support it.

Tillion: In view of what has happened to the fisheries around this world, the fact that we are, according to some of our scientists, underharvesting some of our resources might very well be true. But, we're 54% of the fisheries of the United States of America because we've taken care of our resource, and I'm not going to be the one that votes to break that 200 (sic) metric ton cap. If we're harvesting a little under, so be it. I do not believe that with the natural fluctuations, the 7.5% removal at this time for the people who live along that coast is either unwarranted nor a heavy burden on the industry. I think that we should leave the 200 (sic) metric ton cap alone. I do not consider the 7.5% excessive, in fact, some of the people came to me because I intended to try and raise a couple of the species a little higher than that. By leaving it at 7.5%, I'm backing off. So I think that this is a reasonable amount. It's pretty well been agreed upon by a lot of different organizations talking among themselves that it's not too excessive. Therefore, I think that we should just pass it and leave the 2 million ton cap alone until we find a clean way of harvesting the excess without all the bycatch.

Pereyra: I think Mr. Mace has an excellent suggestion. Unfortunately, though I don't think we can get there from here in this particular debate. But I do think that is a subject matter that this Council should not dodge forever. I think a 2 million ton cap is going to get us potentially in more problems downstream than we realize. I think we need to look at that in a whole different forum, but I do think it's an excellent idea. Unfortunately, I don't think you can get there from here.

Lauber: I have a question, I guess of the maker of the motion. On the PSC, it said the motion was the AP what they talked about originally was prorata allocation of PSC species will be allocated before the fixed/trawl gear split. Do you intend that to mean that the CDQs will get 7.5% of the PSCs, or are they split in proportion to how they would be fished either fixed/trawl gear because those splits aren't necessarily equal are they?

Benton: I don't know if we have a representative from the AP. It was my reading that what the AP was saying is that they wanted to see if there was a CDQ that the PSC that was allocated to the CDQ would occur for PSCs prior to the split for the other fisheries and that was my intention. I believe that they did that in order for the CDQ not to complicate everybody else's life in that regard. But maybe we could get some guidance on what the intention of the AP was.

Lauber: Could somebody explore with me, what does that mean. Of course, we don't know how the CDQ would fish their fishery, but they might be fishing as they have indicated in some of the testimony in a mode that would be extremely low PSC. I think they intend to try that.

Benton: I believe that that is correct, and in fact, it's the State's intention to work closely with the CDQ groups and other interested parties to try and develop programs that lead towards cleaner fishing, not just with PSC bycatch, but also discards and waste of target species. So I think your reading in that regard is quite correct.

Lauber: Dave, can you shed any light on that? Did you hear the question I was asking?

David Fraser: Yes, Mr. Chairman. I'm sure you appreciate that the votes on the AP on this issue reflect a variety of opinions. Essentially, it was recognized that under status quo, there's a number of TACs that aren't fully harvested as it is. So giving CDQ communities an allocation without giving them a PSC allocation is back to the empty umbrella. From that perspective those who advocated CDQs would logically advocate supporting it with PSC in some fashion. Then there were a variety of alternative ways of doing that discussed. One of which is the very direct way of allocating a proportion of the PSCs used to support the open fishery. There was discussion there about whether it was equitable to take it all out of the trawl cap or whether it should be distributed between trawl and fixed gear. I think it was fairly consistent that if there's to be a prorata allocation of the PSCs from the current fishery that it should be, you know if it's going to be equitable, it should be both on the fixed gear cap and on the trawl cap in proportion to . . .

Lauber: and that's what you did. That's what this seems to . . . you ended up not doing anything, but technically that's what it says here, prorata before the split between trawl and fixed gear.

Fraser: That's correct. So it would be, in this case, 7.5% of the fixed gear cap and 7.5% of the trawl caps.

Lauber: Thank you, and so that, Mr. Benton, is your intention as well?

Benton: Correct.

Lauber: Thank you. Is there any further discussion of . . .

Hegge: I didn't hear in your motion, do you have the sunset clause in your motion or not?

Benton: No.

Hegge: I'd like to amend the motion to, if I can find it here, include a three-year sunset provision with a renewal option.

Lauber: Is there a second.

Mace: Second.

Lauber: Care to speak to your motion, Mr. Hegge?

Hegge: Well, I think that it's consistent to some degree with working off the AP's recommendations. We have the same sunset on the current program and I think that even the comments that Dr. Collinsworth made earlier about the license program itself. We likely will put a sunset on that, or at least we'll discuss it at some time. This is a very major program. I think it's going to have significant impacts that most of us here won't envision. I think that this doesn't demand that it sunsets, but it puts a provision in there and gives us the opportunity to look at it in three years. I think this will be prudent.

Tillion: I rise in opposition to this. I've been a strong supporter of ITQs since I first came aboard the Council. This is an ITQ. I do not want to repeal any ITQs. This one is a demonstration project that will show the rest of the country how well an operation goes under ITQ. They have successfully in their past operations with the CDQs been able to lower the bycatch far below that which was taken by the regular fleet. I think they will continue to do so this way. I would oppose cutting it off at this time, although I don't care who knows that I will vote for a sunset for a limited entry proposal. I would not vote for a sunset on the CDQ proposal.

Barker: I guess. . . a procedural question. If we have an opportunity later in this document to talk about whether we sunset the entire licensing program or not and would it be more appropriate at that time to bring this issue in?

Lauber: The answer is yes, we do, and I guess the answer also is that it's appropriate either place. I assume you could sunset a provision of the license limitation or the whole thing. I think I would rule that the motion is in order at this time, and likewise, to sunset the whole program would be in order as well, or any other provision of it.

Behnken: Thank you, Mr. Chairman. I guess I support where Mr. Hegge's headed if, at some point, this program should become an ITQ. It was intended always to be a development program. I am not comfortable with two years and I guess I'm not comfortable, at this time, with saying when that point is when it becomes an ITQ. I don't think I can support the motion.

Lauber: Is there any further discussion? Okay, call the roll on Mr. Hegge's sunset of three years with an option to continue.

Pautzke: Can I just ask a clarifying question? If we have a three year sunset with a renewal option, that still means we would still need another plan amendment to keep it going for another three years. In other words, you say with a renewal option, but the Council will have to have a full analytical package in three years to keep it going past that date - that's your intent unless we actually make a positive motion based on an analytical package, it drops dead.

Hegge: Yes.

Collinsworth: The question I have is with regard to this amendment package and this program of components will be the CDQ program if it succeeds the process. Is that intended to be severable from the package, I mean or is it intended to be part of this amendment which may be a transitional program and it may have a sunset. I mean we haven't gotten there yet. If the license limitation program sunsets, let's say if the Council were to vote for a three-year sunset, does the CDQ program sunset at that time because it's part of this amendment package or is it severable, is it intended to stand alone? I don't quite understand that relationship so it's hard to vote on Mr. Hegge's motion without knowing what we're going to do subsequently with the last issue about the sunset on the overall license limitation program.

Pereyra: It seems to me that if we're going to vote a separate sunset provision for the CDQ, up or down, I don't know what, then it would appear to me that it would have to be separable. It would have to be a separate motion with its own life and so forth. The main motion is the one that embodies the entire license program at this point in time, including CDQs. So it would seem to me that we either have to take it out of the license program and handle it separately, or we would have to include Mr. Hegge's motion as part of the overall sunset motion that might come at the end of the discussion.

Tillion: I feel it's separable. What I'm voting for here today, I'm voting for a CDQ, the same as I voted for a CDQ halibut/black cod that gave a percentage, period, subject to amounts being moved around according to how well the various CDQ groups performed. I don't want to kid anybody that that's not what I would intend here today. I feel that it's a pilot program for ITQs, which I support. When I vote to sunset, and I hope I will get a chance to vote to sunset this license limitation, I do not intend to feel I'm sunsetting the CDQ part, but only the non-ITQ part. So therefore, it's certainly in my understanding, at this time, that the CDQs we're appropriating 7.5% of this resource for CDQs, the same as we did for black cod and halibut.

Lauber: Mr. Collinsworth, I don't know that it makes a whole lot of difference whether we say it's severable or it's not severable. We sent in an inshore/offshore allocation issue with the original CDQ program and they were a package. The Secretary severed them. They accepted one part and rejected and sent back to the Council for modification another part. I would assume the Secretary could do the same thing, or could if they wished to do the same thing, here. I don't know what the Secretary could do, but apparently they interpreted it as their right to sever that when we did not provide a provision for severability. Be that as it may, my feeling is that you could provide a sunset - the question was asked me a minute ago, whether you could sunset this provision. There are a number of other things I think you could sunset that wouldn't be indicating you're severing them from this package, it's just you're treating them differently. I also answered that my ruling was that you could sunset the whole package, including this. You can go either way. We happen to have a motion on the floor to sunset this particular provision. I think the motion is germane. It could be voted on. At the same time, I think that you could, later on, vote to sunset the whole package which would include this. That's procedure. I don't think we should take a lot more time with it. Let's vote this up or down, then get on with the rest of the package.

Lauber: Call the roll on the sunset provision three-years with a renewal option.

Pautzke:

Barker	No	
Behnken	No	
Benton	No	
Fluharty	No	
Hegge	Yes	
Mace	Yes	
Collinsworth	No	
Pereyra		No
Samuelsen	No	
Tillion	No	
Lauber	No	

Failed.

Lauber: Okay, we're back to the main motion - CDQ at 7.5% prorata PSC off the top. Are you ready for the question?

Barker: Now that we're back to this motion, I want to take the opportunity to speak against it. I think there's a number of actions we've taken in the last day or so that need to be brought before us and reminded that

we've provided for entry of pot vessels, we've provided some crossover opportunities - all going to, in some way, impact the Bering Sea fishery, particularly with P. cod and we do have an established industrial longline fleet out there that probably will be impacted, to what level we don't know. Now we're adding another factor on top of that that will include that particular species. We've had an action yesterday where we essentially voted down an opportunity to increase the harvest processing capacity at 5 metric tons and 18 metric tons for some catcher vessels. We just heard, as part of this argument, about reducing wastage and the Council's already debated the fact that that particular opportunity would have reduced wastage and increased the economic efficiency of that fleet, so I find a little bit of disjunction with the arguments here. Thank you.

Lauber: Any further discussion?

Tillion: Question.

Pautzke: One of the motions that passed under the AP was requiring CDQs to use catcher vessels for 50% of the harvest. Was that included in yours? You mentioned something about AP but . . .

Benton: No.

Pautzke: . . . specifically not, okay.

Lauber: Any further discussion?

Behnken: We've heard some pretty **[change to tape 43]** convincing testimony that the CDQ groups have been able to fish cleaner than the offshore fleets and/or the vessels operating in the derby and requesting an equal amount of prorata on the PSC. I'm just curious, maybe the maker of the motion hasn't thought about this, but I'm just curious if they are able to fish below their PSC and there's PSC leftover whether that will be reallocated to the rest of the fleet or how that would be handled?

Tillion: Why would it be leftover?

Benton: Clearly we haven't put together a program on something like this because we didn't know whether we had a program to put together or not. So, I haven't really thought about how that could occur or what would be appropriate. I guess that what I would suggest is that the State would try and do, as we worked with the CDQ groups, if we came up with something that seemed to work well, and I think it would take a little time of trial and error to see if it does work well, that we'd bring recommendations to the Council to address this at a later date. I think that's really a Council action as much as anything else if you were to do the reallocation.

Pereyra: I think Ms. Behnken raises a very interesting question. Again, it's sort of a reflection of the difficulty of trying to blend two different types of programs together - a derby program in one hand and a quasi-ITQ program, if you will, on the other hand. I think the question you raised leads us into the next discussion of what we might do if we were in an IBQ program where we would more efficiently utilize the bycatch, or do we really need as much bycatch. I would argue that we probably don't and that we have the option then to allocate that bycatch back to the directed fishery. Halibut for example, maybe some of it can be used to more efficiently, or more completely, try to utilize some of the underutilized species. It gives us those kinds of options. How we handle it under a CDQ program is something that becomes a little more difficult to deal with, because if you're going to have an overall cap for that species, the way it is now, this would just take 7.5% of that cap and would allocate it to the CDQ fishery. If the CDQ fishery does a better job, which I'm sure it will, of utilizing that portion that it has, what that will mean is that "X" percent of that 7.5% will be underutilized and will just be sitting there. You can't very well affect that unless you reduce the overall cap, so that it becomes a much more complicated situation to deal with. I think we need to have more discussion on that. How we would handle that particular issue.

Lauber: Have we dragged this part around - you got your answer? Okay, a question on something else. We've done enough on this.

Benton: I just wanted to respond to Dr. Pereyra. I concur with what Dr. Pereyra said and I think there's a number of proactive actions that the Council could take that would be of real benefit to the industry and to the resource. I think that looking at how we can manage bycatch more precisely, and some of the suggestions you mentioned Dr. Pereyra, have a lot of merit. I also wanted just to comment a little bit regarding what Mr. Mace said. I have a lot of sympathy for the issue he raised in some regards, although like Mr. Tillion, I am concerned about maintaining the health of the fish stocks in the Bering Sea. I was just looking at some tables here. I don't have 1994, I do have 1993 and I would like to point out that discard rates in the Bering Sea have, except for sablefish in at least 1993, all the discards rates exceeded this percentage for CDQs very significantly. The lowest discard rate in 1993 was 8% for pollock. That was 240 million pounds of pollock that was thrown away. Of course, pollock is set with inshore/offshore and it's 7.5%. You look at some of the other species, it's fairly interesting. If you look at P. cod, it's 22%, or almost 80 million pounds; you look at of course rocksole's probably the worst -- 66% discard rate. I guess that while I understand Mr. Mace's concern, I also see numbers like this and I think that 7.5% is a reasonable number and not out of line.

Lauber: Let's not go back and forth. Is this something new?

Pereyra: He just raised something new, so I thought it was necessary to respond to that because I think there's a misperception here that somehow the directed pollock fishery is discarding 8.5% and that's not true. The directed pollock fishery doesn't discard anywhere near that. A lot of that is regulatory discard.

Lauber: Alright, that point's on the record. Any further discussion?

Collinsworth: Mr. Chairman, one of the things the Council is periodically concerned about is the speed with which changes can be made and I wonder whether it would be appropriate to not have this particular allocation of PSC in the management plan so that at some point beyond the first year, for example, the Council could then make the determination whether an adjustment to that 7.5% might be appropriate without having to go through a plan amendment. I suppose we could either just put in this amendment that the Council shall on an annual basis allocate PSC and whatever to the CDQ and then let the Council do that on an annual basis based upon the experience after the first year or you could say that during the first year of the implementation, the CDQ program will be 7.5% and thereafter the Council shall establish on an annual basis. Something like that, so that if we do want to make an adjustment up or down from that number, we won't have to go through the process of a plan amendment.

Lauber: That would take an amendment to this motion.

Tillion: In answer to Dr. Collinsworth, I would prefer at this time to leave them with the same PSC as the rest. If there's results, and I'm convinced it will be a cleaner fishery, in a reduction of the PSCs used, is that such a crime? I'd rather bank the bycatch. I don't feel that one has to hammer the last halibut available under our bycatch of the last fish. I would hope to see a reduction. I just as soon bank it. I think we ought to allow them the same bycatch standards as the rest of the fleet and if it turns out to be less we've made a little bit of a gain. We've been shooting over most of the time - let's leave it right.

Collinsworth: The second issue, and again I'm sure the Council will enlighten me if this has already taken place, Has there been any discussion about how the PSC cap would be allocated amongst CDQ plans? Is it intended that whatever is awarded to any particular group of villages would get a prorata share of 7.5% so that we don't have a situation where perhaps one CDP precludes another from fulfilling because of the bycatch?

Benton: In response to Dr. Collinsworth, I think that the mechanism that I had in mind was we would have as part of the CDP's fishing plans, we would work that out amongst the CDQ groups in some fashion. More

than likely, that would result in a prorata share. It may be that you might want to make adjustments within that fishing plan for particular circumstances. I think it would generally be that intent, but I think you want to have the flexibility to adjust within the CDP application process.

Pautzke: I just was going to say, at one time, I think we had made a decision that we were going to allocate PSCs to the CDQ programs and we did want to go to companies. I think sometime several years ago, maybe Marcus could refresh my memory on it, but I thought we hit a major speed bump with the National Marine Fisheries Service on actually allocating to companies. I can't quite remember, maybe Ron or someone could refresh me on it, but I thought it was with the National Marine Fisheries Service that something happened with that program that we had intense . . . [unintelligible word] . . . where it has to be left up to the state. Didn't we do that Ron? Didn't we at one point say that was our intent - to assign PSC, then allocate it?

Ron Berg: Mr. Chairman, the Council once did as Clarence is describing, recommend allocations of bycatch along the individual companies that were participating in the CDPs. It was a type of measure that we didn't have the monitoring tools; we didn't have the electronic reporting; we didn't have what we need to make it work. So as a result, we did not implement it. In the future, perhaps as electronic reporting comes along and so forth, maybe we'll have those tools. We'll have to look at that in the future, I think. Right now, we do not have the tools to do this.

Lauber: Okay, any further discussion?

Pereyra: Could someone advise as to how this motion relates to pollock. Presently, there's a 7.5% proposal in the CDQ rollover. I was just curious as to how this - is it non-pollock species, or all the species or what?

Benton: In response to Dr. Pereyra, this would not apply to pollock. Pollock is part of the inshore/offshore 18/23 and I think I stated that previously. If I didn't, I am now.

Pereyra: Excuse me, I didn't hear you.

Lauber: Alright, any further discussion? Ready for the question? Call the roll on the CDQ motion of 7.5% prorata PSC.

Pautzke:

Behnken	Yes	
Benton	Yes	
Fluharty	Yes	
Hegge	Yes	
Mace	No	
Collinsworth	Yes	
Pereyra		Abstain
Samuelson	Yes	
Tillion	Yes	
Barker	No	
Lauber	Yes	

Pass.

Lauber: Alright, does that take care of the CDQ portion? That leads us down to Other Provisions, I believe. Any motions, I guess we can continue on through those. The first one was "license represented a use."

Benton: I don't know which way you want to proceed, but I would be prepared to move items 1 through 7 as a package.

Tillion: I'd second that.

Benton: I didn't make the motion yet, though.

Lauber: It's been moved and seconded. Those 1 through 7 are: license represents a use privilege, the Council can convert the license to an IFQ program or otherwise; 2 is severe penalties may be invoked for failure to comply with conditions; license may be suspended or revoked for violations; 4 is implement a skipper reporting system which requires groundfish license holders to report skipper's names, etc.; 5, an analysis of the impacts of various rent collection levels and mechanisms, and enforcement and program implementation costs required; 6, vessels which qualify for the North Pacific Fishery Management Council license limitation program that have been lost or destroyed are still eligible to receive earned licenses and endorsements, and; 7 is vessels targeting non-groundfish species (salmon, crab, etc.) that are currently allowed to land incidentally taken groundfish without a groundfish permit will be allowed to continue to land bycatch amounts. Additionally, vessels participating in the sablefish and halibut IFQ program would be able to continue to land bycatch amounts of groundfish as specified in the regulations. That's the motion. Is there any discussion?

Benton: I just want to speak to it briefly. For the record, Mr. Chairman, all of these provisions have been discussed by the Council at previous meetings. I think they represent a consensus, or a sense around the Council at least, of matters that needed to be dealt with generally and with regard to this license program. I think they address a number of concerns we've heard voiced during public testimony and that's why I would support the motion. Thank you.

Lauber: Is there any further discussion?

Lindeman: Just a point of clarification. For example, numbers 2 and 3, are those just expressing the intent of the Council to the Secretary that these be the ramifications?

Benton: That would be my intent, Counselor.

Lauber: Obviously, the Council has no power to impose penalties. We just have the power to recommend to the Secretary. Everything we've done today is recommendations to the Secretary. Is there any further discussion? Is there any objection to the motion on items 1 through 7. Hearing none, it passes. We have one other, Sunset Provisions . . . do you have something else?

Benton: There is one other General Provision, number 8 that I believe we've already covered in other components of the package so I don't believe that we need to adopt that. Before we get to the sunset provision, however, there are a couple of other matters that have come up during public testimony which I would like to discuss with the Council and I believe are appropriate for consideration under General Provisions or Other Provisions. Mr. Chairman, one instance is what happens to vessels that were moratorium qualified that were lost at some point, but were qualified under the general replacement provisions of the moratorium which have been subsequently replaced or recovered but don't necessarily meet the full qualifications under the Endorsement Qualifying Period but have fished very recently in the fishery and have a history and would be foreclosed from participating under the package that we now have. We've heard public testimony regarding vessels in this instance. In my view, those are hardship cases where people acted with good faith and in accordance with the rules that the Council had been discussing and had been in place, or at least in the works, in the regulatory process at National Marine Fisheries Service for quite some time. I think that it's a matter that we probably should give some attention to. The other issue that I wanted to bring up in a similar vein has to do with vessels which have continually been in operation in the fishery, but which for one reason or another, many of which regulatory, they qualified during the moratorium period in one FMP area, they qualified in the other FMP area for their area endorsements, but the two don't match up. Those vessels would be in a sort of catch 22-double jeopardy situation by the way that the qualification periods have been structured. Again, I view that as a condition that is not the fault of or is not the result of bad faith on

the part of the operators. They were not speculating, they were operating within the confines of the rules as they had been established, but they would be in a situation where they may not be able to receive a license and that would be the other instance that I would like to discuss at the table now and see if there's a way that we could resolve those two problems, if the Council so desires. I don't know exactly how you would want to proceed. I could make motions on these or maybe we should talk about them.

Lauber: I don't either. That's one way, if you have a motion prepared, I think that's the way out of it. If you don't, I would suggest that we, I think maybe what we need to do on this is as we go through all of this you know we've been adopting things singly and then we're going to come back to it and adopt the whole package or reject the whole package. In any case, the whole program. We could wait and at that time, if you have prepared motions, you or someone else could prepare them and have them ready.

Pereyra: Along those same lines, I think the issue of hardship relative to boats that sink or so forth, I think you have a similar situation of a boat that didn't sink, but maybe had a catastrophic fire or had a catastrophic engine failure or something of that nature that prevented it from qualifying. I don't see where that, in many respects, differs from a boat that sinks. These things are always the gray areas that are most difficult to deal with and I do think we need to give some thought to it, so that we're not being generous to one group and totally ungracious to another group. I would hope we would give some thought to this.

Lauber: Would you like to take a break before we go into this? Ten or fifteen minutes.

Lauber: Council is back in session.

Benton: As I raised with the Council before the break, we have a couple of issues that need to be addressed given the way we've configured the license qualifications. The first point I'd like to take up is the issue of lost vessels or vessels which left the fishery due to factors beyond the control of the owner, but which were conforming with the rules. I would make the following motion: I'd move that vessels which qualified under the moratorium, and were lost, damaged, or otherwise out of the fishery due to factors beyond the control of the owner, and which were replaced or otherwise reentered the fisheries in accordance with the moratorium rules and which made a landing in a fishery any time between the time the vessel left the fishery and the date of final Council action on the license program will be qualified for a general license and area endorsement for that fishery.

Pereyra: Second.

Benton: You get all of that Clarence? Do you want me to read it again?

Pautzke: You can just read it if they want "a reading again." [The part in quotes is what I think he said - others were speaking at the same time making it hard to hear]

Lauber: Speak to your motion again if you wish.

Benton: During public testimony and discussions with members of the public at breaks and through the course of this meeting and, I believe the attention of some of the other Council members, that there are instances where vessels have been lost or they were damaged or some other factor came around that caused that vessel to leave the fishery that was beyond the control of the owner. That vessel was either replaced or otherwise brought back into the fishery in accordance with the moratorium rules. But because of the hiatus of their fishing pattern - their fishing history, they may not qualify under this license package. The intention here is to ensure that those vessels are granted a license. The owners were operating in good faith and were participating in the fisheries in accordance with the rules as they existed. I think it would be unfortunate and inequitable if, because of the way we constructed the qualifying period, those particular vessels were not granted a license. I think it's important, Mr. Chairman, to note that this motion does not reward speculative ventures. It is strictly to deal with people that behaved in accordance with the rules; they were already

moratorium qualified. In one instance that I know of, a vessel went down, has been brought back and has been fishing but would just miss the endorsement qualifying period and, because of that, they would not qualify. I've heard about 3 or 4 others that fall in this general category. I think that this would address a problem that's going to come up when this program is implemented and would help resolve some administrative matters for the National Marine Fisheries Service and also would correct an inequity that was unintended in my view.

Hegge: I'm not clear, Mr. Chairman, how a vessel that got back into the fishery and made landings would not qualify. We extended the date to 95 and we took care of the person you're talking about there because they did make landings this year.

Pautzke: Okay, vessels that did not have a chance to qualify during the endorsement period are still out of the fishery? That's who you're talking about?

Benton: That's who I'm talking about.

Mace: I'm going to support the motion, but I'd like to point out that we had a great deal of debate, communications, on a similar issues when we discussed the moratorium. This sends a message that, I think it sends a message at least, that there might be an opportunity for continuing debate on this. I'm hoping that the motion is clear enough and shuts the door on continued speculation. It can be a frightening thing, this type of action, but I'm going to vote for it anyway.

Samuelsen: I'll be in support of the motion. However, I have some problems with the definition of damage. In my fishery that I participate in, you expect to get damaged every time you leave the dock and enter the combat fishery. So I think instead of opening Pandora's box, I think we need to decide what damage is. Does damage mean that the vessel becomes unseaworthy, or deemed unseaworthy or something.

Benton: What I was envisioning was a vessel that had catastrophic damage; a fire that gutted the vessel, something in that order. Not what you would consider routine damage that Robin encounters when he leaves the dock.

Collinsworth: Thinking about applying this, Mr. Samuelsen brings up a good point. In making determinations, we need pretty clear and pretty bright-line definition of what's intended. I may not be much of a . . . (?). . . , but when we heard earlier from Mr. Pereyra that catastrophic engine failure, I consider any engine failure catastrophic. We do need some fairly bright-line clarification of what's intended and also what the cutoff date is intended.

Benton: Mr. Chairman, to me catastrophic damage, and we could certainly amend this catastrophic damage to be something on the order of a major fire that resulted in the disablement of the ship and made it totally inoperable in the fishery for quite some period of time. I don't know how you put definitions around that necessarily, maybe others that are more familiar with that kind of thing than I can help out here. The cutoff date would conform with the cutoff date of when we take final action here. Right now, we're using June 15, 1995. I guess that would be the date that we would use, unless we decide when we finally approved this package on today or whatever it be. That would be my intent that this would deal with that. The only concern I would have about that is that there still are vessels that have been lost, that qualify under the moratorium replacement and **[change to tape 44]** those vessels may not have been dealt with and I don't know what we do with those. Under the moratorium rule, people had expectations regarding those vessels, but at some point, just like Mr. Mace, we have to say this is where we're at.

Pereyra: As I recall the debate we had on the moratorium, one of the things we wanted to prevent was for people selling rights to sunk vessels and I think that that certainly is my intent to continue that sort of sense forward. If a person has lost a vessel and he's made a good faith effort to get back into the fishery and so on and so forth and sometimes that takes time - arranging financing, shipyard or whatever - you know, that

person shouldn't be denied the opportunity to continue his livelihood. I think that's one of the reasons I support this is because in a license program one of the difficulties are it's a black and white situation - you're either in or you're out. This provides a sort of shade of gray, if you will, that allows us to look at those legitimate hardship situations that do qualify. For example, with regards to damage that's due to the owner or due to the operator, if you're out and somebody runs into your vessel while you're drifting at night and so forth, totally beyond your control, he's at fault, I think that would be an indication that probably there was something that was out of your control. There certainly would be a Coast Guard court of inquiry and so forth probably that would verify that. On the other hand, if you're running a vessel and you're up on the beach somewhere, I'd say that's something that was probably within your control. I think that, maybe, is some of the degree that may have to be looked at. I certainly sympathize with National Marine Fisheries Service because there's going to be instances there where you're going to have to make some tough decisions and they're not easy decisions. I think it's required in this situation for this to be a fair and equitable program.

Tillion: I hope we draw it a little closer than that. The fellow who didn't put oil in his engine and burned it out and doesn't have the money to replace it and loses the season, should not get qualifications. I'm perfectly willing for the guy that ran it up on the beach asleep because there isn't any argument he did a thorough job on it, even though they're both pilot errors. The thing is that if you allow engine damage cause that is such a nebulous thing to prove that you will let all sorts of people in. I say the idea that it's catastrophic, the engine that ran away as I know of one coming (?) and blew, and demolished the whole engine room, yes that's catastrophic. The guy that didn't put oil in his engine and he decided that the prices were low that he wouldn't buy a new engine this year, he'd skip it, shouldn't get credit for it. So it has to be absolutely catastrophic to be warranted under this or else we're being too lenient.

Lauber: Any further discussion on the motion? Are you ready for the question? I'll try it. Is there any objection to the motion? Hearing none, it passes. You have another one?

Benton: Yes sir. The other motion I would make has to do with vessels that just by an artifact of history, they fished continuously in the fishery, but their FMP general licenses and their area endorsements don't necessarily match up. So, I would move that for vessels which qualify in one FMP area under the general qualification period but only qualify for an area endorsement in the endorsement qualifying period in the other FMP area, those vessels will be qualified for a general license and area endorsement for the area in which they qualify during the endorsement qualifying period.

Behnken: Second.

Lauber: Speak to your motion.

Benton: We've had analysis that shows the number of vessels that fit into this category. These vessels fished almost continuously in the fishery. They were clearly participants. They would be excluded from participating in fisheries that they've continued to operate in simply because again of the way we structured the qualifying periods. I think it was an unintended consequence and, because those vessels have come to our attention, I believe this would address inequity that would come about because of the way we have structured the qualifying period and will address their problems and yet, not allow for undue infusion of vessels that we don't want to allow. So I think this addresses an important problem.

Hegge: I assume, Mr Benton, then that the vessel would only get the General License for the area of endorsement. He wouldn't get both.

Benton: That's correct.

Hegge: Thank you.

Lauber: Ready for the question? Is there any objection to this motion? Yes, Counselor, do you object? Duly noted, next question [everyone laughs].

Lindeman: Does the Council know how many vessels that might affect?

Benton: Mr. Chairman, I believe that the analysis shows roughly 18 vessels that would fall into this category.

Mace: How many eight?

Benton: Eighteen.

Tillion: But they are already fishing.

Benton: They're already fishing and it's 18 out of four thousand some-odd vessels.

Lauber: Any further discussion? Are you ready for the question? Is there any objection to this motion? Hearing none, it passes.

Pereyra: Since we're in kind of a clean-up mode here. There's one other issue that's come to my attention. I don't know how we want to handle it. In the moratorium there is, I believe, a provision that the CDQ communities were exempt from the moratorium, I believe, for vessels under 125 feet. I think that was a limit that was set. Is it the intent of the Council that that provision would carry forward, or not? I'd like to hear some discussion on it.

Tillion: It's already under the inshore/offshore, is it not? Under the 7.5% pollock, I believe they have that privilege. You're wondering if they have it . . .

Pereyra: The license program, yes. In other words, do the CDQ communities, if they want to get into, I mean the idea of the whole CDQ program is to provide opportunities for the communities to get more involved in the fisheries. It would seem to me that one way to provide that is to give them the opportunity to get into smaller boats if they should so desire without having to go through a license program. I just raise that question.

Benton: I'm sorry Dr. Pereyra, I didn't hear all of your question. If I understand it correctly, you are asking whether or not the CDQ communities, any vessels they might get into if they were to build new vessels, how they would fit into this program. Is that the idea?

Pereyra: In the moratorium, when we had the debate on the moratorium, we cut it off at 125 feet because it seemed like that would fit the range of vessels, the coastal-type vessels and so forth, crab vessels.

Benton: If my recollection isn't faulty and it very well could be, I seem to recall that in a couple of previous Council meetings when we discussed generally vessel replacements and upgrades and vessel criteria and the moratorium, that we applied generally the moratorium rules and provisions and they would carry forward into the license program. That had to do with the 20% rule, vessel replacement and upgrade rule, and CDQ rules. It was always my understanding that the rules that we had adopted in that regard, under the moratorium, all carried forward into the license program.

Pereyra: It's not specifically laid out in here. It's rather confusing. That's why I raised it.

Pautzke: I thought your question was whether they could purchase new vessels that did not have to have a particular license with them under this license program and I thought they were exempt. The CDQ programs have new vessels that did not qualify for licenses and they only are applied to the CDQ program - that's all they operate in - that, like under the moratorium, they would be exempt from this license program as long as

they did not prosecute any other fisheries outside the CDQ program. That's what I thought we had already done.

Lauber: Is that what your question, what we're doing?

Pereyra: Yes, as I recall when we had the discussion on the moratorium though, there was some real concern about all of a sudden building new factory trawlers and that sort of thing. So we went ahead and put a limit at 125 feet.

Lauber: Let's clear it up. Let's put a motion on the floor and make it clear what we're going to do.

Pereyra: I don't think it's appropriate for me to make the motion.

Benton: I can make the motion, Mr. Chairman. I would move that we, for the purposes of the license program, adopt the moratorium rules with regard to CDQ vessels.

Lauber: Is there a second?

Samuelsen (?): Second.

Lauber: I have a question under that. I don't recall what that was. We gave an exemption, but that would mean that those could only fish in that CDQ fishery. This could not be a conduit through which CDQ groups could go into the boat building business and create new . . .

Pereyra: No, it's true.

Pautzke: No hole there.

Lauber: But if a CDQ group wanted to get a better investment by going out and buying a license limitation vessel, they could do that and then they could sell it. So you'd have two classes of vessels. One that would only be allowed in a CDQ fishery, and then if they went out and bought one on the open market, that would be just like any other vessel.

Tillion: If they bought a moratorium qualified vessel.

Lauber: Right.

Pereyra: Yes.

Lauber: Or a license limitation qualified vessel.

Pereyra: As I recall, there was a very strong debate on that particular subject because that would more or less preclude the CDQ vessels, if a person was to acquire a vessel like that, it would preclude it from actually ever coming into fruition. Because the discussion was, I believe, that those vessels would be allowed to participate in fisheries that related to that CDQ species. I think that was the way it was. . .

Tillion: As I remember it and we can look this up, if they wanted to build a new vessel like the Yukon-Delta people are, then it participates totally in the CDQ fishery. If they purchase vessels that were moratorium qualified, i.e., in partnership with other people such as the Brown's Point, then it did not have those restrictions, it had the moratorium restrictions and they were free to move. Is that not the way you remember it?

Pereyra: Well, it was a 125 foot limit, I remember that.

Lauber: For the new ones, yes.

Capt. Anderson: Maybe I can clarify it just so you know the moratorium rule. The restriction on the CDQs apply only to those vessels specifically constructed and used to harvest pollock in accordance with the CDP, and they can be no greater than 125 feet. That applies to new construction. Anytime you're looking at, I think it's a free market to purchase one that already has a license with it that's moratorium qualified, then it would be free to fish either. So it only applies to the new construction, the restriction to fish in the CDQ program and that's under 125 feet.

Pereyra: How is that interpreted in regards to fishing in pollock outside the CDQ fishery?

Anderson: The moratorium only - the wording there only applies to pollock. It specifically says, "specifically constructed and used to harvest pollock," so that's why, when you get into this program, it would be appropriate to address Council intent that that would be framed to carry over to other groundfish as well. If that is the intent of the Council.

Benton: It occurs to me that there may be one group of vessels that would have a problem currently. Subsequent to these options in the CDQ program for pollock, one of the CDQ groups, actually two of the CDQ groups now engaged in the construction of a number of very small vessels using jig machines. I think they're 35 feet. They do not qualify per se under the moratorium qualifying dates. They certainly qualify under the endorsement qualifying periods because they were constructed and started fishing, I believe it was in 1993 late or 94. They were using jig machines for cod primarily and then they also fished I think some other species using hook and line. So those vessels would be in some kind of limbo here if we adopted that kind of provision although I'm generally supportive of what we're talking about. That may bear some thought. I think we're going to have to think about how to ensure that they don't lose their investment here.

Lauber: We have no motion on the floor.

Pautzke: Yes, we do. Mr. Benton's on the moratorium rules for CDQ vessels.

Lauber: Seems long ago somehow. Further discussion? Ready for the question? Any objection to the motion? Hearing none, it passes.

Collinsworth: Just as a point of clarification. If the CDQ program acquires a vessel with a license and endorsements and used it in a CDQ fishery, then they could not sell the vessel license/endorsement and still fish in the CDQ fishery under an exemption? Is that correct?

Lauber: With what?

Collinsworth: With the vessel.

Tillion: If the vessel has a license and endorsement, what's the problem?

Lauber: You sell it. He sells it and keeps the vessel.

Pautzke: Then it can only operate in the CDQ fishery.

Collinsworth: But that puts another vessel license back out in the general license program.

Benton: No, you retain the same number . . .

Pautzke: . . . the same number of vessels because the CDQ vessel now cannot go back into the other fishery.

Lauber: It became a drone.

Collinsworth: I may have this confused in my mind here, but if there was a vessel that had a vessel license endorsement and went into the CDQ, could they then sell the vessel license, you know, for somebody to purchase that, then fish back into the license limited program and still be exempt if they only fished in the CDQ? That would create another . . .

Lauber: It wouldn't create a new one.

Pautzke: It wouldn't create any additional one in the [word unintelligible] CDQ fishery.

Benton: I see what Dr. Collinsworth is getting at. I guess my interpretation is that they could engage in that kind of activity, although it would be economically somewhat foolish because once that they sold the license, there would be no new vessels in the licensed fishery. There would be a vessel in the CDQ fishery. What they would do is lose the ability to participate in both. They could only then participate in the CDQ fishery. I don't see it as a practical problem and, even in terms of capitalization in the fisheries under the licenses, there would be no new additional vessel.

Lauber: If you had a vessel that was limited entry-moratorium qualified and the CDQ had an option of building a new vessel to operate in a CDQ fishery, if they decided against that building a new, bought this one that was qualified, brought it into the CDQ fishery and sold off the license, you're at the same point that you would have been if they had built a new vessel. So because of this program, there's no net gain or loss that I can see. They might gain or lose money, but probably lose. Alright, do we have any other General Provisions? Alright, as I recall, we have Sunset or No Sunset.

Mace: I'm going to move that we have a number two or a number one, No Sunset.

Hegge: Second.

Lauber: Which were you stating?

Mace: Number one.

Lauber: It's been moved and seconded that there'll be a No Sunset provision in the groundfish license.

Mace: And if I may speak to that. Some of us may assume that we are going to go to a different program here within three years, but I would hazard a guess that when we end up, it may be a combination of both licenses and IFQs. I would hate to think that we would have to scuttle this in three years and go through this process again. I just don't think that makes sense.

Pereyra: I think the motion is probably appropriate from that standpoint because this is supposedly the first, or second, or third, or fourth or fifth step, I don't know what, but we're on a journey here. The CRP journey and this is part of it. You might, in the future, be handling some species differently than others in different areas and so forth, so I would imagine they just follow right along.

Tillion: I'm going to be speaking for a sunset, not against it. I feel that we put a sunset on inshore/offshore. If you don't have a sunset, you don't have a "feet to the fire." I think we would be very foolish to not sunset this in three years. It can be rolled over. But if we don't sunset it, we're going to be stuck here for a long time and I think that's the wrong signal to send to the Secretary when we're trying to get them to adopt all this. In fact, I think it's a real bad signal to send to the Secretary. I realize that Mr. Mace is opposed to ITQs and that's basically what the issue is right in front of us here now. Are we going to use this as the ultimate solution or is this a step? I consider it a very worthwhile step, but it's just a step. Therefore, I'm going to oppose this motion by Mr. Mace.

Lauber: Further discussion?

Behnken: In response to Mr. Tillion's comment. I disagree that a sunset is an anti-IFQ move. I recognize that we're moving ahead with this plan. I'm sure there's some species it will be a lot easier to move ahead with than it will be to move ahead with others. If we have to go back in three years and redo this rather than working on that, I think we'll just be slowing down the process that we're trying to speed up here. So on those grounds, I'm opposed to a sunset.

Lauber: Is there any further discussion?

Collinsworth: I brought up this issue a bit earlier today about whether this was intended to be a permanent and durable program or a program that is transitory in a step-wise movement towards comprehensive rationalization. And when I say comprehensive rationalization, I don't necessarily mean ITQs, but I mean a comprehensive program that is stylized to meet the specific needs of all sectors of the industry which certainly are not homogeneous. I think that some combination of open access, license limitation and ITQs may well be what comprehensive rationalization means over the longer term. I cannot say whether the Secretary will or will not adopt this amendment and this program. I can tell you that from my perspective, this program is a durable program, it does not cut the mustard. This program does not limit the number of vessels to a level that is participating in the fishery at the present time under conditions of open access. It does not have provisions for reducing gear. The consequences of this program are very ill defined. I cannot find hardly any two people that I talked to in the last couple of days that understands what this program does, what the consequences of it are, what the distributional effects are, how it's going to alter the characteristic of the fishery. As a durable program, one that may continue well into the year 2000, I think that it is certainly not meritorious and I don't think it cuts the mustard. If it's intended as a transitory step with a limited life, I question whether it will meet merit even there, in terms of the cost of implementing it, and the consequences of the program. I'm not sure if it provides a marginal improvement over what could be achieved with a moratorium, inshore/offshore and some use of other kinds of management measures, such as registration areas. I think that it's going to be very difficult for the Council to overcome a record that's been built over the last six or seven years with regard to the fact that why license limitation program did not adequately address the problems that have been identified under CRP. Fourteen problems. Staff has looked at this and has advised me that as many as twelve of those objectives are not addressed by this program. Even the EA/RIR, the record that we have before us, is pretty replete with criticism of this program and the fact that it doesn't achieve any long-term objectives or prevent expansion of capacity. There certainly are a number of other specific points, but I think that the Council does not have a program here that can be viewed as a durable program. I see no mechanism or commitment other than simply some discussion that we're going to proceed from here. I'll address this more fully perhaps at the time when we vote on the overall motion.

Lauber: That was just a little warm up huh? Any further discussion? Are you ready for the question? I guess we better call the roll on this one - No Sunset.

Pautzke:

Benton	Yes	
Fluharty	No	
Hegge	Yes	
Mace	Yes	
Collinsworth	No	
Pereyra		No
Samuelsen	Yes	
Tillion	No	
Barker	No	
Behnken	Yes	

[change to tape 45]

Lauber Yes

Passed.

Benton: Is the procedure now that we will have this package typed up by staff so we can see it in its entirety before we . . .

Lauber: Most of it's done. Two of the sheets are here. I assume we can have the rest of it certainly by the time we . . . good point . . .

Pereyra: Mr. Chairman, I can't hear you. I'm sorry.

Lauber: Can we have it quiet please. I've said we wouldn't vote on this until we reached the end and there would be then an opportunity to make adjustments and motions and so forth on the total package, and then we'd vote on it. Do you want to do that now or would you rather go through crab and do it with crab and then take up the whole thing, the final vote on both, at one time. How would you like to do that?

Mace: Mr. Chairman, I'd prefer taking the crab now because I think that these issues parallel many of them and it would save time by doing it.

Lauber: And then the final vote after any amendments or whatever would be on the total package voting for the crab and groundfish one time. Alright?

Pautzke: And I'd feel safer procedural-wise if we had the whole thing written up, distributed to the Council in writing what your main motion is so you have all the points in it, and also everybody out in the audience has it; we have it in writing like the National Marine Fisheries Service wants us to have it.

Collinsworth: Thank you, Mr. Chairman. I think that Mr. Pautzke's recommendation is good. I had staff pass me a half a dozen notes here just in the last few minutes asking what was the Council's intention in terms of moratorium qualified or other kind of vessel qual . . . , I mean so there are a number of things I think that if we have it written up, that the staff is going to have some questions of clarification from the Council so that would be useful.

Hegge: I guess this is time to do it. Some of the comments we had earlier when we were talking about the sunset and the CDQ kind of aroused my attention. The comment that CDQ was separable from this program, the portion of CDQ allocations, and I think that whether we make an amendment in the general provisions that it is not separable or do some other type of action, I think that it's critical that we do that. I envision, particularly after Mr. Collinsworth's comments, that that portion would go forward and this would not and we would be having that allocation without it being in conjunction with a license limitation program. I don't think that anybody would be willing to accept that.

Lauber: I think that that type of motion could well be made as a umbrella motion for both crab and groundfish, or did you wish . . .

Hegge: No, to both.

Lauber: Then why don't we wait until such time as we have completed the crab and then there may be other umbrella type motions that someone wishes to cover both.

Pautzke: Mr. Chairman, if I may clarify. I think that what Mr. Collinsworth was talking about was if you had a sunset of three years for the license program, but no sunset for the CDQs, would the CDQs go on forever while the license dropped dead in three years. But, I think the issue you're talking about is when we send this package to the Secretary, how severable is the CDQ program - if it's not doable, or doable, or the

license program isn't acceptable. In other words, it's the initial Secretarial Review rather than what happens at the end. I think it would be a very good thing for the Council to get on the record in their discussion of the main motion, when they get back to it, what their intent of severability of some of these components is so we have that. So the Secretary knows that if you take this off, just send the whole package back or so on.

Collinsworth: Just one item that I'm bringing forward at this point so that we can make sure that we don't miss it when we look at the range of issues that we're going to clarify at the end. I have been asked by the staff to inquire of the Council whether they believe that interim permits for disputed claims that are under appeal are appropriate in this case. So that's one of the things that we need to discuss. I would also ask if it's possible while we're debating other issues, if the staff based upon what has transpired up to this point, can give us some idea of the number of vessels that would be included under this system that we've adopted.

Lauber: I asked them to do that and they said they will do the best they can.

Collinsworth: Then the second question would be whether the system that we have adopted at this point is adequately analyzed in the analysis. Those two questions specifically, I would like for them to contemplate for us.

Hartley: Mr. Chairman, regarding those tables. . .

Lauber: You don't have to do that now.

Hartley: I just wanted to point out that those tables that we sent out to you at this point, those are actually, we found an error in them and we could replace those.

Benton: This the table here?

Hartley: Yes, don't use those. Throw them away.

Benton: The one you did last night?

Hartley: The one I did last night.

Brannan: We'll come back with new tables for you, perhaps after lunch.

Hartley: I think Helen actually has . . . [Helen responds but can't be heard clearly].

Lauber: Okay, everybody tear up or mark up the old draft and during the break, or before we start, we'll pass out the new ones. Okay, let's take a fifteen minute break.

Lauber: Okay, the Council's in session. We will move to the crab license portion of the licensing program. We'll follow the same procedure, I assume, with this as we did with groundfish starting out with License Classes and moving on. I would also think that it would be alright, if this should go more rapidly since some of the issues are very similar, and in argument or discussion, if you care to merely refer to your previous statement that applies in the crab case, you can do that and shorten up any comment period and record building, etc. Could we have it quiet here, please? We'll move through. Dr. Fluharty, were you seeking recognition?

Fluharty: I just think it's worthwhile as we enter this area to remember that we've got a crab rebuilding committee that's trying to work on some of these things. If we look at what we've done with respect to groundfish, it seems like a liberalization in just about every area. Certainly, that might be okay in a situation where we have a considerable resource that seems to be in a pretty healthy condition. Crab, as we've all seen, are in serious decline. We've got major problems with this. I think some of the issues in this area are

different than in groundfish. The status of the resource is one; the management implications of essentially a sedimentary or bottom resource; the location specific nature of it; a lack of knowledge about recruitment; all of these things, in my view, mitigate in favor of taking as restrictive an approach as we can relative to the number of licenses, how many licenses are combined and the need to keep management implications in the forefront. These are not really developed heavily in the documents we have before us. The focus is on the number of participants and I think that's why I take a few seconds here just to remind ourselves of the relationship to the resource that we're supposed to protect.

Lauber: With that, let's move into the program. First is the License Classes. Anyone have a motion?

Benton: I was waiting for Dr. Pereyra to make his historical first motion as he did under groundfish, but I'll make the first one unless he wants to.

Pereyra: No, no I'll give you that honor.

Benton: I'd move that we adopt the AP recommendation for a single class of licenses. The item 1,000,000.

Pereyra: Second.

Benton: Or 100,000, I guess it is.

Lauber: And is that for all the same reasons as previously enumerated under the groundfish license program?

Benton: This is for all the reasons that we adopted this under the groundfish program, plus all the reasons we had narrowed this option down to this previously by the Council in previous meetings.

Lauber: Any further discussion on this item? Is there any objection to the motion? Hearing none, it passes. Next is Nature of Licenses.

Benton: I would propose that we take these up in order. There's seven items here if we might. In that regard, Mr. Chairman, I would move that we adopt the AP recommendation to combine Pribilof red king crab and Pribilof blue king crab into one license group.

Lauber: Is there a second to that motion? I didn't hear.

Samuelsen: Second.

Lauber: This is the AP portion of the recommendation number 1 - Pribilof red, plus Pribilof blue plus . . .

Benton: Just the two Pribilof species, Mr. Chairman.

Lauber: Not St. Matthews. This is the issue before us. You speak to your motion.

Benton: Of course, the AP recommended that we would combine Pribilof red crab and Pribilof blue crab and St. Matthews blue king crab all as one license. In some regards, there is some merit to that and I think I can understand why the AP would make that recommendation. However, when you look at the numbers, and this is particularly germane to the concerns that Dr. Fluharty raised, the potential there is for significant increase in the number of vessels that might be able to access either one of those two individual fisheries. I think that what the AP was considering when they made their proposal was that, generally speaking, the Pribilof's or St. Matthews very often open concurrently, and if they did, there would be no problem, but with the fluctuation of crab stocks, the concern that the department has is that in one area the stocks may be down and the other area the stocks may be up. That provides for some flexibility in the industry, but it also provides for significant increases in effort in one individual fishery. If we were to use, for example, a recent history

configuration in the Pribilof area for Pribilof reds, it's like 151 vessels. In St. Matthew it's about 201 vessels. If we were to combine those, we'd have about 350 plus vessels. If one was closed and the other area was open, potentially, we could have all 350 vessels go into the area and we would not be able to have an orderly fishery. So the department's recommending that we not have St. Matthew and the Pribilof areas combined as one license.

Mace: I'd like to make a few comments as we get into this. Dr. Fluharty mentioned the conservation needs and the fact that we have a crab building committee working. I'd also like to point out that we have a lot of fishermen out there that were dealing with added closures, we have quotas to resolve the conservation problems that we're faced with, but we ratchet down these opportunities for the crabbers and we're really going to impact that industry. I think that we have to keep that in mind. I think the ADF&G has the tools available to manage these stocks on a very finite basis and that we should keep the needs of the crab fishermen in mind and not unnecessarily ratchet down these opportunities because periodic closures are going to put some of them out of business if they only have one or two options available to them.

Pereyra: I share Mr. Mace's comments. I'd like to point out that there are other ways of organizing the fishery such that the effort can be distributed between fisheries by having concurrent openings and so forth. I also think that particularly in the crab fisheries the need to have flexibility is very important. I would not want to see opportunity inappropriately taken away. I think there's a need to do some combining here in some of the fisheries. I'm a little bit goosey about making separations and somehow negatively impacting the economics of some operator for whatever reason and all of a sudden he has a severe economic problem on his hands.

Benton: I share those concerns and the department shares those concerns. We certainly are in a position where we want to try and retain that flexibility where possible because we understand the changing nature of the crab fisheries and the need for that flexibility. However, with regard to these two particular fisheries and the relative size of these fisheries, they compared to some of the other fisheries are relatively small. There is a need, we believe, to maintain the ability to have some more control over these two than perhaps in other fisheries that we're going to be dealing with here in a moment. However, the AP has made some recommendations to address the kinds of flexibility concerns that have been expressed.

Lauber: Is there any further discussion?

Fluharty: I understand the motivation to proposed flexibility as a major criteria, but it makes me extremely nervous here where we have a very inflexible resource. So I think that I would speak in favor of any measures that reduce flexibility that will allocate excessive amounts of effort into small, fairly discrete crab fisheries.

Pereyra: I think it's very important that as we go through this, we don't get fishing power mixed up with fishing effort. The amount of fishing effort that's going to be exerted in the fisheries is going to be controlled to a considerable degree by ADF&G by the seasonal allocations of pot limits and so forth. Certainly, the fishing power issue, there can be more fishing power exerted if we allow flexibility. I would just like to ask the maker of the motion, what the intentions will be for St. Matthews blue? Is that going to be sort of a separate license by itself? If that's the case, we're almost getting into the area of superexclusive registrations, and I think that brings in a whole other series of questions that need to be expressed.

Benton: Thank you, Mr. Chairman. It differs markedly from superexclusive because the number of the vessels that have permits for St. Matthews have permits in other fisheries, or would as I look at how this is shaped. So it would not be superexclusive by any stretch of the imagination. Mr. Chairman, I think Dr. Pereyra's comments regarding fishing power are well taken. I think pot limits help address that, but the number of vessels have a direct impact on that. The historic high in St. Matthews fishery is 174 vessels. We could potentially double that by combining these two and having a year where only St. Matthews is open and so that is our concern and we don't want to promote that kind of a situation.

Lauber: Further discussion? Ready for the question?

Pautzke: Clarification.

Lauber: Yes, Dr. Pautzke.

Pautzke: The Advisory Panel, the actual words down here are not quite clear, but I think that your intent, Mr. Benton, is that there would be an overall general license with endorsements for these species/area combinations.

Sometimes I've heard Council members talk in terms of licenses for each of these and I think what you're looking at is a suite of endorsements under general license and it's all non-severable.

Benton: That's correct.

Lauber: Okay, call the roll.

Pautzke:

Fluharty	Yes	
Hegge	Yes	
Mace	No	
Collinsworth	Yes	
Pereyra		No
Samuelsen	Yes	
Tillion	Yes	
Barker	Yes	
Behnken	Yes	
Benton	Yes	
Lauber	No	

Passed.

Benton: I would move that we have St. Matthew blue king crab be one area/species endorsement.

Lauber: Is there a second?

Samuelsen: Second.

Benton: I believe that I've already spoken to the reason for this a fair amount, and again, it's just to ensure that we don't have overcapitalization in this fleet.

Lauber: Any further discussion? Any objection to the motion? [someone objected] Call the roll.

Pautzke:

Hegge	Yes	
Mace	No	
Collinsworth	Yes	
Pereyra		No
Samuelsen	Yes	
Tillion	Yes	
Barker	Yes	
Behnken	Yes	

Benton Yes
Fluharty Yes
Lauber Yes

Passed.

Lauber: Alright, now the next one is . . .

Benton: I would move that we adopt the AP's recommendations for *C. opilio* and *C. bairdi* be combined as one species endorsement.

Mace: Second.

Lauber: It's been moved and seconded. Speak to your motion.

Benton: We've heard significant amounts of public testimony with regard to this matter. The department's looked at what this would mean in terms of capitalization in these fisheries. This is one area where we don't believe that it's going to result in a significant problem in terms of capitalization or fishing power. It is also an area where we can provide a little additional flexibility to the fishermen, a little extra access to resources as they fluctuate up and down. I think that was the intent of the AP and the department concurs with that.

Barker: Mr. Benton, the one in our book almost parallels the one in the AP, but it has an etcetera there. Are we, by adopting the AP, dropping some Tanner crab issue here of a lesser species that should be included?

Benton: As a matter of fact, I think we would be dropping some other species, but we're going to deal with them later. The AP deals with them later.

Barker: Okay.

Lauber: Any further discussion?

Hegge: Can staff tell me the number of people that would be included under the combined fishery that have never fished *opilio* with this motion?

Brannan: Mr. Chairman, we did provide tables that breakout the species separate and combined. I think the total is about 33 vessels that would be added to that fishery if licenses were combined.

Tillion: I understand 47.

Hegge: That's what I was trying to learn. I've heard a couple of numbers thrown around and I really didn't know which one was the correct one.

Brannan: Mr. Chairman, without knowing the configuration of the option we're deciding on, it's really difficult to tell you how many exact vessels we're talking about. We've just dealt so far with species combinations. If you want to give me some additional information, I can point you to the correct tables.

Hegge: I would assume it would be the AP motion. We don't really know the landing periods yet.

Benton: I think if we look at a 92/94 kind of qualifying date, I think that helps. The preliminary numbers that I have in front of me indicates that there would be approximately 47 or so vessels that would be potentially entering into the other fishery. It's our understanding that the majority of those vessels are small vessels out of the local area that, due to the lateness of the season, generally don't fish in that fishery.

Pereyra: Again, as in every discussion of vessels in this license limitation, we don't know whether they're the same vessels or not. So, it's really difficult to make a valid comparison from that standpoint, but more importantly, I think this is a real resource conservation issue to have these two fisheries combined. I think we have to look at it from that standpoint because having those fisheries conducted in such a way that there's a lot of discards and whatnot doesn't seem to me to be a prudent way to proceed. We might be encouraging that if we went with separate licenses, so I think combining them makes a lot of sense.

Fluharty: I know that we've been trying to look at the question of bycatch discards in these fisheries and it is high as Dr. Pereyra mentioned. It is troublesome though to see a considerable amount of effort, I mean 47 vessels entering in here. I wish that we had completed our work so that we'd be better able to evaluate whether this makes a long-term best strategy for managing the two different species. We can't answer that right now. It makes me nervous to go towards licenses, particularly granting licenses to people who have not been engaged in the fishery, without having any clear concept at this time, but that's where we are.

Hegge: I'm not real educated on crab, but it's my understanding that the State now is executing the two fisheries at separate times and when given the opportunity to join them in the past has not followed that. I'm curious why recommending the combination now - is that something that's being speculated - fishing them together, or would they still be in separately?

Lauber: Can you answer that Mr. Benton?

Benton: Yes, thank you, Mr. Chairman. Presently, we don't have proposals before the Board to combine the seasons. There are some reasons for not doing that because of the sizes of the quotas. Mr. Chairman, going back to some of the concerns about the number of vessels, staff has informed me that they've got a pretty good idea of which vessels generally these are. Most all of them are under 100 feet. If we were to adopt size classes, the licenses would be by size class which would alleviate some of the concerns about fishing power, I believe.

Lauber: Is there any other discussions? Any objection to the motion?

Hegge: I object.

Lauber: Mr. Hegge objects. Motion passes. The next one is . . .

Benton: Maybe I can speed this up a little bit. I'd recommend that we adopt the AP recommendations of 3 through 7. That would be Adak brown king crab; Adak red king crab; Bristol Bay red king crab; Dutch Harbor brown king crab; and Norton Sound red king crab as each individual would be endorsements.

Lauber: Is there a second?

Behnken: Second.

[change to tape 46 . . . begins in mid-sentence, missing beginning of Benton speaking to his motion]

Benton: . . . almost the last year. I think they've received a lot of review in front of the AP. We've received a lot of public testimony regarding the need to have such designations. These designations recognize the differences between the fisheries and provide us a mechanism then to manage these different fisheries separately in accordance with our management program we've conducted over the past.

Lauber: Any other discussion? Ready for the question? Any objection to the motion? Hearing none, it passes.

Behnken: Could I ask a question of staff as to the AP's intent with this next statement: Bering Sea brown crab; Bering Sea/Aleutian Islands *Tanneri* is developing which is not included in the license limitation. What was the discussion there and how did the AP intend to sort of handle that in the future?

Brannan: Mr. Chairman, I would prefer that the AP answer that question. I was writing groundfish notes when this discussion took place. If we could get someone from the AP, I would prefer that they answer that.

Stewart: I'm sorry, I missed the question.

Lauber: Go ahead, Ms. Behnken.

Behnken: Beth, on the top of page 6 in our second version draft AP minutes is a recommendation for designating some species or fisheries as developing. You may have explained this, but if you could sort of give us a little background, and also how you anticipating it being managed in the future.

Stewart: Mr. Chairman, yes the AP, especially with Bering Sea brown king crab, Bering Sea/Aleutian Islands *C. tanneri* and *Lithodes couesi* believes that those fisheries which are still being managed for the most part under the authority of [word(s) unintelligible] Commissioner with specified restrictions on them. Those fisheries are not fully developed at this time and we didn't think it was appropriate to do license limitation for them. With Dutch Harbor red king crab, that fishery has been closed for such a long time and there is no current indication that it's likely to reopen. We didn't believe it was appropriate to issue licenses to people who may not even be around when, and if, Dutch Harbor reopened. We believe that the department will probably reopen that very carefully and probably most of it will be reopened in bays inside state waters. So we just didn't think it was appropriate to issue a license for that one at this time.

Tillion: The AP feels that there aren't enough vessels there to adequately harvest the OY of the area, or just that others should have a chance at it?

Stewart: For Dutch Harbor?

Tillion: Oh well, Dutch Harbor is closed. I'm talking about the red king crab on out Bering Sea/Aleutian Islands, brown king crab.

Stewart: It's our understanding that the Bering Sea brown king crab fishery and the other two, *tanneri* and *couesi*, the department is managing those and they are probably the best people to answer this question for you, not on the basis of surveys, but rather on the basis of CPUEs and they're not certain where these species may all be spread out and that there isn't an OY for them at this point. That they are still premature or developing fisheries. We understood that Dutch Harbor wasn't developing, it's been there, done that and now waits.

Tillion: Well, it would be a shame if we shut something off before it was overcapitalized. We've never done that before.

Stewart: And I guess that in some sense we saw this as perhaps a place for people in the crab fishery to go because of the unstable nature of the Bering Sea crab fisheries. We felt that people may need to move around a little bit and this would offer that kind of opportunity. We did indicate that you did have to have a federal crab license under this system, so that brand new entrants wouldn't be encouraged to participate.

Benton: I think the AP has done the responsible thing here. There's a number of species in the Bering Sea that are either small populations, or just haven't been developed. They have identified those, as Beth has pointed out. Dutch Harbor red king crab isn't looking to come back anytime soon and it has been closed for quite some time. As you may recall in the previous set of options that the Council's been considering, there was a qualification period for Dutch Harbor red king crab that the cutoff date was something like 1983. That

certainly is not recent participation, although it's most recent participation in that fishery. So, I think the recommendation of the AP in this regard is appropriate. The way these fisheries would be managed from our perspective is that indeed only vessels that had a general Bering Sea crab license would be allowed to fish those species. The fishery would be conducted under our permits for developing species. They're permits that can be issued by the Commissioner and subject to conditions that are placed on the permit to ensure proper management of the fishery and that does a couple of things. One, I think it allows us to maintain quite a bit of control on the fishery, but it also allows for some new opportunities for participants in the Bering Sea crab fisheries to develop new markets and new species and provides a little bit of that flexibility we were concerned about just a few minutes ago. I'll vote in support of the motion.

Lauber: The effect of requiring the general Bering Sea license would mean that there would be no new vessels in the fishery.

Benton: That's my understanding.

Tillion: Mr. Chairman, a question. What this does mean that those who, for the last few years, have subsisted on say Adak brown crab will be locked into it while everybody else can come in to fish it, and yet, they will be unable to go anywhere else to fish when the fleet lands on them. How are you going to work that?

Benton: No, no. If somebody has a general license, they have a general license. If they have an area endorsement for one species or another, they're going to be able to fish those species. In regard to these species, anybody that has a general license would be able to go out and fish those species and engage in that fishery.

Tillion: No. I'm talking about the person who concentrated on brown crab at Adak for the last four years, and therefore, is not going to get an endorsement anywhere else, but you're now going to let the whole fleet come in where they fished, huh?

Benton: No, we haven't got that far yet. We haven't gotten to the qualifications for the area endorsements have we?

Pereyra: My understanding is that Adak is a separate license so that couldn't happen. Bering Sea it can happen, but that's a developing fishery.

Behnken: I'll move the AP recommendation concerning Bering Sea brown king crab, Bering Sea/Aleutian Island *C. tanneri* and *Lithodes couesi* and Dutch Harbor red king crab, the entire part there.

Benton: Second that.

Lauber: Is there any further discussion since the motion was pretty well discussed before the motion was made? Is there any objection to the motion?

Collinsworth: Clarification. Staff points out that there is another species that is in the FMP that's not covered here.

Lauber: Okay.

Berg: Mr. Chairman, we have *Chionocetes angulatus*. Did the AP intend that to also be part of this or not? Should be a part of it?

Collinsworth: I see a lot of heads nodding.

Lauber: What's it called?

Several respond at same time: "*angulatus*."

Collinsworth: That's why I asked staff to come up.

Pereyra: *Angulatus*.

Lauber: No wonder they're not selling.

Pereyra: The spine formation on the dorsal part of the carapace is different, it's more of an angle than it is with the *tanneri*. Just thought I'd let you know that, Mr. Chairman.

Benton: He waited 15 years to be able to say that here, Mr. Chairman.

Pereyra: And four years in college too.

Lauber: Yes, that's wonderful.

Tillion: Now there's no *Lopholithodes* out there either is there?

Lauber: It makes this whole Council meeting worthwhile for me. My wife will say, "did you learn anything?" and I'll say, "honey, . . ."

Tillion: Now, say it Rick. . . I want you to say it! If you learned it, you should be able to say it.

Pereyra: That only works if you have a nice bottle of wine and a rose with you, Mr. Chairman.

Lauber: She called me this morning, by the way, woke me to tell me, "holy Christ, the glove didn't fit!" What's the intent? To include this *angulatus*?

Benton: Yes, Mr. Chairman, I believe that is indeed the intent.

Behnken: Since this is my motion, maybe we should clarify that it's intended to include any species that aren't covered by the license program crab species, Bering Sea crab species.

Lauber: That might be a good idea in case there are any new discoveries out there. Is there any further discussion on the motion?

Pereyra: How is hair crab covered?

Behnken: It's part of the FMP.

Collinsworth: FMP.

Lauber: Any further discussion? Any objection to the motion? Hearing none, it passes.

Collinsworth: The AP motion says must have a valid federal crab license and Mr. Benton clarified that that was a general crab permit. Essentially, you need no endorsement. You have to have a permit, but no endorsements.

Benton: That's correct.

Lauber: Anything further under that? Okay, we move on to License Recipients. Isn't that next?

Benton: I would move the AP recommendations for License Recipients which would include items a and b with regard to Norton Sound, so I'll read that, Mr. Chairman. It would be, "current owners, except for Norton Sound Red Kind Crab summer fishery. For Norton Sound, license recipients are those who:

- a) individuals who held State of Alaska permit for the Norton Sound red and blue king crab summer fishery and who made at least one landing; or
- b) vessel owners in instances where a vessel was corporate owned, but operated by a skipper who was a temporary contract employee."

Behnken: Second.

Lauber: Do you care to speak to your motion?

Benton: Throughout the discussions, both groundfish and crab, the Council has heard again extensive testimony regarding the need to award licenses to current owners and I think this is consistent with public testimony and with the Council's discussions on this matter at numerous Council meetings. With regard to Norton Sound, there's somewhat of a unique situation with Norton Sound because of the superexclusive fishery that is there. The Council was considering three options. The Council was considering option a and b that were recommended by the AP. These two options accommodate the unique nature of how that superexclusive fishery was conducted over the past couple of years. The Council also had option c. Option c was individuals who purchased a permit for the fishery and purchased pots but had no landings. That was rejected by the AP. My motion would reject that as well. Under options a and b, there would be a total of 59 licenses issued for this fishery; 49 of them would be under item a; 10 would be under item b. If we were to incorporate item c, we would have 270 to 285 additional licenses for that small fishery. This would be a significant escalation in the number of permits which would result in an unmanageable fishery and would not be conducive to the purposes for which we created a superexclusive in the first place. So that's why I would ask that we support the AP motion in that regard.

Lauber: Alright, is there any further discussion?

Collinsworth: Yes, Mr. Chairman. For clarification, individuals who receive a license, they can use those licenses on any vessel?

Benton: One second, Mr. Chairman, I ask your indulgence. Mr. Collinsworth, it would be my intention, and I think we're going to get to this in a little bit under License Designations, to look at vessel size categories for permits. Certainly, those would apply to the permits here. In a number of these situations, as I understand it, staff has informed me that in some instances, numerous individuals were fishing on the same vessel and fishing in that fishery, so we may not have unique vessels to apply for those individuals. We would want to ensure that we don't allow those individuals to use vessels that were of extreme size so I think as the AP did. The AP looked at this under vessel license designations, but I think that we would want to address it there, and I think we do want to address it and come up with some kind size limitation.

Collinsworth: Thank you.

Lauber: Any further discussion? Ready for the question? Any objection to the motion? Hearing none, it passes. License Designations, is that the next one?

Benton: Under License Designations, I would move that we adopt the AP recommendation, but that we would modify the AP recommendation to include size categories for catcher vessels and catcher processors that was in the original option 400 under the Council's suite of options for the crab licenses, so that this motion would read:

"License Designations: Catcher vessels and catcher processors designations, by size category (size categories would be <60, 60-124, 125 and above), and vessel length would

be subject to the 20% moratorium upgrade rule within the bounds of the size categories. For Norton Sound, vessels less than 32' may upgrade beyond the 20% rule but may not exceed 32' unless the 20% upgrade would result in a vessel that exceeds 32'."

If I have a second, I'll speak to it.

Pereyra: Second.

Benton: With regard to the size designations and catcher/catcher processor designations for the general fisheries, not to include Norton Sound, the Council much like with groundfish has considered incorporating size categories, such as I've identified here, over numerous meetings. We believe that these size categories will help us control the fishery and ensure that we can prosecute a fishery in an orderly manner. It's consistent with the size categories we have now for groundfish, in our proposal on groundfish. I think that it would be inappropriate not to include those size categories. With regard to Norton Sound, I would like to ask Beth if she could come up and sort of explain exactly what the AP intended here because I would like to understand that, and then maybe we could discuss Dr. Collinsworth's concerns.

Stewart: Yes, Mr. Chairman. It was our understanding that the majority of the local vessels that would result from the exception we made on a and b on License Recipients are in this smaller vessel category, skiff to about 32'. Then because that was going to result in additional vessels, which was not our goal for the rest of the crab fishery, we wanted to be sure it wasn't going to result in additional vessels that were very large vessels. So, we came up with this rule. If you fished, somebody told us they fished in a 12-14' Lund, that you could eventually move up to a vessel as big as 32,' but no bigger. But if you started fishing with a vessel that was 32', you would still be able to upgrade within the 20% rule. The 20% rule didn't work because 20% of 12 is just not going to get you anywhere.

Benton: I think I understand the intent and the vast bulk of that fishery, as I understand it, was prosecuted out of various small vessels. There were a couple of vessels that were larger than this and they would be confined within the 20% rule in the size categories.

Stewart: Right.

Lauber: I'm glad you explained it. I guess it makes sense with the explanation, but it didn't before.

Benton: As I understand the intent, there would be vessels under my motion then, for Norton Sound, there would be vessels that or instances where individuals under item a would receive a permit if they were fishing on a vessel that was less than 32'; they could upgrade that vessel beyond the 20% rule, not to exceed 32'. If they were fishing on a vessel that was in excess of 32', they would be confined to the 20% upgrade rule and vessel size categories. So I think that might address Dr. Collinsworth's question.

Hegge: I guess I had the same question for groundfish, but when you have the 20% upgrade written into the regulation, why do you need size categories anymore? The only thing you've done is, in the instance of the guy that is just under a size category, you've eliminated him from exercising his 20% rule. That's the only effect of it.

Benton: I can answer that. It almost becomes like a pop-quiz after awhile. The reason that you want to have size classes, Mr. Hegge, is because we use size classes for pot limits and there's a number of vessels that are sitting at about 123-124' and pot limits are established for 125. With the 20% rule they could potentially go above that 123 or 124. So in order to make this conform with our regulation for gearing pot limits, we thought it would be important to retain those size categories.

Hegge: Does the same thing apply to the 60' or is that part of this?

Benton: I don't believe we have - I believe that pot limits are set with regard to 125.

Tillion: We've had this in several other issues and if we're going to have vessel lengths, as we did in our ITQ on halibut, they've got to be pretty inflexible. I would prefer to stick with you can use a 20% upgrade, but you cannot exceed your vessel class. If you're 31 feet, you can go another foot and that's all. The 20% shouldn't be a tool used to break the vessel size categories, or you're going to get into a Pandora's box of having a multiple set of regulations on vessel sizes that don't fit the other systems such as our halibut/black cod ITQ program that we've already got in place. I suggest we stick to our vessel sizes on the one program that we've completed and sent on and not start a bunch of other programs that have different sizes. I would favor upgrades being only up to the length of the category you're in even though this is a little different in Norton Sound at this time.

Pereyra: I'm not sure we haven't created a problem here because I don't know that this construct here matches the pot limit construct, the way it's put together. I think we need to, when we get down to the final discussion, I think we need to have laid out how the size breakdown of the groundfish license limitation program matches or doesn't match that which is in the crab license limitation program matches or doesn't match what we have in terms of ADF&G crab regulations. It's very important that these somehow correspond because we'll have a mess if we don't.

Lauber: Any further question on this? How realistically is it that someone's going to add 6 feet to a 32 foot vessel. Would we be doing any harm doing what Clem says, that you can't upgrade beyond your vessel size class, in this case 32 feet - just upgrade to it. Give everybody a chance to be on a level playing field versus somebody that's got a 31' or 30' vessel and add 6 feet to it. Is that a big deal? Let them upgrade up to 32'. I guess it's not a big deal one way or the other.

Benton: I don't necessarily see that as a problem for those vessels up to and including 32', but there are a number of vessels that are over that size. We would want to have a rule on them in terms of the 20% rule.

Lauber: Oh, I see.

Tillion: Once again, the thing that we're stuck with on the Bering Sea is that we have that Bristol Bay rule that's been there since well into territorial days, this 32'. Those are the vessels you have available. To allow anybody to go up to that level makes sense whether they're fishing a lone skiff or [unintelligible word] I think we'd be foolish to break the size systems that we have elsewhere. If you're going to have sizes **[change to tape 47]** in one part of your fishery, let's use those size units right through and not have anybody upgrade past their size unit.

Lauber: But, there apparently isn't any size unit in this, is there? You say there are vessels larger than 32' in this fishery.

Benton: Is Mr. Tillion referring to generally or is he referring specifically to Norton Sound?

Tillion: I'm speaking generally. I don't think that if you say that anybody that has a Lund can go up to 32', that makes sense. Do you want to have everything able to go up to 125 without restriction in which case what are you worrying about the 20% for?

Lauber: I'm only talking about Norton Sound. Really, it's a question.

Benton: Mr. Tillion's comments just is pertinent generally. My motion speaks directly to the concern Mr. Tillion is raising. Under my motion, we'd adopt the three size categories that we had in groundfish and the 20% rule would be within the bounds of those size categories, just exactly like we did it under groundfish in that you could upgrade; if you had a 58' vessel, you could not upgrade to a full 20% because you're cutoff at 60'. Okay? So that's the general issue. Speaking directly to Norton Sound, which is a different situation

Mr. Chairman, the vast majority of the vessels are in the 32' category. There's a couple of vessels in the 58-60', well 58' looks like probably the biggest they get in terms of a vessel that would qualify under a two-year qualification period. Now there's a couple of 40 footers involved. You'd, I think, want to have them subject to the 20% rule.

Lauber: We have a motion before us.

Collinsworth: Thank you. Again, for clarification. The license that is received by an individual, is this essentially an endorsement to fish Norton Sound?

Benton: Correct.

Collinsworth: Is there any way for an individual to convert that to a vessel license? Or is there any way for a person who holds one of these licenses to get other area endorsements and fish in other areas? That's not tied to a vessel? There's probably a nice, clear answer to that but I don't see it.

Benton: I'm not quite understanding what the question is.

Collinsworth: Well, we'd be giving, we'd be providing to certain individuals a, it says "current vessel owners or people who have met this requirement of one landing." So that goes to an individual, not a vessel. Now is there any ability for a person to take that, let's say an individual eventually acquires a vessel, is there a way to convert that individual license to a vessel license? That's one question. And a person that has this individual license, can they buy endorsements in other areas and fish other areas?

Benton: I see what you're saying. Okay. Mr. Chairman, in response to Mr. Collinsworth's question, it would be our intent that for Norton Sound, individuals that qualified under "a" would be able to acquire those as a vessel license in Norton Sound. So what you would wind up with if you used, I think it's 93-94 as the qualifying period, you'd wind up with a total of about 59 vessels involved. So that's, I think, the answer to the first question. The second question is, as I understand it, you're asking whether or not then that becomes a general license that could then be applied elsewhere in the Bering Sea.

Collinsworth: If they purchased endorsements.

Benton: If they purchased endorsements. And the answer to that is no. What we're looking at is a Norton Sound only license. It's a superexclusive area and this license would only apply to Norton Sound.

Behnken: Just so I'm clear, that person has no restrictions. He can buy a general license and endorsement from another area. It's just that he has to have that general license before he buys an endorsement.

Benton: That's correct.

Barker: Is it clear for the record purposes that that middle-size category goes all the way to, but does not include 125 feet because what you said was I think 124.

Benton: The number as I understand it is 125 feet and above.

Barker: And the other one is 60-124.

Benton: That's correct. But I recognize the issue that Dr. Pereyra is probably going to raise because of our concern and discussion yesterday about what 125 does or doesn't mean. I would suggest that what we want to do is, after we get this put together, we need to get with staff and the regulations and clearly spell this out for both programs because we want to be consistent.

Pereyra: The reason, this may be discussed more later on, but the reason why I raised this is because during the moratorium period I know some vessels have upgraded their vessels to where they are now 125 feet six inches so that they are greater than 125 feet, therefore, they qualify for 250 pots. If you use the moratorium date as the controlling or sometime prior to this as the controlling date to establish how they fit into the license limitation program, then they would be in the 60-124' category, in which case, they would not qualify. They would be out a size, so there's a problem there.

Benton: That's why I suggested we get with staff and regulations.

Lindeman: Mr. Chairman, could somebody, there's been a lot of discussion as far as these categories and the 20% rule, but can somebody maybe address the issue in terms of fairness with respect to the 20% rule? Like why is it fair to allow say a 50' vessel to upgrade 20%, but say not a 59' vessel in terms of overcapacity or what the Council is trying to achieve. Can somebody put something on the record on that?

Lauber: Let's let Ms. Behnken do it.

Behnken: I'll take the first stab. I'm sure Mr. Benton will be much more eloquent. I guess for me the reasons for retaining the vessel classes is it is our intent to move a lot of these fisheries to an ITQ program. And looking at the sablefish and halibut program, those were the vessel classes that we used that made sense in terms of adding some flexibility in the buying and selling of ITQs, but still maintain some kind of existing composition of the fleet and prevent an upward migration that would have negative impacts. In retaining those here, we're allowing limited upgrades to people, but maintaining that structure so we'll have consistency with past programs if we move ahead with an ITQ program here. I think the other reasons that have already been put on the record for the 125 is because of the pot limits and how that corresponds to the 125 level.

Benton: The only thing I would add to that is that the 60' bound conforms closely with size categories for vessels like 58' limit seiners which do participate in these fisheries. So I believe that using 60' as another boundary to assist us in controlling fishing power is appropriate and it conforms with a unique characteristic in the fishery and the fleet and is consistent with the kinds of vessels that we see in the fishery presently.

Lauber: I have listened to discussions about this a number of times, about different ways of handling it. There might be other ways, but fishing power, obviously engine power, this type of thing - we've had discussions about tonnage and that type of thing and all of these are very difficult to ascertain. Also, 20% has been a figure that was arrived at, I believe, considering allowing people to upgrade for a number of reasons, but certainly safety was one of them, but not allowing them to substantially increase their fishing capacity, or power, or whatever. These aren't exact, nor are they arbitrary, but they were I think, after a lot of discussion many different times, the 20% seemed to be a very fair way of allowing some upgrades for safety, convenience or whatever, but not to substantially increase capacity or fishing power or whatever.

Benton: One additional thought along that line that you spurred in my own mind. We did allow crossovers subject to the moratorium, the revised moratorium, and in that regard the crossover provisions did not - having provisions in them that would contain fishing power there as well. And I think by having consistent size categories between crab and groundfish, we can provide additional controls in either fishery because the two will hopefully be consistent and that will alleviate potential problems of overcapacity or increasing capacity in either one of those fisheries because of deficiencies that I perceive in the moratorium.

Lauber: Maybe we better go back over the motion and make it clear.

Pautzke: The motion that we have before us is for designations to have catcher vessels/catcher processors with vessel length categories of <60', 60-124' and 125 and up with I guess the intent would be some possible adjustments after the staff compares those under various rules we have out. And then going into the AP, they had the 20% moratorium upgrade rules, and then specifically for Norton Sound, vessels that are over 32' can

upgrade the full 20%; vessels that are less than 32' can go up 20%, not to exceed the 32'. That's what I think is the full range of what you had in there.

Lauber: Alright is there any further discussion? Are you ready for the question? Is there any objection to the motion? Hearing none, it passes. We'll take a break until 1:00 p.m., promptly we'll start.

Lauber: Alright, we're back in session. Where are we - Qualifying Periods for crab. We'll try it again. Council come to order. And now we'll move on to Qualifying Periods.

Benton: Somebody's trying to sabotage me because they've tightened the coffee down. Mr. Chairman, I'd like to move, with regard to Qualifying Periods, I'd like to move the AP recommendations. I'll read it, Mr. Chairman.

"Qualifying Periods for a General License Qualifying Period would be 1/1/88 - 6/27/92, with the additional provision that any vessel which crossed over to crab from groundfish under the proposed moratorium would also qualify for a General License. Vessels meeting these requirements would receive endorsements based on landings in the primary Endorsement Qualifying Period of 1/1/92-12/31/94, except Bristol Bay red king crab which will use 1/1/91 - 12/31/94 as Endorsement Qualifying Period (for vessels in the Norton Sound red and blue king crab fisheries and Pribilof red king crab fisheries, the requirements of the GQP will be waived, but must have made landings between 1/1/93 and 12/31/94."

Pereyra or Hegge (?): Second.

Lauber: It's been moved and seconded.

Benton: I'll speak to the motion briefly. This qualifying period, the General Qualifying Period again would reflect the dates that were chosen under groundfish and would reflect the moratorium qualification years, and includes the provisions for crossovers that were included in the revised moratorium. The Endorsement Qualifying Period is the most recent three years, and I think given the testimony we've heard and based upon the analysis we have had presented to us in the supplemental analysis, that using a recent qualifying period is most appropriate. It reflects activities in the fishery that have been ongoing in the most recent period and is superior to using qualifying periods that reach too far back into the fishery and don't necessarily reflect the current fleet or current participants. Mr. Chairman, in that regard, the change to Bristol Bay red king crab to employ 1991 is appropriate because the red king crab fishery in Bristol Bay was closed in 1994, so what this does is it uses the most recent three-year period as well. The waiver for the General Qualifying Period for Norton Sound and Pribilof's red king crab and Norton Sound red and blue is appropriate because of when those fisheries were opened. They were only recently opened in 1993 and 1994.

Lauber: Any additional comments? There was a question about a . . .

Lindeman: The clarification on the crossover to crab from groundfish, is that a crossover as of a particular time?

Benton: As of when, Counselor, I'm sorry.

Lindeman: Is there any date attached with this crossover provision?

Benton: It's subject to the provisions under the moratorium for crossing over.

Pautzke: End of 1994 wasn't it?

Benton: Yes, it ends at 1994.

Lauber: 12/31/94?

Benton: Correct.

Lauber: Any other discussion? Questions? Are you ready for the question? Is there any objection to the motion? Hearing none, it passes. Did you want to address Minimum Landings or anything of that nature?

Benton: I would move the AP recommendations with the following, actually maybe it's just easier to read out what I'm going to do. Mr. Chairman, I would move the following: Minimum Landing Requirements would be one landing for red and blue king crab in the areas specified above, and three landings for brown king crab and for the *opilio/bairdi* license.

Lauber: Is there a second?

Hegge: Second.

Benton: These landings conform with the analysis that we've had performed for us. I think that they reflect different dynamics in the fisheries. The *opilio/bairdi* fisheries and the brown king crab fisheries are unique fisheries and distinct from the red king crab fisheries and blue king crab fisheries. Use of three landings for these are reflective of the difference in those fisheries, brown king crab fisheries in particular, have a fairly discreet group of participants. They have by and large stuck with that fishery; having a landing requirement of less than three would result in undue participation in these fisheries. I think the same can be said for *opilio/bairdi*. There has been public comment that in these two fisheries landings requirements could even go higher. The Council chose not to look at higher landing requirements at the previous Council meeting and I think that these are reflective of the nature of the way these fisheries have been conducted. I also believe that that's true for red king crab and blue king crab in using one landing requirement given the recent participation requirements that we've used under Qualifying Periods.

Lauber: Any further discussion?

Behnken: As I'm not quite prepared to offer an amendment yet, but I have some question about the appropriateness of setting the Adak brown crab at only three landings. From testimony, it sounds to me like that's a fishery where a boat makes a pretty significant investment in that fishery and elects to just target on that fishery and it's a long season that's what they've done, some of them have put in twenty landings in a year. By only requiring three landings, we may be letting in a lot of boats that have much less a commitment to that fishery. I'm wondering, I didn't have a chance to go back through, but if there's any information that would show the difference between the size of the fleet if the landing requirement was five versus three out there?

Brannan: Mr. Chairman, we did not look at any landings requirements above three for Adak brown. I really couldn't provide any additional information at this point in time.

Tillion: A question along the same line. How many vessels would be in under three?

Brannan: There would be 27 vessels in under the 92-94 qualifying period.

Tillion: Adak had a five or six or something like that or else move the years too, as we did for the other, must have fished in 93 and 94 and then you'd have a snapshot of the fleet as it is.

Lauber: What is it under this motion?

Behnken: It's three landings.

Lauber: Three years?

Behnken: Just three landings.

Lauber: No, but he said move it to three years. What was the motion, what years would it be?

Tillion: What I was asking was if you just had those that delivered in '93 and '94, how many vessels would we have?

Brannan: I don't have that information in front of me. I don't know if Ken knows off the top of his head either?

Tillion: Do you know how many vessels operated Adak in the last. . .

Behnken: Could the staff tell me how many boats participated in that fishery in the last year or two?

Tillion: We're looking it up now, Linda. That's 21. That was what, 18 in '93 and 21 in '94.

Lauber: And what would it be with the three landings? You said twenty . . .

Brannan: Twenty-seven.

Lauber: So it's another 8 vessels?

Behnken: Is that 25%?

Benton: One thing that could be considered regarding especially the Adak brown fishery, and this also may be germane to the Dutch Harbor brown, there is a relatively small fleet that fishes there consistently over the years. If we wished to try and reduce these numbers, I could not give you an estimate of how much a reduction exactly it would be, but we could make it three landings in consecutive years. I think that would address some of the concern that I'm hearing Ms. Behnken raise.

Tillion: With no hardship?

Behnken: Thank you, Mr. Chairman. That amendment or anything that brings that down to the fleet [**Tape 48**] that's shown the real commitment to the fishery seems to me to be appropriate. I guess the only question I would have is whether that's supported by the analysis that we have in your eyes, or NOAA GC.

Brannan: We haven't done analysis on that specific option. As we've just heard from ADF&G we know that the maximum number of boats that would be allowed under that configuration would be 18 based on the landings, I believe it was in 1993. I don't have any feel for how much below the 18 vessels it could potentially drop if you required landings in each of three years.

Hegge: I was just curious. We have a different way of looking at a landing in groundfish and I was wondering what you're calling a landing here. Do you do weekly reports and would it be the same way or is it an offload, or how do you determine that?

Brannan: I believe for catcher processors it's a weekly landing and for a catcher vessels it's when they offload. And, there's a separate fish ticket filled out for bairdi or opilio, so they're kept separate.

Lauber: We have a motion on the floor.

Pereyra: I think I'm having some difficulties with the discussion here because, look at the AP's recommendation. The AP recommended two landings and other motions to change that failed that in the AP, and the two landings was fairly strong, 12 to 3. I think they're sending us a pretty strong message and without having a lot of knowledge as to whom we're cutting out and for what reason and so forth, I have some real problems with us being too restrictive. We may be permanently damaging some operators, particularly now with the crab fisheries being in a reduced state, so I don't know, I kind of favor the AP's motion here because it is a strong motion and I think it was based upon obviously a lot of testimony and discussion within the AP and they're probably more qualified than those of us sitting around the table.

Behnken: I guess I would have to concur with Mr. Pereyra. There doesn't seem to be information in front of us to raise it above three, but I do feel comfortable with Mr. Benton's motion, which I believe was to put it at three. It seems to be as far as we can reach to sort of meet the concerns of the people that have that commitment to that fishery, haven't participated in any other ones and see themselves being closed out of other ones but new boats moving into theirs. Maybe that's as far as we go and I would just remind you I didn't put a motion on the table, it's Mr. Benton's motion on . . .

Barker: In lieu of Dr. Pereyra's comments I kind of like to ask staff what the difference is between one crab landing versus two crab landings, as the AP recommended. How many extra vessels are going to be coming in?

Brannan: For red and blue king crab we analyzed one landing; there was also, when we went to a single-species area license, a general Westward Region license as we are referring to it in the document, we saw that that had an impact on mainly small boats in the Pribilof red king crab fishery and the Norton Sound small boat fleet. It's difficult to say exactly what impact that would have. We didn't analyze increasing the number of minimum landings in the red and blue king crab beyond one in any specific alternative, so to give you an exact number I certainly couldn't do that.

Pereyra: I don't see where we have any real basis to base our decision here. We have analysis before us that shows at one and now we're talking about going to three, and we have a situation like in the red crab fishery where in '94 there was no fishery; the other three years the fishery was limited and what happens if a boat for whatever reason didn't make the fishery, maybe some legitimate break-downs or whatever. They're no longer going to be able to participate in that fishery, and I have a real problem with that. I think that two is a more appropriate number so I'm not going to be able to support the motion.

Benton: Actually, I guess I'd have to differ with Dr. Pereyra in that we really have no analysis of two landings, but we do have an analysis of one and if we are going to use the best available information in front of us, then that's the best available information that we have. And, if we were to move to two landings we will not be able to understand the ramifications of that because we haven't analyzed. Clearly, we would understand that it would result in some unknown reduction in the fishery, but we don't know what that reduction would be. I can say that some preliminary information that I have, at least with regard to the red king crab fishery, because of the year change, not because of the landings requirement, because of the year change that we would have an increase of two catcher processors over what we would have had if we went with the other. '92 to '94, we'd have 25; '91 to '94 we'd have 27, but that has to do with the year change.

Behnken: I was just going to . . . from the way I'm reading this, page 8, the preferred alternative, actually Mr. Pereyra, that we'd selected at the last meeting was one for red or blue and three for brown, so I think it's pretty well within the scope of the analysis.

Pereyra: I stand corrected. I thought you were talking about having three in red and blue.

Benton: No, sorry.

Pereyra: O.K., my comments were not appropriate, then. One, then.

Lauber: One. All right, ready for the question? Review the motion so we make sure they understand.

Pautzke: Minimum landings requirement would be one landing for blue king crab and red king crab and three landings for brown king crab and for *opilio-bairdi* combined.

Lauber: Is there any objection to the motion now? Hearing none, it passes. O.K., Who May Purchase Licenses.

Benton: Mr. Chairman, you're going to start calling me Mr. Mace in a little while. . . . I'd move the AP recommendation. That would be that licenses may be transferred only to persons defined as those eligible to document a fishing vessel under Chapter 121, Title 46 U.S. Code.

Samuelsen: Second.

Benton: This is a similar requirement that we had under groundfish, this is a requirement that NOAA General Counsel has identified for us through numerous opinions as being appropriate and I think that the analysis has shown this to be the case and the discussion has shown this to be the case, and that's why I would support this recommendation.

Lauber: Ready for the question? Any objection to the motion? Hearing none, it passes. Vessel License Linkages is next.

Mace: I think that Dave is doing a good job in firming up the record and so I defer to you in this, you're doing an excellent job.

Lauber: We don't want to discourage anyone else should they want to leap in.

Benton: I would move that we adopt the AP recommendation regarding vessel license linkages. That would be that licenses may be transferred without a vessel, i.e., a license may be applied to a vessel other than the one to which the license initially was issued. License transfers are subject to the 20% rule defined in the moratorium and the vessel class designation selected.

Samuelsen: Second.

Benton: This provision is, again, consistent with what we've done in groundfish. It recognizes the opportunity to transfer licenses without a vessel, possibly stack licenses on vessels. It also acknowledges that if a license is transferred to another license that the 20% rule would be applied so that you couldn't apply a license from one vessel to another and exceed that length restriction. That's why I would support this recommendation.

Lauber: Further discussion? Ready for the question?

Hegge: I'd just like a clarification. I guess on a vessel that goes out there will be a vessel license that will have to be on board and then some person, well the person that owns the vessel, will have an additional license but not necessarily be the operator. Do you anticipate, like they do in the IFQ program, additional card holders on those licenses, or how will that work?

Benton: In response to Mr. Hegge, the owner of the vessel may or may not be on board. The license would have to be on board but there would be someone who have a State of Alaska permit card as presently required. That's the way that would work.

Hegge: The reason that I asked that is the vessel doesn't have the endorsement; the license holder has the endorsement that would enable him to be in a particular fishery. If you're tracking this very well it would seem that you'd have to have some method of doing it.

Benton: I guess I don't understand Mr. Hegge's comment. We're awarding licenses to current owners of vessels, but we're licensing vessels. So the license would be aboard the vessel for the areas and with the designations and species, and then there would be whoever was the master of the vessel would have the card to go fish those species.

Hegge: I guess.

Lauber: Any further questions, discussion; ready for the question? Any objection to the motion? None, it passes. Options, Separability.

Benton: The AP here introduced a new concept which I think is going to warrant some discussion by the Council, so I first would move that the crab general license and species endorsements would be non-separable.

Lauber: Is that the same as (#)1, under . . .

Benton: That's while I'm not . . . I couldn't quite follow what the AP was doing, that's why I was . . .

[several people talking at once]

Benton: That is number one, Mr. Chairman, correct.

Lauber: Species area endorsements are non-separable and shall be used as a single block or package. Is there a second to that?

Tillion: Second.

Benton: This conforms to what we had in groundfish with regard to separability. I think it has a lot of utility and it will serve to ensure that we don't have undue movement of capital between fisheries and I think because of that we should adopt this particular provision. The second component of what the AP did, I actually would like ask Beth again, if she's around, to explain what this means and what the rationale was.

Beth Stewart, AP Vice Chair: The AP supported non-severability for groundfish with no difficulty at all. Our goal was to kind of lock up effort and not allow an expanded number of vessels to participate in these fisheries. We had more discussion about that in terms of flexibility with crab and then as we were discussing that we realized that people may qualify for both groundfish and crab and was it a good idea to let them split their groundfish and crab and have a more complete crab package or a full-time crab package and get rid of their groundfish, or get rid of their crab and have a full-time groundfish package where in the past that particular vessel was doing both things so it was spread out. We had a lot of discussion about whether that actually increased effort or not based on the way seasons occur and we weren't terribly certain but we decided that the best way around this was to allow people to sever so that they could make some business decisions, but they had to sever to a vessel that already had a license. What we were really trying to get at was increases in effort and we know that license limitation doesn't solve that particular problem but where it was possible we tried to include items that discouraged increases in effort in any one fishery.

Benton: Beth, see if I understand this correctly. So, in one instance we might have a groundfish vessel that got a license that didn't fish crab, so they've got their groundfish licenses. Similarly we might have a crab vessel that didn't get into groundfish and they've got their crab licenses. Then, we've got vessels that have

both, either because they had done that during the moratorium period or had crossed over during the crossover period, correct? And, really what you're getting at, this deals with those particular vessels that have both and you're saying that those vessels should be able to sever those groundfish and those crab and in part you had to do that because of the structure you chose, which was one umbrella for the North Pacific, is that correct? [affirmative response] And then the idea there was that if they did sever, you don't wind up with any additional effort in the crab fishery because you already that vessel subject to those regulations in the crab fishery and similar to the groundfish fishery, is that correct?

Stewart: I think so. I'm a little tired after . . . and if you see AP members looking really nervous behind me you might want to give me a second to consult.

Lauber: Could you give an example of how that would work, maybe using areas or something? I'm not sure that, . . . I think I understand it, but I'd like to have it kind of drawn out for me.

Benton: You want to try, or you want me to try? You try.

Stewart: We'll let Darrell try.

Brannan: I'll give it a shot. If we assume that a person was fishing, say bairdi and opilio in the Bering Sea and qualified for a crab license, they were also fishing pollock in the Bering Sea and they qualified for both licenses. There was some concern that that person may want to sell their pollock license or just move their pollock license to a separate vessel that they own and be able to fish pollock full time, say during the A season, as well as bairdi instead of having to make a choice between whether to fish bairdi or pollock on that vessel. The other option, what the AP has done is if that person wants to sell that license, say for pollock, they would have to sell it to someone that either already holds a crab license or someone who holds a groundfish license already.

Lauber: Well, why wouldn't that increase effort?

Stewart: I think our particular concern, as I'm recalling this discussion, is for companies that are going to try to spread out what they get as a package between different vessels so that. . .our goal was to not have increase in effort even though you don't have new boats so that boat that was part time is part time . . .

Lauber: I understand that part.

Stewart: And, we thought that this was a least one way to get at that and since it wasn't analyzed because no one ever asked about it before, we don't know whether it does or not.

Lauber: Wouldn't you have a situation, or couldn't you have, that a person was fishing bairdi/opilio, fishing pollock, qualifies for both; but actually they have really switched over and are full time groundfish. . .they're not fishing for bairdi and opilio right now, they're concentrating on pollock. So they sell their license. The buyer, the only person that's going to be interested in it is one that doesn't have one, couldn't fish that fishery. I'm not saying. . .it's certainly the original owner could, and maybe will, but maybe they won't, so it certainly isn't going to reduce effort and stands a substantial chance, I'm not saying it'd be a great amount, but obviously if a person buys it they intend to use it and wouldn't it tend to increase in that scenario the number of vessels that would go out at any given time and fish bairdi/opilio? Am I missing something or not understanding how this works?

Tillion: No, I think you understand exactly how it works. It's obvious that it can result in more vessels. It's obviously if they stay together it can't result in more vessels, it has to stay. So if you want to actually stick to the one that you know is going to have the minimum vessels, why you just make them lump everything they've done under the one vessel they fished, and that's that. They sell it all or none.

Behnken: Under what you're saying, Mr. Tillion, a vessel that had mostly been a groundfish vessel but managed to qualify for a crab license, what I'm understanding. . . well, I guess there's a couple different ways to look at it. Can they sell off their crab to someone, their crab license, to someone who has never before fished crab or groundfish in this area, can a new boat be brought in. And, my understanding is they could be. What the AP did was say no one can buy that license unless they already have history and they have this umbrella license and that's what they were trying to do, was put bigger circle around who can buy.

Tillion: I'm not saying that what you're saying is not true, that was not what I was talking about. If you make them lump it and they have to keep both together as the crab seasons and the groundfish open together you have actually reduced effort.

Behnken: So, what you're saying is, someone qualifies for both, they have to keep both or sell both. If they have two vessels can they have one vessel fish one and one vessel fish the other?

Tillion: If you do, you've increased effort.

Behnken: O.K., so it stays all on one vessel is what you're saying, that license.

Lauber: That is technically the motion that Mr. Benton made.

[several people talking]

Benton: No, no. Right now all I've done is . . . my motion, the one that's on the table right now, strictly deals just with crab licenses, has nothing to do with groundfish licenses or any linkage to groundfish licenses. It simply says that the general license for crab in the Bering Sea and the particular species areas endorsements that you are awarded upon initial allocation, those stay as a package and cannot be separated. They're non-severable, just like what we did with groundfish. And, the reason that I split that up, is because of this discussion about what the relationship then is between your crab license and your groundfish license for vessels that have both. Currently the motion on the floor just has to do with separately with regard to crab licenses.

Lauber: I got 'ya. So, we could pass this motion and then still go ahead and do what the AP wants . . .

Benton: My intention was to take that matter up second but I wanted to get clarification from Beth on what it was.

Lauber: O.K., would there be any harm in getting this out of the way and then moving on to this other issue? All right, apparently there wasn't much interest in discussing this, so why don't we try. . . anyone opposed to the motion? Hearing none, it passes. Now, Mr. Benton, you want to talk about this other one.

Benton: Before I make a motion in this regard I want to ask Counselor a question. Counselor, I'm looking at the AP recommendation; I'm looking at this paragraph that deals with this, and it says the AP recommends that groundfish and crab licenses be treated as two components of a North Pacific umbrella license. An entire crab or groundfish license package may be severed from the NPUL but may only be acquired by a holder of a NPUL within the constraint of the 20% rule. If I understand that correctly, what it's saying to me is that if a person has groundfish and a crab license they can separate those two, but they can only sell them to somebody else who has either a groundfish or a crab license. I don't think this has much to do with vessels as much as it has to do with who gets to receive licenses in the future. That's my reading of it and if that is the case, does that create a closed class? That's my question to Counsel.

Lindeman: I'm not sure right now. I know we've looked at the closed class issue before, like in relation to the ITQ program, but at the top of my head I have to say I can't recall the test exactly, so I'll look at that and let you guys know.

Tillion: The amounts will be a little difficult to tell, but if you allow people to separate their crab from their groundfish it's far too easy for somebody with a very small groundfish allocation to then buy a fairly large crab one, and then you end up with additional crab. If you stick 'em together as they first [**Change to tape 49 -- some comments lost in tape changeover**] . . . that with seasons open simultaneously. If you make people keep what they're eligible for and don't sell it separately, you will have reduced the fleet because they can't fish two places at the same time. There are people with lots of little crab and lots of little groundfish general licenses; you will expand effort if you allow them to subdivide. How much, I couldn't tell you, but there isn't any doubt, any mathematician could tell you you will increase effort.

Pereyra: But, if it's require that the vessel receiving the severed portion of the license also has to be licensed in the North Pacific, then what you've done is you've removed that person from the other fisheries. For example, if a person has a combination groundfish/crab license, sells the crab portion off to a person who's got a groundfish license, then that means that person's a groundfish license; fishing crab would remove him from the groundfish side during the time he's fishing crab. I don't imagine anyone would buy a license unless they intended to use it.

Lauber: Well, the situation, if you didn't it at that. . . I mean, you only fished when he wasn't using his other license.

Tillion: We were so broad in our groundfish ones that there will be many people have very little effort in many areas. They will have a general license. If you think you're holding fleet to the same effort by not holding them combined, you're dreaming. If you want to keep the effort the way it is now, don't let them subdivide anything.

Lindeman: I don't know if this is the right time, but in response to Mr. Benton's question about closed class, I don't think that there's a closed class problem with this as long as Council doesn't say that only initial recipients of these umbrella licenses can ever acquire any more. There'd be someone who could come in and buy an umbrella license, so I don't see a problem with that on the closed class . . .

Fluharty: I'm just wondering, it seems like if you take these combinations of opportunities to upgrade by 20% it seems like, for example, you could have a groundfish license and within that upgrade it 20%, and if you purchase a crab license, would you also be eligible to upgrade 20%. In other words, is there a single upgrade per vessel or are there potentially multiple upgrades per vessel as we have constructed this.

Tillion: I hate to keep beating this, but I'll tell you what, your groundfish boats that crossed over to crab, we now have combined opies and bairdi with a previous motion, the opies season always opens when the groundfish opens, so unless they can sever it they can't really utilize that license; they have to either fish groundfish or that. So, if you allow them to sever it you have added an additional effort to the fishery. Now, if you just had it where initial recipients had to keep the block they received you would at least held effort where it is. Anything that allows subdivision will increase effort.

Mace: I'm still not sure how this is going to shake out and what its impact is going to be on the fishermen. But we have a great population of people out there who have survived by being able to move from one fishery to another. And there's still that interest and I would hope we keep that in mind and not ratchet this down to the point they can't do that.

Behnken: I'm not sure if Clem ever made his speeches in the way of a motion, but from the way I understand what he is saying, a vessel would still have the right to move and the opportunity to move, fish both groundfish and crab, we're just saying they wouldn't be able to sell one off to someone else who would then become a dedicated groundfish boat at the same time they were a dedicated crab vessel. But, they'd still be able to fish both, they just couldn't sell one off.

Tillion: To make this more reasonable so we have something before us, I would make it into the form of a motion that what you receive becomes a block that is not separable, so that you may not sell off your groundfish part while you're fishing crab or your crab part while you're fishing groundfish. If I can get a second I'll address it.

Lauber: A question, what happens if we don't do . . . with the motion that just passed, what happens if we don't do anything. Where are we?

Pautzke: You're going to have a general crab license with endorsements and you're going to have a general groundfish license with endorsements; some people are going to get both, some people are going to get either.

Lauber: . . . they're going to be able to sell them, except as a block.

Pautzke: They're going to be sell them separately except the endorsements within the general license for each one is not separable.

Lauber: So if you don't want to allow that, then Clem's motion is . . . O.K., was there a second? . . . Fails for the lack of a second.

Behnken: I'll second it.

Benton: Could you read the motion again, please?

Pautzke: The motion is to . . . for those people that get both crab and groundfish, it's all non-severable, it stays as a block.

Tillion: Yes, and if I may address that?

Lauber: Did somebody second it this time?

Behnken: I'll second it.

Tillion: In answer to Mr. Mace, this allows those people who versatility is a requisite to survival to be able pick whether they're going to fish crab or whether they're going to fish groundfish or in the cases where seasons don't conflict, to do both, but it does not allow them to sell it separately thus adding another vessel effort to the fleet. You will have a lot more licenses under what we passed previously than you really have good fishing endorsements. So this stops an increase in the fleet without depriving anybody of the opportunities they've exercised in the past.

Pereyra: I can't support the motion for the same reasons that Mr. Mace expressed earlier. And, I think going back to the AP motion provides a degree of protection to maybe satisfy maybe some of Mr. Tillion's concerns in that any sales would be to vessels that already have a license. I think that provides flexibility and yet provides some protection that you're not going to have a whole raft of new vessels coming in, so I think it's more appropriate to go back to the AP motion, so I'm going to vote against it.

Benton: This one's somewhat difficult for me. I can certainly sympathize with the concerns that Mr. Tillion has Mr. Tillion has raised. And I think they are very valid concerns and I think that he in many ways hit the nail right on the head. On the other hand, I could see that a provision like this could provide fairly significant hardships on operations and operators and does cause me some concern to have something that rigid with no flexibility built into it at all. What I'm contemplating is maybe what we should do is something similar to what we did in the IFQ program and what we contemplated at some point when we were talking about licenses and other IFQs, and that is to have a period of time where such transfers were not allowed, or it would be non-separable for a period of time and then allow that separation to occur unless the Council at the

end of that period of time decides to deal with it in another manner. And I'm just sort of raising that as a possibility to see what kind of reaction other Council members might have to that notion.

Lauber: You want me to run around with a straw vote?

Benton: Yeah, I don't know.

Pereyra: This gets pretty complicated when you start to think of it as it goes along. Suppose a person with a groundfish license buys a crab license. Does that mean from that point on that those two are forever combined, or are they then be separated?

[several people talking at once]

Benton: My understanding is, if I understand the motion correctly, it's just those people that are getting it on initial allocation. So we would have, if I understood what the AP was talking about, we'd sort of have these three different groups of folks. They've got either groundfish or either crab, or they've got groundfish and crab and so when they're allocated a groundfish and crab, under Mr. Tillion's motion that stays as a block. And, all I'm saying is maybe if we were to adopt such a block, maybe we'd want to put a fixed period of time on how long that would be in place.

Pereyra: I get kind of frightened when Mr. Tillion is painting a future picture of the world here, so . . .

Tillion: It's very simple. If you want a larger fleet, then don't pass this because you will result in a larger fleet if you don't pass it. How large, I wouldn't even estimate . . . that's looking into people's private business deals, but what I'm saying is if you were doing both now, that's a block. If you weren't doing both now and you buy another block, why that shouldn't be subject to this, but just the initial allocation. Those that are AC-DC stay that way.

Lauber: Any further discussion on Mr. Tillion's motion?

Benton: I'm going to propose an amendment to Mr. Tillion's motion that the non-separability would apply for three years; at the end of the three-year period the Council will have reviewed it and could either extend it or allow it to become separable at that time.

Behnken: I'll second that.

Benton: If I could speak to that just briefly. The reason that I amended the motion, I stated some of my concern just previously. This is going to create a super class of license in vessels; I think that could have a number of unanticipated consequences in the fishery. This provision to have it in place for three years in my mind mimics what we did with regard to leasing in the halibut-sablefish program where we have a provision that says leasing can occur for three years and then it would be subject to such a review. There were a number of reasons that that was adopted in the halibut-sablefish program. They're somewhat, in fact they're considerably different than what we're talking about here but I think the theory is still the same and that is that if you allow certain kinds of provisions for a period of time you get the chance to look at them and see if they're actually working correctly and reviewing the situation then. I think that Mr. Tillion's motion has merit in that one of the intentions of this license limitation effort is to cap the amount of effort that can come into fisheries and I think his motion does that. He spoke to that, I thought, quite well in that you could wind up in a situation where you would replace one vessel with two in the overall the fisheries and that could lead to some problems. I think a three-year period allows some time for the Council to evaluate this. If the license program extends beyond the three-year period that is a mechanism to look at the effects of this particular measure. If the Council decides to go to other forms, as Dr. Collinsworth has referred to it, other forms of rationalization in some or all of the fisheries, then again Mr. Tillion's provision could cause some complications in that regard. A three-year period I think will allow us the latitude to take that into account

and address it as those other forms evolve and move forward. But they don't necessarily lock somebody into something for the long term if the Council and others decide that this is where we want to be. I think putting a limit on the proposal that Mr. Tillion has is advisable and I think three years is a reasonable limit to put on there.

Barker: I guess I've got a problem with that and will speak against it. Through the diligence and opportunity presented to whatever individual gets an endorsement on both the groundfish and the crab side and then is frozen in place for three years but yet somebody with some dollars can go out and buy one and is not so constrained we've created two classes of people that have no equity. If someone was to amend perhaps that anybody acquiring that companion block during that three-year period is frozen there would at least be some equity.

Behnken: I'm not sure I could hear, or maybe I'm confused about the motion, but I thought that these things stayed with the amendment, Mr. Tillion's motion, that it would be sold as a block and stay as a block until the Council chose, or until that three-year review period. Is that what you were thinking, that if someone bought it they could then break it up.

Barker: What I've heard in the discussion here and maybe I've lost track as well, is that a person that's issued both the crab and groundfish side in the luck of the draw here is going to be in a situation where for three years they can't break that block, but yet someone who's issued only a groundfish or a crab, could immediately go and purchase another one and then during that three-year block they're not frozen, they can separate either one of them, so you have an inequity.

Benton: Under Mr. Tillion's motion that inequity would be permanent. And all I'm doing is putting a time certain when it would not be permanent. If I understand your concern, it is that we would have these two classes of people, people that, say have a groundfish license could buy a crab license or sell them or move in and out, and somebody that's just locked in, correct? And, all I'm doing with my amendment would be to make that only for a fixed period of time and then they would be in the same situation. Under Mr. Tillion's main motion it would just be a permanent block.

Tillion: I'm having a great deal of trouble understanding the problem. Actually, I'm not going to object to the sunset clause, I'd like it on this whole mess, but what it really comes down to is the fact that we have some vessels that have recently, due to the generosity of the original moratorium, crossed over and tried it for a little while in this area and then went back to what they were doing. They will end up with two licenses. Do you want those people to be able to bring a boat that has very little participation into it, you know, you're just enlarging the field of those that are going to be participating in it. Until we combine the bairdi and the opilio this wasn't a great problem, but what I can see is there is a great number of boats that didn't do both, they just participated in one but they're going to get both licenses and now you're allowing them to sell that and if you don't think that will result in an increased effort, you're not really looking at it. Now, whether you want my amendment or don't, but if you vote against the amendment what you're saying is I don't mind an increase of effort. It's real simple. If you want to put the sunset on, as I said, I don't care. I'd be happy to sunset this whole mess.

Hegge: This was bound to get controversial as soon as he called it a block. It seems like under this description a person in groundfish that got a Gulf license and a Bering Sea license would also be restrained from selling off either one of those, is that correct?

Benton: Well, that's true under the groundfish program.

Lindeman: This might have been talked about, but, does the Council have data in the analysis or can you get data on what the effect of this kind of a block would be in terms of restricting effort?

Pautzke: Darrell has the number of vessels, don't you, that get both.

Brannan: In terms of restricting effort I really couldn't tell you exactly . . . it seems like when we did the license limitation, we looked at the number of people that would qualify for both a crab and a groundfish license. Out of the 400 and some-odd vessels that would qualify for a crab license, approximately half those also qualified for a groundfish license. So, it's those 200 and some-odd boats that are going to be either frozen or not frozen as block when those licenses are initially issued.

Lauber: We have before us Benton's amendment for the three-year freezing . . . O.K., this is on Benton's amendment to the Tillion motion, which would be a three-year sunset on non-severability. Is there any objection to that? Well, we'll call the roll.

Samuelsen: I've got a question. Now, the way I understand it here, Mr. Chairman, we've got 400 boats that could participate in the fishery and if the Benton amendment passes, in three years possibly if the Council decides not to do away with the restriction, we'd have 200 boats, additional boats entering the fishery?

Brannan: That is possible.

Samuelsen: And, with the main motion, Mr. Tillion's main motion, he wants to lock the 200 boats in place right now. So, if we vote down Mr. Benton's motion . . . [several people talking among themselves]

Pautzke: So, this is on the three-year sunset now, non-severability.

Roll Call:	Mace	No	
	Collinsworth	Yes	
	Pereyra		No
	Samuelsen	No	
	Tillion	No	
	Barker	No	
	Behnken	Yes	
	Benton	Yes	
	Fluharty	Yes	
	Hegge	Yes	
	Lauber	Yes	

Pass.

Lauber: Now we have before us Mr. Tillion's amended motion.

Benton: In supporting the main motion I want to refer to the supplemental analysis for the proposed moratorium for entry of new vessels in the groundfish and crab fisheries. And, in the executive summary, just to make it all brief, with regard to crossovers, the executive summary notes that a primary concern noted in the Secretary's disapproval letter, of the moratorium, was the issue of crossovers, i.e., once qualified on the basis of any fishery a vessel could move to any of the other fisheries covered by the moratorium. The Secretary's letter noted two problems with this. One, allowing crossovers runs counter to the need to cap capacity in fisheries which already have been identified as overcapitalized by the Council. And, two, there's an equity concern that a vessel which participated in one fishery but never in the other could cross over in the other during the moratorium. Now that problem is less of a problem than it was at the time that the original moratorium was put together but I think that the comments in the moratorium supplemental are germane to what we're doing here and that Mr. Tillion's summary of the issue is pertinent. I think that we understand that if we do not adopt some kind of provision like this we could result in overcapacity in some of the fisheries. I think that this will control that problem. adding a fixed period of time to this, I think, makes it manageable and not an inequitable solution and provides us the ability to look at it as we proceed down the CRP journey, as Dr. Pereyra calls it.

Pereyra: I find this discussion rather amusing because as I recall, when we were discussing the whole issue of crossovers in the moratorium we got very perturbed when the Secretary sent this thing back to us. We must be getting religion now, or something, but regard to this amendment, I think we have a mistaken opinion here that in fact this is going to result in automatically 200 new vessels, and that's not the case. Most vessels will retain their dual licenses, obviously because they are combination vessels and that's the way they've operated, that's the reason they have those kinds of licenses. But there could be extenuating circumstances that none of us are able to appreciate or understand at this point in time that provide some flexibility in the fisheries, which I think is the way our fisheries have always operated and I think respects the individuality of the various operators and for them to do what they have to do in order to survive in our changing fisheries, so I can't support the motion.

[several calls for the question]

Lauber: O.K., further discussion? Ready for the question? We're now voting on Mr. Tillion's amended motion which would be a blocked until sunsetted.

Roll call:	Collinsworth	Yes	
	Pereyra		No
	Samuelson	Yes	
	Tillion	Yes	
	Barker	No	
	Behnken	Yes	
	Benton	Yes	
	Fluharty	Yes	
	Hegge	Yes	
	Mace	No	
	Lauber	No	

Pass.

Lauber: O.K., does that do it regarding severability? Vessel replacement and upgrades.

[Break]

Lauber: We're spending more time on breaks and coming in late; we're going to have to shape up here. All right, we finished with severability and we're now on vessel replacement and upgrades.

Benton: I would move that we adopt number 3 from our suite of options, that would be vessels may be replaced or upgraded within the bounds of the vessel length designations and a 20% rule defined in the moratorium proposed rule.

Tillion: Second.

Benton: This is consistent with the provision we adopted under the groundfish program. This would include the vessel length designations and also catcher-catcher processor designations along with that. It allows, again, for the upgrade in accordance with the 20% rule of the moratorium, and it was our preferred option since our previous meeting and actually I think for quite a few meetings now, and I think it's appropriate that we maintain that consistency.

Lauber: Any further discussion? Any objection to the motion? Hearing none, it passes.

Lindeman: A point of clarification, is that then exactly as it was worded under the groundfish part, just for purposes of the record.

[Change to tape 50]

Benton: I believe so, but . . .

Lindeman: Just for purposes of the record.

Pautzke: Is that right, Darrell, is it worded the same?

Benton: Helen, do you now have the groundfish provisions typed up? Do we have them? Darrell?

Brannan: We've got a draft in the office; I think it's pretty much ready to go.

Benton: In answer to Counselor's question, it would be my intent that they be the same; I don't have the language that we adopted under groundfish, exactly.

Lauber: Well, it's. . . vessels may be. . . somebody read along with this. . . it says vessels may be replaced or upgraded within the bounds of the vessel length designation and the 20% rule defined in the moratorium proposed rule. Is that it?

Benton: That's correct. And for further clarifications, Mr. Chairman, that includes also the catcher, catcher/processor designations with those lengths attached.

Lauber: O.K. , further discussion. We already passed it, didn't we, then the Counselor asked the question. O.K., now we have license ownership caps as the next agenda item.

Benton: I move that we adopt license ownership caps consistent with our groundfish program, the language would be "no more than 5 general licenses per person with grandfather provisions."

Behnken: Second.

Benton: Again, this is consistent with what we adopted under the groundfish plan, and the intent here, again, is to provide a mechanism to address national standard four and not to allow for excessive ownership share, recognizes that there are persons and corporations that will receive more than these 5 general licenses, or may receive more than these 5 general licenses in order to not result in takings; of course, they were grandfathered in but it does put a cap on those folks and they would not be able to buy additional licenses until they went below the 5.

Lauber: I note in the typed-up version of the groundfish, it doesn't mention grandfathering, but my recollection is that that was also included in that, it just was I'm sure an oversight on the . . .

Mace: I guess I'd have to ask the rationale for 5 rather than, 4, 3, or 20. Is it an arbitrary number that we picked out of a hat here, or . . .

Tillion: I suggest, Mr. Mace, that you're reaching into the air for a lot of things. You're allowed to be a moderate tycoon, not a big one.

Lauber: Someone else responding to Mr. Mace? Mr. Benton.

Benton: In the analysis dated March 9, we have some tables and figures that show distribution of current vessel owners and licenses and if you look at Figure 2.2.1. in the March 9th document you can see that predominantly it is one license, one owner, but that there are individuals, or persons, that span all the way out to five and that generally, then, would encompass the universe as we know it now in terms of ownership distribution. This is under one of the options that we have currently before us, and so I chose 5 because of

this information and public testimony. We did have significant amounts of public testimony that were concerned about excessive share at one point, and number 5, I believe, was our preferred alternative since at least the April meeting and maybe perhaps before the April meeting, I can't recall.

Mace: Well, Mr. Chairman, I'm simply asking the question for the record.

Benton: And I appreciate that.

Lauber: I think that the other reasons and so forth were used as justification for the groundfish apply equally to the crab caps?

Benton: That is correct, Mr. Chairman.

Lauber: Is there any further discussion? Any objection to the motion? Hearing none, it passes. O.K., Vessel Designation Limits. I believe we only had one option.

Pautzke: The designation limits, you may want to refresh yourself with what we did under groundfish because of the catcher processor to catcher vessel gate that we put in.

Behnken: I'll move the #1 that's there and add on what we added to groundfish, which was that a catcher - processor may deliver product, either processed or unprocessed, which was the "Hegge" amendment.

Hegge: Second.

Pautzke: The last two sentences in the groundfish one, . . .about. . .

Lauber: That if the vessel qualifies as a catcher processor only it may select a one-time conversion to catcher vessel, though a catcher processor may operate in either mode. If a vessel qualifies as a catcher vessel only it is restricted to operate as a catcher vessel?

Behnken: Yes, Mr. Chairman, I'm including all of that in my motion, making it consistent with groundfish. I guess I'm . . .

Lauber: I understood that, I just wanted to make it clear. All right. Is there further discussion? Mr. Benton.

Benton: I think that Ms. Behnken's motion is appropriate, does make it consistent with our groundfish provision, with one exception. The exception is that under groundfish we extended the period for how you make this basis on activities from 1/1/94 to 6/15/95. The AP, for crab, recommended that it would be based on activities during most recent year participation and I note that the AP recommended this period of 1/1/94 to 6/15/95 for groundfish but not for crab and I think it's appropriate because of the differences between the groundfish and crab fisheries that we stick with the AP recommendation and use their recommendation that these activities be during the most recent years of participation through '94 for crab and use the other designation for groundfish.

Lauber: Was that in your motion, Ms. Behnken?

Behnken: To use '94?, Yes, it was.

Lauber: Any further discussion. Ready for the question? Any objection to the motion; hearing none, it passes.

Benton: Maybe I'm jumping ahead; I was going to move on to buyback and retirement programs.

Lauber: That's next.

Benton: I would move that we delete all references from this program to buyback and license retirement programs at this time.

?: Second.

Benton: Speaking to the motion, reflecting back on our discussions yesterday this does not imply that if at some future date if we received authorizations to proceed with such a program that we would not entertain that; there may be some utility in having such a program, but I believe at the present time that we don't have a mechanism to execute such a program so that we shouldn't refer to it any longer.

Lindeman: Just a point of clarification. Right now the Magnuson Act, some of the discussion this morning was that that the Magnuson Act did not allow or authorize a buyback program. There's nothing in the Magnuson Act that prohibits a buyback program, but that would subject to the Secretary having the funding and stuff to do it.

Lauber: If I understand you correctly, there's nothing. . .

Lindeman: The Magnuson Act at this time doesn't prohibit a buyback program.

Tillion: It's silent on it, is it not?

Lindeman: Correct.

Tillion: Let's stay silent.

Lauber: What's that now?

Pautzke: The Magnuson Act doesn't prohibit a buyback program if we so choose.

Lauber: Oh, Right.

Lindeman: That's all I'm saying.

Pautzke: That's what they're doing in New England right now.

Lauber: So, they got around somehow about the collecting more money than just the administrative costs.

Lindeman: Well, they're doing a buyback program on the West Coast right now.

Tillion: Where are they getting the money?

Lauber: Yeah, where's the money come from?

Lindeman: Joe Terry can . . .

[several people talking; couldn't hear Mr. Terry who probably was not at the microphone]

Pautzke: Disaster relief.

Lauber: In other words, if you can convince somebody to give you the money and the Council, but it would be prohibited to Council to pass a buyback program that says everyone would be assessed 2% of their thing to go into a fund for buyback.

Lindeman: Right, Mr. Chairman.

Tillion: That's pretty close to being prohibited.

Lauber: I understand. If the Rockefeller Foundation wants to buy a bunch of licenses out and retire them, nothing obviously would prohibit that.

Mace: Or, if the industry itself wanted to buy back . . . I have a question, and don't want to beat this dead horse too much more, but the minutes of the AP say, "However, a buyback program may be necessary at some future date," and that sort of implies that they think or there's some discussion of the fact that the Council would make this decision at some future date. I don't know, I'd like to know what . . .

Tillion: In answer to Mr. Mace, Congress is chewing this over at this time. The Magnuson reauthorization tells us to do something, we're not picking a fight with Congress. At this time they're silent on it and the motion keeps us silent on it and I think that's a very wise motion.

Lauber: Well, the options that we had analyzed, at least the one with an industry-funded buyback program that would be mandated by the Council in this plan, is not legal. So, the motion would not prohibit industry from getting together and doing whatever they wanted to do on their own and obviously if Congress mandates something we'll respond too. O.K., is there any further discussion, which is there would be no further reference to buyback in this document. Is there any objection to the motion? Hearing none, there will be no reference to buyback. We'll move now to the two-tiered skipper license program.

Benton: I move the AP recommendation on a two-tiered skipper license program.

Behnken: Second.

Benton: That recommendation is to not implement a two-tiered skipper licensing program; recommend this program be deleted from the license limitation package but also recommends that there could be a proposal prepared by Skippers for Equitable Access that could be looked at by the Council on its own time frame if so desired. This is consistent with what we've done on groundfish.

Lauber: I believe there's some reference to that in #4 in the Other Provisions. Has that moved and seconded? [affirmative] Is there any further discussion?

Behnken: The AP recommendation included the words, "The Council would prefer this timeline parallel license limitation, and I would just ask if that's the intent of the maker of the motion.

Benton: I'm not sure we have a full proposal that's been prepared for us and I don't think we can put it on a parallel time frame, but my intention is that if we did have such a proposal and when the Council decided that it was appropriate to consider it we certainly would.

Lauber: O.K., any further discussion? Is there any objection to the motion? Hearing none, it passes. Community Development Quotas.

Benton: I would move that the Council adopt 7.5% for all GHs for CDQs patterned after the current program. It's item #3 of the suite of options that we have.

Samuelsen: Second.

Lauber: Is there any further discussion?

Benton: I just want to speak very briefly to this. This percentage mirrors what we've done in groundfish and I think that the percentage is appropriate. Again, 10 and 15% were excessive for a CDQ program in my view and the State's position is that it would not have provided any additional measurable benefits over and above the 7.5% in terms of the goals and objectives of the CDQ program, similarly no CDQ allocations and a 3% allocation would not allow for the diversification that we believe is necessary with regard to CDQs and 7.5% will help us achieve that goal for diversification. I would like to point out that if these two programs are adopted, both for crab and groundfish, the pollock CDQs will be going away in 3 years, this addition allows for diversification of the CDQ fisheries and will, I think, allow us to ensure that the benefits to the communities that we are trying to promote will occur and should certainly further the goals of the CDQ program.

Mace: I need to rise to the (?) again on this. Here we're dealing with some stocks that, to my knowledge at least, are not in very good shape. The industry is unsettled, suffered some serious losses and dislocations and now we are in effect proposing an IFQ program and I just have some real problems with it. I don't think it's fair and equitable; I think with respect to groundfish there may be more logic in that arena than in this one, but with the stocks of crab that we have and the problems that we have, introducing this element and in effect a property right on a quota, is improper action on the part of this Council.

Barker: I'd like to echo Mr. Mace's comments. We've already heard through the testimony that some of these stocks are so small and the effort so high that the State can't even authorize a fishery on them for fear of overfishing them, and we'd give more stock away right off the top. This will exacerbate the olympic style race for these crab, even under this program we're talking about now so I don't see where this helps the situation any.

Collinsworth: My question is more to the point of implementation. The guideline harvest levels are generally defined as ranges, not quotas, and the Department of Fish and Game, while it establishes the guideline harvest levels and perhaps a mid-point target, adjusts the fishery inseason and frequently the guideline harvest levels are not achieved, and I don't know how you would administer a quota out of a guideline harvest level.

Benton: We've had a fair amount of discussion within the State regarding this matter and we recognize the difficult that Mr. Collinsworth has identified. Our intention, if this adopted, that again what we would do is work with the CDQ groups to develop fishing plans for their particular allocation. As part of those fishing plans what we would envision is that a fishery that occurred on only a portion of that allocation and then the regular fishery would occur and then the clean-up of the CDQ allocation would possibly occur at the end of that period. That's one mechanism we'd talked about. There may be other mechanisms that could be employed, but I think that the way that we would envision doing this is that we would come up with a fishing plan with these groups that would be part of the approval process by the Secretary when the State makes its recommendations on how to implement the crab CDP, and we would be paying particular attention to how this might operate. And, I would point out that this in some ways provides us with a way to test different management approaches to stocks that are managed under guideline harvest levels with some kind of quotas as opposed to an open access fishery under very controlled conditions. A CDQ program, as most everyone knows, is not an ITQ program; the individual choices are removed from that and the fishing is generally very controlled and subject to new and different kinds of regulations and implementing mechanisms. That is why, for example, the pollock CDQ program was able to move forward quickly with unique measures that were voluntarily employed by the groups to control bycatch, improve monitoring, such as using two observers, catch measurement such as bins on the vessels, and the like. And much like we discussed yesterday with regard to certain groundfish species and bycatch and waste and trying to employ measures that would reduce bycatch and waste in certain groundfish fisheries and using the CDQ program as a test case for those kinds of measures I think that that's how we would view the crab program as well. And I'd like to refer to Mr. Barker's comments because the State would share those concerns about the smaller fisheries. Clearly in that instance we would envision that the CDQ groups would have to work closely with present participants in the

fishery; we don't want to increase effort in those fisheries and result in any management or conservation problems. So we're going to have to work very closely with industry and with the groups to make this kind of program operable for crab.

Mace: Maybe someone can answer this. I'm sort of interested in how these crab are going to be harvested. Are they groups, do they have the equipment to do this? If they do, why aren't they doing it now, or are they going to contract this out as they have with the pollock allocation?

Benton: Most of the CDQ groups, well, all of the CDQ groups, did not exist before the implementation of the pollock CDQ program and I would say that with the exception of one group which has just recently gotten into a longliner, none of the groups would have the capability to get into a significant offshore crab fishery at the present time. The way the CDQ program has worked in the past and the way that we would envision it working in the future is for these organizations to seek out partners in industry to work on joint venture operations that benefit both the partner and the CDQ organization and the harvest of those resources and thereby using that partner's expertise learn how to operate in these different fisheries, get their people employed in these fisheries, get the expertise to operate those kind of vessels in those kinds of operations. Presently I would say that most of those folks out there in Western Alaska don't have that capability and this program, it's intent was to bring them into these kinds of fisheries with the skills they need to participate.

Lauber: Any further discussion? Mr. Samuelsen.

Samuelsen: I can share the concerns of Mr. Barker and Mr. Mace. We do have conservation problems with a number of our crab stocks, however I would also like to note that the exvessel values of the crab fishery last year was in the range of \$260 and \$290 million. We do have healthy crab stocks out there. I think this would complete the goals and objectives of this Council when they first set up the pollock CDQ program. They wanted to bring the 56 communities in Western Alaska into the Bering Sea fisheries and to have those communities participate. We developed the pollock, we've developed the halibut/sablefish program, we developed the groundfish program, now we're voting on the crab program. There's many demands in Western Alaska. In the 1990 census, 35% of the population of these 56 villages was below the age of 16; those people are coming of age, have come of age, and we've heard public testimony about the unemployment numbers and the devastation that it rains on the social lifestyle in these villages. High suicide rates, low birth rates, a number of things. The median income for the 56 villages is \$8,000, compared with the rest of the state, \$17,000. Thirty percent of these villages, we've had written testimony provided to us, 30% of these village residents live below the poverty level. Most of them rely on a subsistence-based economy which, we've had public testimony on, demands dollars to participate in nowadays for the use of buying outboards or whatever. Unemployment numbers are roughly 22% for young males **[change to tape 51]** and about 17% for young females. So far the benefits of the CDQ program have been hailed by this Council, have been hailed by a Congressional delegation, a State delegation, and CDQ groups as well as participants in the fishery. To date 6.7% of all community residents over the age 16 have benefited in some form from the CDQ groups in the line of training. We're getting a force out there in Western Alaska that's going to be able to meet the expectations of the community development program. So I feel that the Council has come full cycle in what it started out to do three years ago, to develop a community development program that will be vertically integrated within the fisheries of the Bering Sea. I'll be voting for the motion.

Lauber: Discussion? Ready for the question? Call the roll.

Roll call:	Pereyra	abstain
	Samuelsen	Yes
	Tillion	Yes
	Barker	No
	Behnken	Yes
	Benton	Yes
	Fluharty	Yes

Hegge	Yes
Mace	No
Collinsworth	No
Lauber	Yes

Pass

Benton: Before we leave the CDQ issue, I have another motion I'd like to make. I would move that the Council would adopt a provision that would prohibit the harvest and processing of CDQ crab from catcher-processors.

Mace: I missed that.

Benton: I'll repeat my motion. My motion is that we would prohibit the harvesting and processing of CDQ crab from catcher-processors.

Samuelson: Second.

Benton: The intent of my motion is that we would not increase the number of catcher-processors in the Bering Sea crab fisheries. The State of Alaska is very concerned about the effect of increased catcher-processor capacity in these fisheries that could result in additional capacity problems that we're really trying to avoid here. We would not want to encourage a situation where we'd wind up having increased catcher-processors become active in the fisheries because of the CDQ program. I think this allows for the prosecution of the CDQ fisheries in a manner that will not result in those kinds of problems and still allow for the use and development of the crab resources in this program for the betterment of these communities and for the intent and purposes of the CDQ operations. I need to clarify, too, that I do not intend to say that a catcher-processor couldn't harvest the CDQ product, but they would not be able to process it on board; they'd be operating, as we've already said in our provisions, that for other things CPs could deliver fresh product somewhere else if they wanted to.

Mace: It seems to me that is CDQ program is intended to get the biggest bang for the buck, for the CDQ groups and if catcher processors, and I'm not arguing one side or the other, are more efficient and can run further and hit isolated stocks for example that catcher boats can't deliver on shore in a reasonable run, this might be the proper way to go. If we are in fact looking for the maximum amount of money that we can get from this allocation to the CDQ groups. And so why are we getting involved in business arrangements? We didn't do it with the groundfish, did we? So, I just have that question.

Benton: Mr. Mace, remember that under the moratorium rules that we've adopted which would apply throughout this program. One of those is that the CDQ groups would be allowed to perhaps build additional vessels and I, for one, am not interested in seeing 120-ft catcher processors come out of this inadvertently. That's part of why I made my proposals.

Lindeman: Could someone possibly address. . .from the discussion under groundfish, the exemption for the new vessels entering, new vessels being constructed for a CDQ fishery, the discussion was that that would not increase capacity, etc., in the groundfish fishery, so how does that rationale differ from what you're proposing here?

Benton: There's, I believe, a very fundamental difference between the groundfish and crab fisheries and in this regard for the crab fisheries, introduction of new CPs brings in an enormous amount of fishing power in just one or two vessels. And, for us to allow that to occur especially when we're dealing in some fisheries here that are fairly small stocks, relatively speaking, and are discreet fisheries, we don't want to encourage that kind of activity. That's different than in the groundfish fishery. We have much larger stocks and much more flexibility within the fisheries to operate. Crab fisheries are just fundamentally different. We have

attempted to limit catcher processors in the crab fisheries considerably. We've not done quite that much in groundfish fisheries, so the capacity problem as I see it really has to do with the crab fisheries and the unique nature of crab fisheries and doesn't really have much to do with groundfish.

Pereyra: I feel compelled to say a few words about this particular motion because I used to be an unfortunate partner in a crab catcher processor at one time and with the limits we have presently on the CDQ communities of 125 ft., unless there's some technology out there that I'm totally unaware of, I don't think you're going to see any 125 ft. and less crab catcher processors coming along. So the idea that somehow this is going to bring new capacity into the fleet, I just don't see that. I think what will happen is if the CDQ communities decided that that was the way in which they could get the greatest gain for whatever reason, jobs or whatever, through involving a crab catcher processor, they would go ahead and use some of the existing fleet. So I think that argument is not so strong, there may be some other arguments that justify the motion but I don't think that one, at least based on my experience.

Tillion: In answer to Lisa, crab processors are a nightmare for enforcement. They're an expensive item to take care of. We get much more accurate when you're giving a quota here and the rest of them are operating on seasons with a guideline harvest. We have to make sure that the harvest stays actually at what was allocated to the CDQ and therefore for decent monitoring we're going to have to be able to look at every individual crab and make sure it's the right size before it gets processed. The big fear in crab, of course, is you can be a 1/16 of an inch under or 1/2 an inch under and make great gobs of money and if you're averaging out amounts of weight to find out how many crab you took you're getting into a real nightmare. It's just much simpler when you're giving a CDQ amount, and I don't know if the State wants to mention this so I'm doing it strictly on my own, but when you're giving a CDQ amount, a fixed amount in what otherwise is a guideline harvest fishery you want to make sure it doesn't go over. You want to really be able to look at each and every animal and that is one of the advantages of taking them to someplace that you have somebody to monitor as they're offloaded, measured and weighed. And, this is totally different from a groundfishery where you couldn't require something like this in many cases because of the fact that you're harvesting species that need to be handled right away.

Barker: I find some flaws in the logic here. We've got an observation requirement on these vessels and I know that catcher vessels versus catcher processors probably don't suffer the same kinds of deadloss products 'cause they're processed right away, so I find that forcing it all into catcher vessels and not a free market system and actually increase the amount of handling mortality.

Lauber: O.K., further discussion?

Fluharty: It seems like this is coming without a whole lot of help from analysis. I'm not sure exactly what we're voting on and why. The points that have been made here about...the choice is really within the CDQ community and program about what kind of gear and types of approach to use and I think it would be inappropriate for us to presume that we know what's going to be best in this Council process or to lock the program into something with an opportunity that really is good. This might mean, it might be that you want to develop processing onshore, that might be an objective, if so it should be stated. I think that we shouldn't be doing things in the dark at this Council meeting. I think we should know what it is that we're trying to achieve with this and right now I don't know.

Behnken: Briefly, from my understanding of the mission of the CDQ program it was to develop infrastructure for processing and transportation, harvesting of product out of those Western Alaska communities and while this is a new idea of requiring that to all come onshore, and pretty dramatic, it does seem like it's in line with that mission originally with the CDQ program.

Pereyra: If it's considered to be a laudable objective to bring about some development onshore of some sort to handle crab I would think that that could be something that the State could identify in their criteria for approving or disapproving allocation of the 7.5% to the various communities. So if some community was

not meeting those guidelines they might not find very much crab on their plate and maybe that's not something the Council should get involved with; maybe that's something the State should be involved in their overall looking at the CDQ program itself, and take the Council out of it.

Benton: Certainly the State has that ability under the present structure of the CDQ regulations and the program and I wanted to signal our intent very clearly. It really does come from a concern over how best to manage the crab resource and the State has been very concerned for a long period of time over the impact of catcher processors in these fisheries and I think the State's intention is to be very reluctant to see catcher processors involved in a CDQ crab fishery and I wanted to make that clear. I thought it was also something that the Council could at least have the opportunity to present its views on and so that's why I made my motion. There's nothing in the dark about what I'm really trying to do on this; it really does have to do with the fact that from a management perspective from our experience it's better to try and minimize the number of catcher processors in the fishery because it helps run the fishery much better.

Lauber: Any further discussion?

Pautzke: I guess the only comment I'd make, Mr. Chairman, is that on the face of it it appears to be a de facto inshore-offshore allocation here, and that that is, I think, beyond the scope of what we have in our analysis. I don't think that this particular decision has to be made right now. I think we're three years out, or two years out, from having a license limitation in place that would engage the CDQ program and all that stuff, it may be 1998 or so, so you could certainly take this little portion here, just so you don't get a technical called on you, you could certainly make a decision on that portion of it, which is an operations portion, some time later on. From my standpoint, I don't think we've discussed this in the document; this is kind of stretching it as far as the borderline technical being within or without the boundaries of the document.

Hegge: I can't support it. I think some of the comments have already been made, but I've seen a number of cases where a deadloss occurs and I think we'd be encouraging such a thing. More than that, I don't think we really realize the impact we'd put on the crab fishermen, the open market fishery, and I think that every one of them is going to need the opportunity to maybe participate in these CDQ fisheries because they don't have the option or any more the luxury of going cod fishing or anything else unless they already have that permit and many of them are already on the brink of disaster, so I want to keep at least this opportunity open for them.

Benton: Given the discussion around the table, with the concurrence of my second, I'm tempted to withdraw my motion. I think it should stand, though, that it is clearly the State's intention to look at these allocations and these CDQ applications very hard and that we would take a very hard look at whether or not they would consist of the use of catcher processors in a CDQ crab operation. So, with the concurrence of my second I'll withdraw my motion.

Lauber: Without objection, the motion is withdrawn. Is there anything further under CDQs? Now, can we move to the "Other Provisions" section.

Benton: I would move under "Other Provisions" items 1-7 that were recommended by the AP. If you want, I'll read those.

Lauber: Go ahead.

Benton: Item #1 is: Licenses represent a use privilege. The Council may convert the license program to an IFQ program or otherwise alter or rescind the program without compensation to license holders.

Item #2: Severe penalties may be invoked for failure to comply with conditions of the license.

Item #3: Licenses may be suspended or revoked for serious and/or multiple violations. The Council recommends NMFS Enforcement consult with the Coalition for Stability in Marine Financing to address their concerns over license revocation.

Item #4 : Implement a Skipper Reporting System which requires crab license holders to report skipper names, address, and service records to NMFS.

Item #5: An analysis of the impact of various rent collection levels and mechanisms, and enforcement and program implementation costs is required.

Item #6: No future super-exclusive areas will be proposed.

Item #7: Vessels which qualified for the NPFMC license limitation program that have been lost or destroyed are still eligible to receive earned licenses and endorsements, subject to the rules and conditions outlined in this program.

Behnken: Second.

Lauber: Further discussion?

Lindeman: Number 6, no future super-exclusive areas will be proposed; is that just an expression of Council intent, or is the Council's intent to bind themselves to future consideration, and I don't know that there's been analysis of that, that the Council could make that. . .that kind of a determination would be supported in the record.

Benton: That, I believe, is an expression of Council intent, Counselor, not a plan amendment provision. It'd just be an expression of Council intent; we're not intending to do this. If at some future of course the Council did intend to do this, they'd have an analysis and amend the plan to do it.

Lindeman: Is that looked at in the record, as far as analyzed, so that whatever problems the Council might encounter later that a super-exclusive would not be a management measure?

Pautzke: Haven't we already expressed that intent when we did the Norton Sound one?

Lauber: We did, I believe, state that and there was also some statements to the effect that under a vessel licensing system with the type of system we have with various area designations, that this would significantly reduce the need for such things. They may not be super-exclusive, but they're certainly limiting, that type of thing was reasoned. Again, I agree with you that we can't predict what would happen in the future, but it's highly unlikely; that if we do this we would not have to have more super-exclusive areas. And, as Dr. Pautzke says, it would be very difficult to analyze.

Tillion: In answer to the Counselor, I'm very pleased at this time that you raised it. If the State was to move on a super-exclusive area I would not consider bound in my vote by an action taken today on this. It's merely advisory; there might very well be times that we, like we did in Norton Sound, need a super-exclusive area, be it at Adak, or round the Pribilof Islands, and in the future I don't consider that any of this binds us. Once a different member has been sworn in on this Council it's a new Council and we're free to act as we see fit.

Lauber: Wasn't it during your tenure with the State that the State came forward and stated there would be no more super-exclusive . . .

Tillion: No, at this time the State has no intention of instituting exclusive. . .on the other hand, I said I will not be bound that we will not do so in the future. . . [miscellaneous comments by others]. . .it really doesn't make much difference; we got the one we wanted and if we want another one, we'll go for that, too.

Lauber: Is there any further discussion on the "Other Provisions," 1-7?

Hegge: I don't know if this needs to be in there. In our IFQ program we had a section on transferability that included leasing or prohibiting it. It seems like we're silent on it here. If we don't intend that these be leased or be allowed to, I should, I would think, mention it here or address it somehow.

Benton: I did not have a motion on that, but if we wanted to entertain that we could certainly do that after we deal with these. There are a couple of other general provisions I need to be addressed as well.

Lauber: Let's take 1-7 and if we need this one we can add it as 8 or some other provision. Any further discussion on 1-7? There any objection to the motion? Hearing none, they are adopted. Are there any other provisions that you'd like.

Fluharty: Did we already take care of the community development license portion?

Pautzke: We're not doing a license for CDQs.

Fluharty: So we don't need to vote on that. [No]

Benton: I believe the Council chose its preferred alternative at the last meeting of no community development licenses, so I think we've sort of already done that. Under the groundfish program we adopted a couple of other general provisions to deal with some special cases. Some of those I think are applicable to the crab program as well, some are not. With your concurrence, Mr. Chairman, I would propose that we add now, #8, general provision . . .

Lauber: These will be found in the groundfish draft which was passed out, on page 3.

Benton: Is that the one with the "2:55 p.m." time on it? [affirmative] I'm looking at my notes on what we did on groundfish, and the ones typed up here aren't exactly the ones I read off of, so I'm going read off my notes what my other one was, but we can work that out: I would move a #8. This would deal with lost vessels.

Item 8: Vessels which qualified under the moratorium and were lost, damaged, or otherwise out of the fishery due to factors beyond the control of the owner, and which were replaced or otherwise reentered the fisheries in accordance with the moratorium rules and which made a landing in a fishery any time between the time the vessel left the fishery and the date of final Council action on the crab license program, will be qualified for a general crab license and area/species endorsement for that fishery.

Pereyra: Second.

Benton: This was the motion that I made yesterday for groundfish. I modified it slightly to apply to crab. We have heard public testimony about vessels that have operated. . .they were qualified under the moratorium, they were allowed to be replaced under the rules of the moratorium, they were replaced in accordance with the rules of the moratorium, and they just very recently came into the fisheries again and started participating, all in accordance with the rules of the moratorium. But because of the qualifying periods that we've chosen they would not be able to get a species/area endorsement, so they would be precluded from participating in the fisheries. This provision would address that problem and similar to the kinds of problems we heard about in the groundfish fishery. This is consistent with what we've done in the groundfish fishery; it deals with specific instances that have been brought to our attention in public comment.

Lauber: Any further discussion? Ready for the question? Any objection to the motion? Hearing none, it passes.

Benton: I'm looking now at our typed up sheet from our groundfish program, the time on it is 2:55 p.m., it's the draft staff provided to us. Mr. Chairman, I would move the following:

Item 9: The CDQ vessel exemption included in the Moratorium, will continue [**change to tape 52--
entire motion lost in tape transfer: the following is from the groundfish motion, with
"crab" inserted for "groundfish"**] under the Crab License Limitation Program. This exemption allows vessels <125' obtained under an approved CDQ plan to participate in both CDQ and non-CDQ fisheries. If the vessel is sold to an interest outside the CDQ plan, the vessel will no longer be exempt from the requirements of the license program.

Pereyra: Second.

Benton: As with groundfish, this continues the rules under the moratorium for the CDQ program under crab. It would allow these vessels only to participate in the CDQ crab fisheries and I think that it's appropriate that we keep this provision in here in order to maintain consistency with the groundfish program and to further the goals and objectives of the CDQ program.

Lauber: Further discussion? Ready for the question? Any objection to the motion? Hearing none, it passes. Are there any other under this agenda item. All right.

Pautzke: We took care of the sunset, did we?

Lauber: No, we did not. We're now moving to the next agenda item which is sunset provision.

Mace: I move No Sunset.

Lauber: Mr. Mace has moved #1, No Sunset. Is there a second?

?: Second that.

Lauber: Discussion? I assume the same debate and so forth would apply in crab as it did in groundfish. Is there any objection to the motion?

Tillion: There is.

Lauber: O.K., call the roll; we're voting on no sunset provision on crab.

Roll call:	Samuelson	Yes	
	Tillion	No	
	Barker	No	
	Behnken	Yes	
	Benton	Yes	
	Fluharty	No	
	Hegge	Yes	
	Mace	Yes	
	Collinsworth	No	
	Pereyra		Abstain
	Lauber	Yes	

Pass.

Lauber: All right. Individual Transferable Pot Quota, the next and last item on the crab list.

Benton: I would move the AP recommendation of not at this time implementing an ITPQ system.

?: Second.

Benton: This was our preferred from a couple of meetings back. An ITPQ was an item that has been proposed by the State for consideration. We've had numerous discussions about it; there's been some analysis of an ITPQ, it doesn't seem appropriate to implement one at this time given what we've done, so I would support the AP recommendation.

Lauber: Any further discussion? Ready for the question? Is there any objection? Hearing none, it passes. All right, that's one time around. That completes both our groundfish and our crab license program. Now, to review what I indicated before, these were tentative motions, so therefore if there are any changes it will not be necessary to vote to reconsider your vote or anything of that nature. If you wish to bring anything back up, merely make the new motion or amendment or whatever. And then after we've done all of that, gone through both of them again, then we will take final action on the total action, is that understood? I think now would be a good time to break and we'll come back in 15 minutes.

Lauber: O.K., let's give it a first run-through here. Going to the Council groundfish license options, we'll give anyone an opportunity here.

Pereyra: Point of information. Do we have to be on the prevailing side to bring up any particular. . .

Lauber: No. I just said that this was a kind of a tentative first-time through and so all you have to do is if you wish to make a change you can make the motions; but don't feel compelled to do so just because you want to look good back in Schnectedy.

Benton: Your intention is just to go through each one of these sections again?

Lauber: Yeah, I think we'll just go through it. O.K., first one out, License Classes, anybody want to revisit that? O.K., we'll move on, Nature of Licenses, anybody want to revisit that? License Recipients, oh, Capt. Anderson.

Capt. Anderson: I've got an issue that lurking out there that I think needs to be addressed for clarification or discussion, and it applies to groundfish and crab, maybe more so on the crab side because there are a number of vessels in the last year or so that have been reflagged foreign, perhaps Russian, British Honduran, whatever, operating in the Russian zone. Therefore, there are going to be a number of vessels which will have accumulated a catch history which gives them a general qualification and then qualification with endorsements. In some cases the current owner may in fact still be qualified to document or re-document the vessel in the United States with the United States documentation and still convert back and get a fishery endorsement. In other cases perhaps that vessel has been sold to a foreign corporation; I have no way of knowing that, but that, quote, current owner may in fact not as of today be eligible to document a vessel in the U.S. fisheries. So you may have a situation where the vessel carries its catch history with it and the qualification for certain licenses but in certain cases the current owner may not be eligible to receive the license and I think it may be appropriate to clarify what we mean here by current owner. Perhaps it could be a current owner who is in fact a person eligible to document a vessel in accordance with the U.S. documentation laws as the transfer provision reads; another item that would come into question is if the current owner is not qualified, then would the, in some point in time, the first qualified owner, 'cause you could have a U.S. person or corporation subsequently purchase that vessel and then try and bring it into the fishery, it could qualify to be documented with a fishery endorsement--would that person then be eligible

to receive the license qualifications that were with that vessel at one time. I don't necessarily have answers, but those are some of the items that are out there hanging around that I think people need to be aware of.

Lauber: Interesting point. Mr. Benton?

Benton: I think I understand the issue that Capt. Anderson is raising, but let me see if I've got this correct. A vessel that is a U.S. hull, so that there is no conflict with the Anti-Reflagging Act, right?

Anderson: I didn't even get into that, but yeah, if it's a U.S. hull, it can be brought in and documented U.S. and receive a fisheries endorsement. If it's a foreign hull, it's covered under the Anti-Reflagged, and so named and listed, it could also, the same thing could be done.

Benton: A vessel that meets those requirements then fished during the moratorium qualifying period so it qualifies for a general license under the provisions, leaves U.S. waters, is documented under the Russian flag, for example, returns to U.S. waters and meets the endorsement qualifying period for an area endorsement under groundfish, O.K., so it's got its general license and its area endorsement now, is that the instance that we are being concerned with?

Anderson: I'm not concerned about back and forth and when he did it; I'm just saying that if you had a vessel which meets the general requirements and the endorsement requirements and currently is reflagged Russian, the current owner may or may not, depending on how the corporation was played, may not qualify to receive a license, or may . . . [several people talking at once; can't understand]. . . Well, if we just said current owner, I mean maybe the foreign corporation could in fact receive the license if the only criteria you had was current owner and then he'd sell the license 'cause he couldn't use it.

Benton: So there are a number of instances that we know of where a number of vessels have left the Alaska fisheries and gone to operate in Russia, have reflagged as Russian vessels, and the concern that we might have in that regard is that they would return and lead to increased capitalization which we're trying to stop, right?

Anderson: Well, I won't say "right" with that; you can categorize it that way of what we're trying to do. I'm just trying to present the facts about what vessels may be eligible to come back in. These are also vessels that have accumulated and qualified like any other vessels that we've got here, it's just that their current status is a little different.

Tillion: We're hoping that we picked the years that don't bring them back.

Benton: Well, there's some. . . you don't reach them with years. . . Oh, Counselor, I really don't want to get into foreign ownership arguments again.

Lauber: We don't have to take this up at this moment; we can go on. I'm not going to pin anybody down, do you want to keep moving through these things and then maybe come back and revisit this?

Tillion: Well, let's not come back to revisit; let's move through.

Benton: Well, this one has come to my attention and I have a thought on this. Maybe I'll put this out as a thought instead of as a motion, but we might, under license recipients, in order to put a hole in what might be a loophole which could result in a fairly sizeable number of vessels getting back in the fisheries, put some kind of a restraint on that which would be that to the extent permitted by law the owner of a vessel which is operating under a foreign flag or a vessel that's been sold to a foreign owner and operated in foreign waters as of the date of final Council action would not receive a license or endorsements. And I put the caveat in front of that, to the extent permitted by law, because I've obviously run into this one several times.

Tillion: I'm not interested in the one who took the chance and went over under some joint venture agreement and is still flying the American flag. The ones that have left United States ownership and are flagged from the others I'm willing to address; the person that went over for part of his season and then came back again, I'm not necessarily. . . as long as he kept the U.S. flag on, no problem.

Benton: We're not talking about those; we're talking about the ones that either sold to a foreign partner and documented under a foreign flag or were otherwise documented under a foreign flag.

Tillion: Well, I think that that's a separate issue that we can pose.

Lauber: Do you want to move on, or do you want to work it through?

Benton: I'm looking at Counselor, actually, to see if I get a reaction of what I said.

Lindeman: I don't have an answer right now. We could look at this. I need some time to look at it.

Benton: Counselor, does it help a little bit if we put in front of this, "to the extent permitted by law"? That would allow you the flexibility of saying, 'well, yeah, it's permitted or not it's not permitted by law.'

Tillion: Current owners legally capable of documenting a United States vessel might be what you. . .

Lindeman: Mr. Chairman, that's what it is now. A person who's. . .

Tillion: No, no. We give it to current owners, whether they're legally able to document the vessel or not. You could add. . .

Lindeman: No, Mr. Chairman, it goes to persons defined as eligible to document a fishery vessel.

Anderson: That's the language under transfers. You may want to clarify that current owners would carry the same language with it, because I think we all assume that under current owners that we're talking about the guy who's got a U.S. flagged vessel and if he's a current owner, he would have had to be qualified to document under U.S. laws. But, we've got a lot of these others that are lurking out here and I don't think it's inappropriate for the Council to say current owners would have the same qualification to receive a license as one who was getting a license transferred to them.

Pereyra: Capt. Anderson, when a vessel documents under a Russian flag, or document their vessel, do they have to surrender their U.S. documentation?

Anderson: Yes.

Pereyra: So, why couldn't we just have it be at the time of the Council final approval, hopefully it'll be today, vessels have to be documented under U.S. law or it doesn't count.

Anderson: Well, I don't think we want to tie the Council's action to the vessel; I think you want to tie it to the owner because that vessel, whether it can participate in the United States fishery or not is going to be tied strictly to the documentation laws, not an action that the Council takes, so whether we like it or not, that vessel will be able to come back in and be documented and participate in the fisheries in the United States with a fishery endorsement, no matter what we do here today.

Pereyra: But he wouldn't meet the requirements that we've placed in terms of what vessels are eligible and which are not. I mean, we do the same things with landing requirements, why can't we just state that a vessel.

. . .

Anderson: We wouldn't be able to prohibit that vessel from participating in the fisheries. We may be able to tie to the owner and prevent that owner from being qualified under a license limitation program to participate with that vessel.

Tillion: Current owners, if at the time of passage were legally able to document under United States law, would that do it?

Pereyra: Anybody can do that.

Tillion: I think that I'd much prefer to bring this up a little later when I can maybe talk to one of our State attorneys and Lisa.

Benton: Let me try this, Mr. Chairman. I would move we amend License Recipients to include "current owners," and add a second provision that would read, "and to the extent permitted by law, the owner of a vessel which is operating under a foreign flag as of the date of final Council action shall not receive a general license or area and species endorsements for the fishing activities of that vessel."

Tillion: I'll second it.

Benton: Want me to repeat that, Counselor? O.K. . . .to the extent permitted by law, the owner of a vessel which is operating under a foreign flag as of the date of final Council action shall not receive a general license or area and species endorsements for the fishing activities of that vessel.

Tillion: That doesn't mean, then, that the vessel could not come back into Alaska and buy an endorsement after he was transferred back, but it would have lost the endorsement it would have had before it went. . .

Lauber/Benton: That's correct.

Anderson: The only thing I'd say, I think that a better way of wording it may achieve the same result would be that whether the owner of the vessel at the time of Council action, whether that owner would in fact be qualified to document a vessel under the laws of the United States, as opposed to whether that vessel is foreign-flagged at the time. Again, you have to get it away from the flag of the vessel and tie it to the owner.

Tillion: There's one loophole in that. The Russians allow 49% ownership. Can a person with a 49% ownership in a vessel document it under United States law and claim what came . . ., so if you really want to do it you have to say "is legally documented under United States law at the time of passage," wouldn't you?

Pereyra: Certainly, there are certain grandfathered vessels that could be 100% foreign owned if they meet the U.S. control requirements, so. . .

Benton: That's different, that's why I tied it to operating under a foreign flag as of the date of final Council action.

Anderson: I'll try to rephrase it one more way, I don't know, to document a vessel in Russia, I don't know whether you need to be a Russian corporation or whether you can still be a U.S. corporation. You could still be a corporation and have a Russian-flagged vessel, then in fact that U.S. corporation may be perfectly legal in its ability to redocument that vessel in the United States. And that's my point and the difference that was in Mr. Benton's motion, what if it's a Russian corporation, then it would not be able to document that vessel unless it restructured.

Lauber: Could someone explain why it would not be adequate to use the same definition as we used with . . . Dave Hanson just handed me this language, suggested current owners who are persons defined as those eligible to document a fishing vessel under Chapter 121, Title 46 U.S.C. as of June 16, 1995. Does that do it?

Anderson: I think that's a good shot, Mr. Chairman. I think that's pretty close to the best we can do.

Lauber: I'll read that again. Current owners who are persons defined as those eligible to document a fishing vessel under Chapter 121, Title 46 U.S.C., as of June 16, 1995.

Pereyra: I don't have my statutes with me, but is Chapter 121 the 75% rule?

Anderson: No. The language that's under the transfer section is what's been mirrored here and that's the appropriate language.

Pereyra: But, what's the percentage of U.S. citizen ownership required under Chapter 121?

Anderson: Under fishery documentation it's not 75%; that's for coastwise trade; it's 50%, then you have other vessels that are grandfathered in.

Pereyra: But, are the grandfathered vessels covered under that; I happen to be somewhat sensitive on that particular issue.

Anderson: I'm not sure; I believe so, but I can't be sure. I don't know.

Pereyra: Without some definition on that particular issue I can't vote for this.

Tillion: Well, we're using the same definition that we've already worked out for the transfer of ownership, right? [yes] The one that requires that you be legally able to document a vessel and if the current owner is able to legally document a vessel, they're out.

Pereyra: That's different; that's entirely different. What we're saying is we're putting different standards on vessels that we want to transfer to rather than those that get initial ownership and we have a very detailed memo from General Counsel saying that unless we include the grandfathered vessels in there, they can't do it.

Lindeman: Does the Council just want to say what it wants to do, and we'll go look at it?

Benton: I think that's a good idea.

Lauber: O.K., what do we want to do, Mr. Benton.

Benton: Counselor, let's see if I can get this straight. What we want to do is, to the extent that we can, prohibit vessels that have reflagged into Russian waters, well primarily into Russian waters I believe, they've reflagged, they've left the fishery, and they would otherwise meet the landings criteria or general licenses and endorsements, but they've left the fishery, they've reflagged and documented under a foreign flag, but they might return into the fishery. What we'd like to do is, is those vessels have left, prohibit them from acquiring a license. And, Counselor, the reason we want to do that is 'cause they represent a significant amount of capacity that could return to the fisheries, a fairly sizeable number of catcher processors in the crab fleet, for one, as I understand it.

Tillion: They're doing very well and most of them won't want to come back.

Lauber: O.K., is that good enough?

Benton: I'll withdraw my motion.

Tillion: Let's roll.

Lauber: And, was there any objection to that language being submitted and Counselor see what they can do? The motion was withdrawn and that, of course, takes care of Dr. Pereyra's problems with any grandfathered vessels that the United States Congress gave extraordinary privileges, created a little loophole they drove the English navy through. O.K., we'll move along then, to License Designation. Anyone have any comments?

Barker: One of the attachments on this particular motion was the creation of a fixed gear only area east of the 140 line in the Eastern Yakutat, Southeast Outside, and on reflection and talking with constituents over this issue, there's a potential here to reach a compromise position that would be satisfactory to those parties if we made that line at 137 degrees, moving it 3 degrees east and I've that in the form of a motion to amend.

?: Second.

Lauber: The motion is that the line, instead of being 140 would be 137? And it's been seconded?

Barker: There's a number of things that were considered in the original discussion, some of those, such as the preemption of fisheries, target fisheries for trawl fisheries in this area are POP, pelagic rockfish, and pollock, none of those three species are harvested effectively or commercially significantly with fixed gear; we've got pretty good controls on the POP rebuilding plan, the slope rockfish complex has been set lower than the ABC, the TAC has been set lower than that, the EA and RIR has not dealt very well with the value of the catch and the foregone opportunities if the area was closed to trawling or dealt with the values if the POP stocks were actually recovered. In fact, it states within that document that it's difficult to predict the economic impacts of a fixed gear-only designation in terms of foregone catch to the trawlers. There was testimony about preemption by the trawlers but no mention of the preemption of the longline gear to the trawlers that's occurred when high thornyhead bycatch has occurred in the longline fishery closing the fourth quarter of '93 to the trawlers, and the risk of that occurring again is always there. I think that there's a number of alternative management measures that could be instituted to more efficiently and fairly deal with these potential problems rather than a complete trawl closure. **[Change to Tape 53] . . .--some discussion lost in tape changeover--** . . .and directed standards, all to help maintain sufficient balance between the two gears in Southeast.

Tillion: I regret that this came up. The line does not adequately protect places like the fairweather grounds; they would then be outside the area and they're a traditional fishing ground of the people in Southeastern. I'm very much disturbed when you talk about the POP recovering. We know that it hasn't recovered. The last statistical check-out we had wasn't even believed by our Scientific and Statistical Committee. They said it absolutely was impossible for a species that grows that slow to have recouped that much. What we're looking at is these are very tight schooling fish, the Pacific ocean perch and therefore you can do a series of tests that show you have nothing and then one year you bump into the school and it shows the ocean's plumb full, but we do know one thing, they grow very slowly and if we err on the side of conservation it's fairly easy to correct at a later date. As that is the principal target they wish, on rockfish, all of them are very slow growing. I think that to harvest by trawls where you take so many immatures, is ridiculous, you know you're talking about 80% discards because you've got all those 9-year old fish in there that are too small to bother filleting, and then to think that you've done anything for Southeastern, and that's not my district, but if you leave the Fairweather ground out of the Southeast in fishing complex you've pretty well left Southeastern naked. I think the 140, which is almost a straight up and down the coast line because Alaska at that point is heading north and south unlike later heading west, that you have in effect done very little. Therefore I would object to changing the previous action. I think 140 is a fair and equitable line.

Behnken: I oppose this. I think as was pretty adequately illustrated in testimony, as Mr. Tillion has mentioned, Fairweather grounds, Cross Sound Gully, those grounds are in that little place between 137 and 140 are the heart of some of the DSR fisheries that are essential to the people of Southeast Alaska including Pelican and Yakutat who are right on those lines there. Second, that demersal shelf rockfish fishery is managed to 140; it's a separate stock only to 140. Any bycatch of DSR in that area affects that directed fishery for all of east of 140 and could curtail that whole fishery east of 140. And that's happened in the past. There's 80 tons taken one year, there's been small amounts taken other years. To put it in perspective, that fishery this year had somewhere around a 150 metric ton TAC for this small-boat fishery. It has a 6,000-pound trip limit per week, it's small boats, this is all they've got, some of them, a large number of them, didn't qualify for sablefish and halibut; they rely on that, they can't fish anywhere else; this is it for them. Finally, speaking of a compromise, you know I think the first compromise was in asking for the eastern Gulf only to 140; the second compromise was the shift we did with the license. The Southeast boats qualifying for an eastern Gulf license now only have access to the stocks east of 140; all of that resource in West Yakutat is now available to vessels qualifying for central Gulf; it's no longer accessible to boats qualifying in Southeast and in many cases that was 42-86% for the pollock and the Pacific cod and the flatfish. In lost access, as I recall and I don't have the report in front of me right now, the pollock harvest in the east of 140 district, something for like the last 3 years was only in the order of 17,000 pounds. It's been small, the bulk of the effort has been in West Yakutat, that'll still be available to those fishermen. I guess just in closing, Southeast has given up West Yakutat. If a few vessels are able to fish between 137 and 140 and take as bycatch the rockfish that's critical to that small boat fleet, you still have the same problems of preemption, you still have the problems of disrupting those communities, destabilizing those communities. Basically you haven't accomplished anything to protect the communities in Southeast but you've asked them to give up access to West Yakutat. It's a total loss for Southeast.

Pereyra: I appreciate Ms. Behnken's comments; I just want to make a couple of points. First of all, there's nothing in here that portends to be a superexclusive to prevent longliners from fishing West Yakutat. I mean, they can still fish there, certainly. But certainly, no trawling south of 140 precludes trawlers from operating in that area, so there's a little bit of inequity there. As far as the DSR is concerned, I can appreciate the concerns there and maybe one approach may be for us to look at somehow splitting the DSR TAC so that that doesn't occur, so that in fact trawling activities, if in fact there is some DSR taken to the west of 137 couldn't shut down the fishery that might be occurring east of 137.

Lauber: Any further discussion, are you ready for the question? Call the roll.

Roll call:	Tillion	No	
	Barker	Yes	
	Behnken	No	
	Benton	No	
	Fluharty	Yes	
	Hegge	No	
	Mace	Yes	
	Collinsworth	No	
	Pereyra		Yes
	Samuelsen	No	
	Lauber	No	

Failed.

Lauber: All right, is there anything additional under that item, License Designations? All right, then we'll move on to Qualifying Periods. Anyone have anything under Qualifying Period? Landing Requirements for General License Qualifications is the next one; next one is Landing Requirements for Endorsement Qualifications.

Mace: Before I get started I'd like to point out that this has been probably the most intense meeting I've attended. It's difficult to get to the head over here without being . . . but I want to compliment the group here; it's been very ladylike and gentlemanly approach that I've received and very businesslike approach and I certainly appreciate that. I realize that you folks, it's very close to your vest with respect to these issues and it's certainly important. Yesterday I had a lot of heartburn about the flexibility and ability of people on area endorsements, and so I'm going to move, with respect to the Gulf of Alaska, and I've done this after visiting with people and doing a lot of thinking, that on the second paragraph which starts out, "The vessels for 60 feet through 124 feet," I'm going to propose that "1 landing in the area during the endorsement period," replace the 2 landings in the four endorsement calendar years, or 4 landings between 1/1/95 and 6/15/95. If can get a second to that. [Seconded] As I've indicated all along, many of these people have survived on their ability to move and, in the case of the Western Gulf, for example, we've had recent interest in pot fishing, a clean fishery, and a lot of these old-time fishermen have moved into there and they may have only a year of experience. At the same time, they certainly have a lot of history in the fishery and this is in the 60 to 124-ft category. This is not going to increase the number of vessels; the moratorium has put a lid on that, or will put a lid on it. It is going to have an impact on the number of endorsements. I am also concerned about the amount of capitalization in the fishery, but I would like to comment that there's a lot of blame to be spread around on this issue. This Council a good many years ago proposed a moratorium and I and many of us have gone through Council meeting after Council meeting, asked where that moratorium was and the moratorium was still sitting on the desk in Juneau, and those delays have caused us to move the final date up a great deal and as a result we've ended up with a heck of a lot more fishermen that are qualified, so I want to point that out. It's a question, I guess, of priorities, but from my standpoint and a good many Council members' standpoint, a moratorium was a very high priority and frankly I don't think it received the attention that it should have and as a result we have more boats that will qualify for licenses that we would have had otherwise.

Hegge: I spoke against this yesterday and I continue to feel as strongly. I think that many of the points that Mr. Mace made are correct, however we have to remember that this is a limited entry proposal that we're making here and it's an attempt to reduce the size of the fleet by some amount. I admit people have changed. . . I've looked over a couple of these things and in my own history I'm not going to get endorsements in areas that I fished in for many years and I think that's perfectly right because I'm not fishing there anymore. This is an honest effort to bring the fleet to a size that is more manageable and more reflective of the current operations and I can't support this motion. I think it goes against too many of our objectives.

Behnken: This issue has probably been one of the toughest for me all week and I've gone through analysis over and over and I've talked to a lot of people about it, and what I feel like I finally boiled it down to this afternoon in talking to people is that the Western Gulf is the area where vessels have needed that flexibility to be able to qualify with just one year of landing. But in the Central Gulf and the Eastern Gulf the participants feel it's extremely important to make some reductions in capacity and because of that I would propose an amendment, friendly amendment if it's considered friendly, that rather than change the language for the whole Gulf, that we change language only in the Western Gulf and that we say that in the Western Gulf vessels from 60 to 124-ft. would qualify for an endorsement with one landing.

Mace: As resource management represents the art of compromise, I accept that as a friendly amendment.

Lauber: All right, is there any further discussion? Are you ready for the question? Is there any objection? Call the roll.

Roll call:	Barker	No
	Behnken	Yes
	Benton	Yes
	Fluharty	Yes
	Hegge	No
	Mace	Yes

Collinsworth	Yes	
Pereyra		Yes
Samuelsen	Yes	
Tillion	No	
Lauber	Yes	

Pass.

Lauber: Any other items under that agenda. . .Dr. Fluharty.

Fluharty: This is just to, along these same lines, to raise a point, not a proposed amendment, but just to draw the Council's attention to something that through analysis I think we ought to be aware of and whether we can do anything about it at this time, I'm not sure. But I'd like to state for the record my concerns about the cumulative impacts of Council actions on the freezer longliner fleet and the BSAI fixed gear cod fishery. First, under the moratorium, which was intended to stabilize fisheries, we allowed approximately 200 vessels to cross over into the groundfish fisheries. These are vessels in many cases with no catch history or no dependence on those fisheries. Second, under license limitation we've allowed speculative entry into the fixed gear fishery by what is, I believe, to be an unknown number of boats. It seems that we really don't know what the effect of this is. During public testimony we've heard in the BSAI fixed gear fishery that the BSAI fixed gear fishery barely supports 30 freezer longliners and a handful of pot vessels. The addition of the new vessels into this fishery could at least double the fleet size if not the effort and thereby destabilize the fishery. Third, under the inshore-offshore and license limitation programs we have permanently excluded large freezer longliners from the Gulf of Alaska and I'm concerned about the stability of this fleet. I think that the cumulative actions have been measured and that we should be aware of that. Thank you.

Lauber: Is there any other matters under this agenda item, Landing Requirements for Endorsement Qualifications? All right, let's move on then, Who May Purchase Licenses is next.

Benton: I just have a question for staff. Marcus, you provided us with a table this morning and you advised us to dispose of it and we were going to get some new tables. Are they coming? I haven't found them in all this mess I've got up here but I just wondered if we. . .

Hartley: Those are available and I wanted to walk you through them at some point at your pleasure. Helen is passing those out and will make them available to the public. Again, they're estimates.

Benton: O.K., Mr. Chairman, we could deal with them in the morning, but I wanted to make sure we had that information available.

Lauber: O.K., let's see, nothing under Who May Purchase Licenses? Vessel License Linkages? Options Regarding Separability of Species and/or Area Designations?

Hegge: Could we go back to the Vessel Linkage? This continues to bother me because we have the size categories, they're very similar to what we used in the IFQ fisheries and what we used in our Research Plan, the 0-60, 60-125, and 125 up. On this we've further burdened the industry with matching within 20% of vessel length. This, it seems like an unreasonable requirement. If a person is looking to buy or sell he not only must find a vessel that's within his size category, he must find one that's within a few feet of the one he wants to replace, and it just doesn't seem reasonable. If somebody can tell me a purpose that this serves maybe I'd feel better, but I don't really see it. We've not found a need or justification for this in our other actions.

Lauber: What's's the effect of the last line in that, last sentence?

Behnken: Maybe, actually I was going to take a stab at it, but I bet it's better to let Marcus do it.

Hartley: We added that language in there to mirror your stated intent that. . . I think that when the motion was made it was stated that a vessel may. . . it's a downward kind of a gate, that a smaller vessel within the vessel class may use a license on a larger vessel even if it's, say, 20% less length, so that a 61 ft vessel could use a license that is designated as 120. That is what we heard in the motion when Mr. Benton said with downward flexibility, or something of that sort.

Pereyra: Would that 120 ft length license retain its characteristic even though it's being used by a 70 ft vessel? So that person with the 70 ft vessel, if he decided to get out of the fishery, could sell it to someone up to 120 ft?

Hartley: Yes. We tried to explain the way that the moratorium rule was implemented by saying that at the time of the implementation it would be assigned a maximum vessel length and then, with your motion now, any vessel that is that length or smaller, within the vessel class, may use that . . .

Lauber: Under your proposal, Mr. Hegge, if I understand it correctly, if it wasn't the 20% rule, what would happen if you had a 61 ft vessel and you wanted to buy a 123 ft vessel, could you do that?

Hegge: Yes, same as you can in the sablefish program or the inshore-offshore program, or . . .

Lauber: It could be a new vessel, wasn't qualified or [unintelligible] . . .

Hegge: No, well, it would have to qualify with getting a base license, then the endorsements. I don't recall in any of our conversations feeling that there was a great deal of impact by changing within the categories. We wanted to maintain some categories; I think we had 90 ft in there for a while, too, but we threw that out. . .

Lauber: Well, you see what I'm getting at -- and I'm not. . . I just want to make it clear that we have everybody in this class all of a sudden getting vessels right up to the limit within that class. By the way, there's a significant difference between an ITQ program and the vessel licensing program because you'd only get so many ITQs, you could (?) Queen Mary, it doesn't make much difference, I guess.

Hegge: I would support a different size category in there. I think it's somewhat onerous, though, to require a person to find a vessel within a few feet of itself.

Lauber: Well, we've talked about it. Do we have any motions, let's do 'em; otherwise, let's move on.

Pereyra: I have a question. What is the maximum length that a vessel can be increased to under the vessel moratorium?

Pautzke: 20% rule.

Behnken: 20%.

Pereyra: 125 feet is the maximum? [affirmative] So that would mean that a vessel that was 125 ft; how many inches is still considered 125 ft?

Hartley: 125 feet, 5.9999 is considered a 125-ft vessel.

Pereyra: Now, how does that relate to the designation that we have, length designation being 124 being the cut-off. Don't we have a little incongruity here? We have a length range between 60 and 124, yet a person under the moratorium could have gone ahead converted their vessel up to 125 ft; now they're not going to fit under the license program. They'd be out of sync.

Lauber: May look like it, but I don't think they are.

Tillion: I don't think we should monkey with the vessel lengths. They were done under a great deal of study under our ITQ program for halibut, black cod, had to do with limit seiners, had to do with Bristol Bay limits that are in there. To now start coming out with a whole set of things that all sorts of different lengths, I think that your 20% rule should not be able to monkey with the vessel size categories that are kind of the backbone of some of our other fisheries and I don't see why you want somebody with a limit seiner to be able to kick up. . . what you're talking about is increasing capability. You've already got a fully maximized fishery and you're pushing to make even more capability. It doesn't make sense. After all, I thought the system was to try and hold things a down a little bit; let's not push them up any higher.

Pautzke: All I was going to say is that we're going to have to come back to you with proposed rules and any technical problems we see with what you've done here and they merge or mesh with other programs and then at that point maybe you want to get into some of those real key details. You haven't seen the last of this yet, we want to run things by you. . . you're going to see this again, maybe that match isn't quite there, maybe there's some other matches that aren't quite there that we need to bring back to you during the proposed rule-writing state.

Pereyra: I think it's very important to clarify this because when this goes out, a lot of people are going to be reading our newsletter or whatever and they're going to be making decisions based upon what we put out and even though we may come back and say, 'oops, sorry, we made a mistake,' and this poor guy says, oh my gosh. The way it is now, if a fellow went ahead and converted his boat under the moratorium to 125 ft. he doesn't fit into any category because the way this thing is written now the range between by 124 ft. 6 in. and 125 ft, 5 in. ain't nowheres. It doesn't fit in.

Hartley: [evidently not close to microphone, couldn't hear first part]. . . 125 feet and greater.

Benton: Can we get Mr. Berg up to the table for a moment, please, and bring his regulations with him? I think we need to get somebody from National Marine Fisheries Service, and I think it's Mr. Berg that understands the moratorium and the vessel size categories that are under the moratorium, in the research plan, and elsewhere. Now, when we discussed this earlier I thought that we'd discussed the idea that we'd try and get staff together to try and sort through these things so we can understand how those rules are. I think it's our intent to make these categories conform with the existing size rules. There's no doubt in my mind that that's the case. We said that in numerous occasions. So if we want to go through this now, then I would ask Mr. Berg to go through the regulations and give us the exact way that it's done in the regulations and we can all say this is what we understand this to mean, and then we will be okay.

Berg: These vessel lengths has been. . . ever since we started the Observer Plan itself and so when we had vessels under 60 ft., that was one category, it went from 60 up through 125, that was the next category; if it was 125 and greater, that was the third category. So, we did that again under the moratorium, and that was our recommendation yesterday, that under the license program we would fit that designation. With respect with these rounding arguments, . . . envisioned 124 ft., 6 in. to be rounded up to 125, and from 125 ft., say 5 in., to be 125. So, I didn't think that was an issue.

Pereyra: But what we did in the moratorium is we didn't follow those length designations because we allowed a person to go ahead and convert their vessel and bring it up to the next class higher in this case, because they're going to go into the 125 higher and up, so that means that someone who was originally in the 60 to 124 ft category is now in the 125 and over category.

[Several people speaking at once, "no" is mentioned several times]

Pautzke: We don't have (?) length categories within the moratorium.

Pereyra: Yes, but we have a maximum in the 20% rule which you . . .

Pautzke: A maximum on which you can do an upgrade which vessels that are 100-125 [lots of people talking at once; can't hear]

Pereyra: So we've allowed them to upgrade into the next category, then.

[Several "no's"]

Pereyra: I thought that [**Change to Tape 54**]. . . someone just told me that the upper limit was 125 ft, under the moratorium. So that puts you in the next size category.

Pautzke: No, no, no.

Hartley: And your license would be assigned to that category as well, if you had upgraded as of today, your license would be in the large vessel category.

Pautzke: You can't exceed with your upgrade as you close in on 125 ft, you can't exceed the 125 ft and put yourself in the next category under the moratorium. . .

Hartley: No, you can upgrade up to 125 and . . .

Pautzke: But not to exceed 125.

[lots of people talking at once -- can't understand]

Pereyra: That means then that that fellow that went ahead and followed the moratorium now has a class which he can go into, which is zero, except for vessels that are exactly the same size.

Hartley: I don't want to say, 'trust me, it's consistent,' but your rule on this license designation, the length of that, is that as of today that's what determines what length you've been, or actually it's as of the moratorium control date that the original vessel length is determined and it can't exceed that category.

Tillion: That's the 27th of June . . .

Lauber: No. . .

Hartley: That's the date the original qualifying length is determined and the maximum length is then figured out and calculated.

Pereyra: So that means that if that person then had a 120 ft boat and they're classified as a 120 ft boat, correct?

Hartley: Well, the classification is going to be based on the length of the vessel as of today.

Pereyra: You just said it was as of the moratorium control date.

Hartley: The original qualifying length will be as of the moratorium . . .

Pereyra: O.K., so the original qualifying length, O.K., so that's 120 ft, and then based upon the criteria in the moratorium he could go ahead and convert it up to 125 ft, which he went ahead and did. Now, he's out of compliance, . . .

Hartley: No. Now his vessel length is 125 ft and he will receive a license that says 125 ft. His license class will be in that large class; if he did that as of today. He's not in a void.

Lauber: Did you want him to be in this little teeny hole, here?

[several people talking at once]

Lauber: O.K., are you satisfied?

Pereyra: No. I still think you have a problem but that's for you people to deal with when they start to make appeals.

Hegge: Do these size categories apply to catcher processors and catcher boats alike?

Lauber: That's correct. O.K., where are we here. Vessel License Linkages, is there anything else under this?

Benton: A while back Mr. Hegge raised the question regarding leasing of vessels, or leasing of licenses and putting them on vessels and I noticed the word here that a license may be applied to vessels other than the one on which the license was issued; I just want to ask the question of whether or not we want to put restrictions on that so there could not be leasing, or do we care?

Behnken: I guess without making a judgement yet, it does seem to me that if we allow leasing we do allow more capacity, if you will. I could see a vessel that is set up to use one gear type, say participate in the Pacific cod trawl fishery that fishes that season, that's closed, then could lease its license to a fixed gear vessel, and like that be switched over and back in the fishery, and so it does seem to me that leasing would open up that loophole and it seems that's probably not the Council's intent, but I think it's something we need to address.

Lauber: O.K., it was opened up as a question; does anyone have a motion on this, if not we're going to move on.

Hegge: I'll make a motion, Mr. Chairman, I'm just trying to figure where it would go in here. I would move that we prohibit leasing of either licenses or endorsements. [seconded by Behnken]

Barker: Sharing some experience from the South with some very vigorous limited entry fisheries, I can tell you right now you'll never be able to track a leasing arrangement. They don't always file papers.

Lauber: Further discussion?

Behnken: I think we had a similar discussion to this under sablefish/halibut IFQs and maybe someone can jump in here, but it did seem we were restricted in what we could do, but if we required the name of the person purchasing the vessel or license to show up on the title and have some minimum of amount of ownership that was required, I don't know. Steve, are you the one to speak to that, or Ron, or who's. . .Phil.

Phil Smith: It's impossible to lease. . .no, Mr. Chairman. There are a number of issues involved. There are ways of practicing subterfuge and to find loopholes and ways to get around a leasing prohibition. But if it was the Council's intent to prohibit a lease and if it was further the Council's intent that all transfers of permits or licenses go through the government, or through NMFS, then there are mechanisms that we are now using in halibut/sablefish, including requiring a copy of the conveyance document, the bill of sale, or whatever document is used by the parties to consummate their deal to make sure that there aren't any balloon payments or other forms of retained right of repossession under the terms of that. I suppose that people who want to get around the prohibition can reach private agreements that they do not disclose and I presume that that goes on. There's a very strict anti-leasing prohibition in the State's limited entry program with a couple of loopholes being emergency transfers and so forth and everybody knows somebody that has control over a

license, but they don't legally. When they try to repossess it, they're not allowed to repossess it because the terms of their agreement were that that permit were going to return to its original holder, it's unenforceable under the terms of the regulations. So, it may be true that these are very difficult to enforce and to absolutely guarantee, but if it's the Council's intent that they do not want this activity to occur I think you can set up mechanisms that can in turn be checked on and signal that policy and give yourself an opportunity, or give the agency implementing it an opportunity to devise a system that will screen for at least obvious and in most cases mistaken attempts. . .

Lauber: If we pass this, as we did in the halibut/sablefish ITQ program, we didn't do all that that you just mentioned; you did that through regulations. So once we show our intent, the Secretary approves this, then it would be up to you to find the best method you can to assure compliance; you would do that, I presume.

Smith: Sure.

Lauber: So, you're not asking us to do all of those things; you just. . .we flag our intent, and if the Secretary agrees, then you would do all that by regulations, right?

Smith: If that would be the Council's wish. I wasn't here when you developed the regs, the parameters for IFQs. I don't whether the specific language came out of the Council or out of the regulatory process, but if the Council said they didn't want leasing to occur, we'd put language in the regs that would try to inhibit it.

Lauber: Well, it was probably worked out between the Council, Council staff and NMFS and so forth. All right, let's move on with this motion to prohibit leasing. Is there any further discussion? Is there any objection to the motion? Call the roll.

Roll call:	Behnken	Yes
	Benton	Yes
	Fluharty	Yes
	Hegge	Yes
	Mace	No
	Collinsworth	Yes
	Pereyra	No
	Samuelsen	Yes
	Tillion	not present
	Barker	No
	Lauber	Yes

Pass.

Lauber: All right; we move on to Options Regarding Separability of Species and Area Designations. Anything under that? Vessel Replacement and Upgrades?

Fluharty: Under this item, the second part, the Council decided not to allow what it termed to be upgrades for allowing processing at sea. I think it may have been in the way that this was formulated, but the fact is, under current regulations this is permitted, this is the status quo. It's not some additional new item that we're trying to prevent, so that in fact we're taking away something that is permitted under current practice. I think that that definitely hasn't been analyzed in that fashion with the documents that we have and it certainly wasn't presented in that way and therefore I would propose that we take another look at this in light of the fact that this is status quo, that there are a number of very important items before the Council that this measure can serve--things like full utilization, decrease in the amount of discard, providing markets for relatively small fishing vessels that are catching species for which there is no current shoreside market, a number of different very useful things. I'm in possession, and I think other people have received a copy of a proposal on this

signed by a pretty large set of individuals from the total community involved in this fishery. It's not a declaration of intent to do this, but to maintain the option for this to be allowed. So, I would therefore move that the ability to develop a small amount of processing be maintained for the Gulf of Alaska. In the Gulf of Alaska, I would propose that catcher vessels be allowed to process all species other than pollock and Pacific cod, that catcher vessels less than 60 feet would be allowed to process up to a maximum of 5 mt round weight per day, and that catcher vessels 60 ft and greater would be allowed to process up to a maximum of 10 mt round weight per day. In the BSAI, I would propose that catcher vessels be allowed to process all species; that catcher vessels less than 60 ft be allowed to process up to a maximum of 5 mt round weight per day, and that catcher vessels 60 ft or greater be allowed to process up to a maximum of 18 mt round weight per day. Essentially, preserving the status quo. [Secoded]

Lauber: Is there any further discussion?

Pereyra: Dr. Fluharty, what's the rationale for not allowing pollock and cod processing in the Gulf, but allowing it in the Bering Sea and Aleutian Islands?

Fluharty: I think it reflects the fact that there is current processing available for those species, not for others. I'm not entirely sure.

Pereyra: I've certainly been walking around town here and it looks like there's quite a bit of processing in this town, too, so. . .

Hegge: I assume this wouldn't affect vessels that are already processing cod and in the catcher processor category?

Fluharty: I don't think that is the intent. The fact is that there are a number of vessels that already have this capability and have used it in previous times or may want to use it so that those vessels that already have that capability and are doing this, we're maintaining the option for them to do this.

Hegge: Just a clarification. I assume they would maintain their catcher vessel status, but would they then when they were doing this be required to comply with the reporting requirements of a processor?

Fluharty: I think the reporting requirements would remain as they are. I'm not familiar with them right now; if it's required of boats today, then I would presume that would be required. If it's not required, then that would certainly be something that we would have to consider.

Hegge: Just one more thing, Mr. Chairman, again reiterating what I stated the other day that I would hope that it would be the intent of the Council that this be a daily amount because when we did this in inshore-offshore it turned out to be a weekly average which is considerably larger and has more problems with it.

Behnken: I guess while I see a lot of merit to this proposal, it's definitely something that I think we need to look at, the problem I'm having with it is the lack of analysis and knowing what's the appropriate places to put these numbers and I know it's something that's allowed under inshore-offshore, it's something that's going to continue to be allowed under inshore-offshore until this program goes into place. But that's a program that was sunsetted; this is a program that's going to stay like this, carry over into ITQs with some pretty big implications for communities if we have more processing. And I guess I want to take a look at this but I would like to take a look at this when we take up full utilization and have a little more background on where to put these numbers.

Benton: I would echo those remarks. I have a lot of sympathy for what Dr. Fluharty has said and I think that there is some opportunities that can be explored but I believe that we need to have some proposals that are more fully fleshed out and analyzed in order to get from here to there. I think it'll be some time that will elapse between the time the Council adopts this and the time that the National Marine Fisheries Service, the

Secretary, approves this license program and gets regulations in place; I think there's going to be ample time for us to take this up in our full utilization, or I mean full retention and improved utilization proposal that is currently in the works and we can look at this and some other measures that we can use to improve utilization of fishery resources. I think the general idea has a lot of merit, but I am concerned that we don't have all these options fully fleshed out and analyzed at this time. I just have some trouble with that aspect of it and I would certainly encourage us to think about pursuing this under that other vehicle. So, I'm not going to vote in favor of the motion.

Pereyra: I think the rationale given for this proposal is just as valid for pollock and cod in the Gulf of Alaska as it is the Bering Sea so I'd like to offer an amendment that this also include pollock and cod in the Gulf of Alaska.

Lauber: Is there a second? Fails for lack of a second.

Capt. Anderson: A while back we were discussing whether they would, on recordkeeping and reporting, whether they would be treated as a processor or a catcher and realistically if you're going to set certain limits on them on processing they would have to keep the processing-type logs, otherwise you would have no way of knowing on a daily fishing log on a catcher does not allow you to make that determination.

Fluharty: I guess I come back to, in response to the comments that we've received, come back to the fact that this program is in place under inshore-offshore at the present time and the kinds of questions, concerns, that have been raised about whether or not we should be doing this must have been addressed under inshore-offshore and therefore do not constitute a new item for analysis. I do acknowledge that this is a question about whether we want to continue this program under a license limitation approach. I think that that's the proper question that we have and that's the one that I am raising -- shall we maintain the status quo into a license limitation project. And, so. . .

Barker (?): As a point of clarification, vessels that process currently under inshore-offshore are catcher processors; they are not catcher vessels. They're required to be licensed as catcher processors and they must keep catcher processor logbooks, so for a point of clarification, what you're suggesting is not status quo. You're suggesting something new.

Tillion: I have trouble very much like Mr. Pereyra's and I'm wondering if Mr. Fluharty would take as a friendly amendment so that the Gulf and Bering Sea reads the same, catcher boats would be allowed to process all species other than pollock and cod, even the Bering Sea/Aleutian Islands. This is the area that we don't want a new fleet expanding into but you have some sympathy for the people that are caught with species that the shore plants don't want and so you don't want them processing in the area where the shore plants can handle the product and therefore I would move an amendment if I can get a second that catcher vessels would be allowed to process all species other than pollock and cod in the Bering Sea/Aleutian Islands.

Lauber: Is there a second? Fails for the lack of a second.

Behnken: In regards to Mr. Meyer's comment, can I just have an opinion from Dr. Collinsworth, or NOAA legal counsel, do you consider this within the scope of the analysis we have for this document?

Lindeman: That's a question for staff; who did the analysis?

Hartley: It was included as an option in this analysis; it was before you essentially, we didn't have the prohibition of Pacific cod and pollock. As to the extent of the analysis, there's not a lot that we can do to it except to say that catcher processors can do this, you know, 18 tons.

Benton: It's also my understanding that under the inshore-offshore amendment what is allowed would continue even if this is also adopted. In other words, we have a plan amendment for inshore-offshore, the processing that is allowed under the inshore-offshore amendment would be allowed if there was overlap in

the time between while inshore-offshore was in place and this was in place. It's my hope that we could also take up this idea as part of the retention and utilization, as I said before, measures and try and bring it forward that way and get it fully analyzed and be able to reach it.

Hegge: I would guess that there was just about as much research done for this as there was inshore-offshore which I remember was very limited; I remember we came to this number with a lot of questions of me about what a processor could do in a day and so on. But, also in the comment about this being status quo, it is status quo from the fact that any vessel today can comply with the licenses and catch and process the fish he chooses. So, it is status quo from that respect.

Lauber: Is there any further discussion? Are you ready for the question? Call the roll on Dr. Fluharty's motion.

Roll call:	Benton	No	
	Fluharty	Yes	
	Hegge	Yes	
	Mace	Yes	
	Collinsworth	Yes	
	Pereyra		Yes
	Samuelsen	Yes	
	Tillion	No	
	Barker	Yes	
	Behnken	No	
	Lauber	No	

Pass.

Collinsworth: Based on this last motion, I think the staff and the enforcement people are going to have to try to reconcile the reporting requirements. A vessel now has to have a catcher-processor license in order to process and they must maintain appropriate logs and make the appropriate reports and when we say a federal catcher processor license, now, under this license limitation program, is there going to be a catcher-processor license other than a limited entry license.

Benton: Well, you voted for this Dr. Collinsworth, I don't know.

Collinsworth: Well, I mean that's a real interesting question.

Benton: I don't have an idea. In one sense it could be in that now all these catcher vessels that get under this requirement become catcher processors, technically, but the license, I don't know the answer to that.

Samuelsen: I got confused -- I thought we were voting on an amendment, not the main motion. Yesterday I voted against it and today I voted for it --

Lauber: You were on the prevailing side; you can move to reconsider.

Samuelsen: Move to reconsider.

Lauber: First, we have to move to reconsider. . . was there a second? [seconded; couldn't hear who]. Is there any objection to reconsidering the motion based on Mr. Samuelsen's representation? [**Change to Tape 55 -- some lost in tape changeover**] . . . Fluharty amendment. If this prevails, it would merely bring it back up for another vote at which time Mr. Samuelsen could vote any way he likes.

Roll call:	Fluharty	No
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Hegge	No	
Mace	No	
Collinsworth	Yes	
Pereyra		Yes
Samuelson	Yes	
Tillion	Yes	
Barker	No	
Behnken	Yes	
Benton	Yes	
Lauber	Yes	

Pass.

Lauber: All right, we have before us the Fluharty motion.

Benton: I ask your indulgence. I jumped ahead a little bit because I thought Dr. Collinsworth's question was very germane. One of the reasons that I had problems with this, I didn't understand all of the impacts of what it would accomplish. I think maybe we need to have a little clarification of what the intention here is and how it would be implemented because it strikes me that what we would wind up with is licensing all these vessels as catcher processors.

Collinsworth: I still support the concept of allowing limited processing on board vessels for species that may otherwise may not be utilized. There are probably a number of areas within the action that have been taken this week that may result in some kind of conflict with other regulations, existing regulations sans license limitation, in terms of reporting requirements, in definitions, and so on. Staff advises me that it probably is not a major change to correct the regulations to allow this activity and still get the necessary reports, but it's going to take some reconciliation of the regulations and that is the point that I was trying to make. At the current time you're required to have a catcher-processor permit and report, the reporting requirements can be changed, de-linked to the catcher processor activity in this case and that the catcher vessels would have to report and we can take care of that, but I just wanted to point out that's what would have to be done.

Hegge: Right now I process at times and I deliver shoreside at times. I hate to tell Steve, I keep two sets of books, one is the processor's book and the other's the shoreside book when I'm not, and merely marking on my federal fisheries permit and then responding accordingly.

[miscellaneous comments on "books"]

Fluharty: I'm glad to hear that there are ways to work this into the regulations. The purpose is not to do an end run on regulations, it's to continue a practice that exists and appears to be favorable in the future in a way that is appropriate. I think it is also appropriate to maintain this as part of a license limitation as opposed to de-coupling it and looking at it as part of CRP because the license limitation issue is the one that we're dealing with here. We'd have to go back and amend it, would slow things down. I think in the future if we find through the CRP process that . . .

Tillion: My sympathies, as Dr. Collinsworth said, are with those people who have product aboard that they can't use otherwise. But when we include pollock and cod this is no longer that story. When you include pollock and cod in the Bering Sea/Aleutian Islands you're including a species that has a ready market elsewhere and you're not talking about like the person who's fishing and has a product like some of the rockfish that the plant doesn't even want to take, and so, I support this as long as it's something that processes something that would otherwise be wasted. But I'm not interested in bringing up a whole fleet of small catcher processors that move into an area that's already fully utilized and start hacking away at it, so I think that. . .you know 18 metric tons is a lot of fish; you've got an awful big hole there and if that includes codfish, we're already strained on our seasons. In the Gulf, what was it, 21 days or something we had for a season?

We're already putting a strain on our small boats; to allow another system of using even more isn't going to help us very much, so I find myself unable to support it as long as it covers pollock and cod even though my sympathies are there. I'd prefer the 10 tons, the Gulf. . .didn't sound too bad, and if it was the same in the Bering Sea and Aleutian Islands I'd be a bit more sympathetic, but probably we ought to find out if there's some way we could vote on this separate from what we're now doing. Otherwise we're going to be here all night on this issue alone.

Lauber: Well, I'm about to. . .if we can get done with. . .we're going to break; we're obviously not going to get through everything tonight, so we'll have to come back tomorrow morning.

Collinsworth: In response to Mr. Tillion's question, wouldn't the vessels, the catcher vessels, still have to have licenses and area endorsements in the areas?

Tillion: Oh, well, certainly. But you're talking a lot different when you're talking about somebody that's going on the grounds and is going to process on the grounds than one that's going to come in and deliver because there's a difference between how long you can keep codfish and pollock, you know, you're not going to hold them on the vessel any great length of time unless you do something with them.

Pereyra: In the inshore-offshore, the limit for being designated inshore is 18 tons, I believe, and that includes codfish and pollock. This one here does not include pollock and codfish in the Gulf of Alaska, so it's inconsistent there. The second thing is, if this were to pass and go forward and be implemented, would that mean then that those vessels in the Gulf of Alaska which had heretofore been classified as inshore, are now classified as offshore?

Lauber: Apparently no.

Pereyra: I wanted to make sure. They're not.

Lauber They're not.

Collinsworth: There still seems to be a number of open issues, though, like the kind that Mr. Pereyra just brought forward, and I guess that I have been convinced by this debate that perhaps when we take up the issue in September in full utilization and bycatch that it may be a more appropriate time to try and work out these uncertainties and deal with at that time.

Lauber: Ready for the question?

Hegge: I want to do a friendly amendment, I think friendly, to change the Bering Sea to 10 tons as is the Gulf of Alaska.

Tillion: And, no pollock or cod?

Hegge: Don't press your luck.

Lauber: Is the 10 tons accepted as a friendly amendment? Apparently it's not, so do you wish to make it as an amendment? If you do, I'm going to drop the gavel and we're going home. . . . but we're going to vote right now on this one and then we're gong to drop the gavel. All right, so now, we're voting on the reconsideration of Dr. Fluharty's motion, the pocket catcher processor.

Roll call:	Hegge	Yes
	Mace	Yes
	Collinsworth	No
	Pereyra	Yes

Samuelsen	No
Tillion	No
Barker	Yes
Behnken	No
Benton	No
Fluharty	Yes
Lauber	No

Fails.

Lauber: We are recess until 8:00 a.m. tomorrow morning.

June 17, 1995

[Continue on Tape 55]

Lauber: **[Evidently tape was not turned on until after the call to order; some comments may have been lost]** All right, then, we'll move to vessel replacement and upgrades. Anyone have anything under that? All right, License Ownership Caps?

[broke for public testimony from people who had to leave the meeting]

Lauber: O.K., believe that puts us back with the groundfish licenses.

Collinsworth: Just for a moment, I was a little bit slow on the draw this morning when we were on vessel linkages. Just a point of clarification I've been asked by some of the staff. Is it the Council's intention to limit downgrading to within a vessel class? For example, a license endorsement for a 75 ft. vessel--could that just be used in that class or could it be downgraded into the next lower class and say someone used a 58 ft vessel.

Lauber: If I remember the discussion, we didn't mean to stop people from downgrading, but I don't know if . . . Mr. Tillion, I think you were the one that talked about that, go ahead.

Tillion: Yes, we do have a problem and if our regulations do not allow it, I would certainly want it. We have one in the Pribilof Islands, a real problem where the only ITQs that are for sale are in large vessel and the only buyers that want them are the small boat fleet out of St. Paul and they're unable to do anything with them because they have to try and match them, so they ought to be able at least to sell down or sue it. We have some regulations on observers and everything else, so we have a number of people with ITQs that are too small for the size vessel they have. They don't want to sell their ITQs and go out, and they'd love to pick up a smaller vessel, especially as they get older in years, and fish their ITQs on a smaller vessel -- I don't think we ever intended within the class at least, I think we have to take action to change the class and should, but if a person is within that 60-35 class, why should we care what vessel he uses as long as he's in that class.

Collinsworth: I guess the question is if you were above the 60 ft, say a 75 ft vessel, can you move down into the next class, the 32-60 ft, for example on a 58 ft boat?

Tillion: If that's not now legal, it should be.

Pereyra: I certainly concur with Mr. Tillion. I think that's the sort of unintended consequences that's going to beset us with the license limitation program, too, because as I think I was intimating yesterday, we inadvertently set a trap for people by allowing moratorium upgrades with the 20% rule up to 125 ft, yet now we've gone ahead and used 124 as the top of a class and 124 as the beginning of a class and if we don't allow people to downgrade the size of the boat we've trapped them at 125, those people that with legitimate intent

went up to the maximum allowed and so the market that's available for those individuals is much different than somebody that might be at 124 ft, for example.

Lauber: Dr. Collinsworth is looking for a sense of the Council.

Pereyra: My sense would be that we could.

Lauber: Also, we're talking. . .this is on licensing, not ITQs, so let's see if we can't give him that sense.

Collinsworth: Well, our motion said within class and I thought that the Council would probably allow them to go down class, but I wanted to make sure that's clear.

Benton: Given Wally's comment, I can hear the hacksaws already, but **[Change to Tape 56 -- comments lost in changeover]**. . .question because we were discussing whether or not a vessel could only downgrade within the 20% rule or not and we said, no, that was not our intent. It was only upgrades, and it was my sense of the matter and I think the understanding of the Council that that would apply with regard to vessel classes as well, that you could indeed use a license, say from a 60-125 vessel class on a 60 ft or less vessel if you wanted to. But that would not apply if that 60-125 ft vessel was a catcher processor and the other vessel was a catcher vessel, you couldn't upgrade the 58 ft catcher vessel to become a catcher processor. . .in using that we're only talking about license length categories; catcher-catcher processor categories are a separate matter in my understanding.

Lauber: Now, is that the sense of the Council? Is there any objection to the summary given by Mr. Benton? All right. Dr. Collinsworth, that's the sense of the Council. Now we move on to License Ownership Caps.

Benton: Before we move on, I was a little slow this morning as well. I just want to ensure that our intent is consistent. Under options regarding separability of species and/or area designations, when we dealt with crab yesterday we ensured that the vessels that both a crab and a groundfish license that those were a package that stayed together for three years and it was my understanding at the time that by doing that that also would be a consistent provision reflected under the groundfish program as well. Is that the sense of everyone else?

Pereyra: I don't agree with that, but I guess that was the sense of the Council.

Tillion: Yeah, that was the consensus, whether you agree or not.

Hartley: We went ahead and added it into the groundfish. It's not on your draft there but it will be on your forthcoming draft. I should also say that in that draft we mistakenly dropped your option to allow vessels that had been lost or sunk or beyond the control. . .that doesn't show up in the draft that you have but you passed it and it will be included in the next draft.

Lauber: Any other late bloomers that got anything they can think of before we move on? All right, now can we go to license ownership caps?

Pereyra: Upon reflection of this particular condition I become more troubled. I happen to have a partner, individual who started in a troller, worked his way up. He's now a partner in five vessels, crabbers, shoreside boats, and factory trawlers. These are five vessels. This particular individual now is truncated where he is. He cannot think about getting into any other vessels to be competitive with others in the industry. There are a number of companies that have substantially more than five vessels. There's nothing of a nature, of an anti-trust nature of him going above five, it's just that we arbitrarily have selected five as some magical cut-off date without, I think, any real analysis or support for the justification for it. And, I think this is wrong and I think it could be viewed negatively by those above us that are going to be reviewing this plan. I think it makes this Council look capricious in the way it selected this particular item. For that reason I think it's in our best interest if we're interested in putting together a package that has some chance of being accepted and

not turned back to us, that we seriously consider removing that particular restriction because I don't think it in fact does what we think it's going to do and I would ask for maybe some other comments from other Council members.

Benton: I'd ask the National Marine Fisheries Service and maybe Counselor how otherwise we might meet the requirements of National Standard 4?

Collinsworth: I think that largely depends on the record that the Council builds to show that. . . we have a cap on five licenses, and I think it depends on the record that the Council builds that would show that if a person owned six licenses out of what may be 2,400 licenses, that that is an excessive share and limits market competition and restraint of trade, and so on.

Benton: That wasn't my question, Mr. Chairman. My question is if we don't do something about this, how do we meet National Standard 4? Irrespective of the number, how do we get around that?

Lindeman: Does the record now have any information in it that five licenses would be or would not be an excessive share? I think the Council would need some information in the record, something by which you could describe or define what excessive is in terms of license ownership and there'd be a question that without something in there, what is the Secretary basing that cap on.

Pereyra: Five out of 2500 or whatever the number is, is probably 1/10th of 1% or 2/10ths of 1% of the total number of licenses that are available. There is no way that that can be construed as being an excessive share, but it is a very definite constraint on trade as far as I can view and I just don't think it's appropriate.

Barker: In terms of what Dr. Pereyra's bringing up, if you do look at the information of how the fleet could coalesce licenses under the five-limit, you're still going to end up with more active participants in the fleet in most every fishery than you want, so if you're looking for information and rationale, you probably ought to be looking at a larger increment or no increment to see how far that. . . collapses towards. . . [lots of coughing; can't hear]. . . what your. . . goals are in terms of fleet size.

Lauber: Any further discussion?

Benton: National Standard says that we have to look at provisions that ensure that this program is carried out in such manner that no particular individual, corporation or other entity acquires an excessive share of such privileges. Mr. Chairman, we had a range of options in front of us for well over a year, we have received public testimony regarding all of the options that were presented. I don't have my full suite of options here in front of me, but it was a very significant range that we were looking at; it's been reviewed at least at every meeting since roughly April of 1994 by the AP and public and discussed by this Council that we would have some kind, or consider having some kind of, limit on the number of licenses with a grandfather provision to ensure that on the one hand we do not violate the rulings that Counselor has provided us regarding the potential takings because people had an expectation that they had a right to fish on one hand, and the necessity of attempting to address what Congress has put into the National Standards on the other. Mr. Chairman, when we were looking at this at one time we had transferable areas, or separable areas and area endorsements and I think that the discussions that we had about that and the need to ensure that because of that no particular corporation or entity would acquire excessive numbers of licenses or area endorsements was a concern that we were addressing at the time. I think that concern still stands even though we've addressed it in part because we have (?) non-separable area endorsements with our licenses. I don't see, and I haven't gotten an answer to my question yet, of if we don't do something like this, how do we then address National Standard 4 and the excessive share provision?

Lindeman: This issue on its excessive shares has come up in other proposals from the Council, like in the inshore-offshore situation and there were claims that 35% would allow onshore processors an excessive share or excessive privileges and what I believe was done there is, relied on Justice's Anti-trust Division to monitor

that. And that's how it was left in inshore-offshore and that would be, in the absence of justification in the record to support a cap, that's what we would recommend here.

Collinsworth: To answer Mr. Benton's question about complying with the Standard, I think that, yes, that you need to comply with that Standard and putting a cap on the accumulation of licenses is one way to deal with that standard and probably five licenses certainly does not allow the accumulation of an excessive share because it is such a small fraction. I think that the determination that needs to be made is whether that is reasonable. I think it is probably well within the range that would satisfy the Magnuson Act; in terms of not accumulating an excessive share you have to make the determination that that's appropriate.

Lauber: I have no doubt but what the five would comply, but I don't think that's the only consideration or the only reason that you could pick some number such as five; there are other considerations. And, as far as the National Standard, apparently, I think I read some place that in the quahog fishery one company has got 40% so apparently NMFS thinks that isn't. . .but there are other things we could limit. Obviously we went down to 1/2 of 1% in our halibut/sablefish, or sablefish.

Pereyra: Certainly the excessive share issue is something that's embodied in National Standard 4, but another part of National Standard 4 is that whatever we do has to be fair and equitable. That means that we have to strike some sort of a reasonable middle ground that is fair and equitable on one hand and prevents excessive share accumulation on the other. Now, I would argue that not allowing Stan Hovik, for example, to acquire an interest in one more vessel is not fair and equitable. There's no way that he's going to be able to compete with a Chuck Bundrant, for example, who is part owner, and I don't mean to use Chuck's name in a derogatory manner here, but he happens to be someone who at this point in time has interest in a large number of vessels. There's no way that this gentleman is going to be able to compete with that particular individual. Now, the standard that we've used in the past has been one that has been based upon some percentage of the total fishery. Five licenses, in this case, I don't think can be viewed as being somehow controlling the fishery. And I think the reverse has to be asked, you ask how do we ensure that excessive shares will not be accumulated--I think that's a valid question, but also, by the same token I think we have to answer the question, why is five shares a more reasonable, fair and equitable way to go about this than, say, 10 shares or 15? There's no quantitative information we have before us that allows us to make those kinds of judgements and I just think that what we're doing is wrong.

Benton: First, I'd point out that we're not doing an IFQ program so we're not talking about shares; we're talking about licenses and the impacts of having licenses can be very different than the amount of a quota share and Mr. Chairman, I'd point out that in our September analysis it did discuss that the program had provisions that would meet National Standard 4 with regard to this issue and that in our March 9th subsequent analysis it showed that the concentration of ownership was encompassed within the universe of five licenses generally, and I brought that information forward yesterday in the debate regarding this matter. We have had public testimony regarding this matter, and we have discussed it now for well over a year and this has been the preferred alternative for quite some time. With regard to equity I understand what Dr. Pereyra is saying, but I think there is a significant difference between having five factory trawler licenses and having five 45-ft catcher vessel licenses and there may be some inequities involved there of some degree, but the reality of the matter is that by having a grandfather provision in we are not resulting in any takings or any significant impact in that regard on a company and their present operations. The idea here is what happens in the future and the need perceived, at least, by the public and the Council at this time to have some provisions in here to minimize concentration of licenses any further as we go down Dr. Pereyra's CRP path, or journey. So, I think it's justified on the record. It has been around for quite some time; it is not a new provision, it has received a lot of review from all parties concerned, and I think there is sufficient record to meet it and I'm pleased to see that National Marine Fisheries Service believes that we can use something like this to accomplish the goal.

Lauber: Ms. Behnken, and then we're either going to have a motion or we're going to move on.

Behnken: Because we chose not to place a limit on the number of endorsements that a vessel could have, the way I've been approaching this is thinking, well, a vessel could have all their licenses in one of these areas and in some of the areas, say Western Gulf, there's 394 total licenses based on the information we received from staff yesterday, I believe, if I'm reading this correctly, Aleutian Islands - 223; and if you start looking at those numbers and thinking of a vessel having 5 licenses in that area, that starts to become a fairly significant participation or maybe significant amount of control. Exceeding that, to me, starts to be an excessive share of the resource. I think if you're looking at the big number at the bottom there, total vessels licensed, 2,000, doesn't seem like very many. But since vessels could own all their endorsements, licenses, in one area, 5 becomes a very reasonable number in my eyes.

Lauber: O.K., anybody got anything. . . motion?

Benton: A little bit of new information, perhaps. I again would call attention to Figures 2.1.1, 2.1.2, and 2.1.3 of our March 9th analysis, if you care to refer to them. I think this analysis shows what the universe of the configurations of what license vessel ownership cap restrictions would entail and it looks at different elements and options and you can see within there that if you are putting the number of license caps on general licenses, by and large, the vast bulk of the fishery most people would own one license, 1,800 or so, under this particular analysis. I also point out, Mr. Chairman, that with regard to the restraint of trade issue raised by Dr. Pereyra, that given the number of licenses there are, if everybody owned 5 of them there would be about 600 vessels owners instead of 2,000 some-odd vessel owners, so I think it's not a restriction on trade, I think it allows for some consolidation, but it also provides some protection.

Pereyra: . . . I have a motion. I'd like to move that we change this item from 5 general licenses to 10. [seconded, but could not identify who].

Lauber: It's been moved and seconded. I think the discussion, particularly the discussion from Counsel and from Dr. Collinsworth has convinced me that we've gone a little bit too far into the area of trying to . . . too far in terms of preventing people from conducting their business. I think that 10 is a more reasonable number than 5, it's still less than 1/2 of 1% of the total number of general licenses that are available and I'd like to point out as part of this, here we are focusing on 2,500 catcher vessel licenses but in fact in the pollock industry the onshore processor sector is combined in the hands of, I think, three different companies, so we talk about excessive shares, maybe the processing industry is something we should be concerned about. If we're not concerned about it, then I don't see why we have to be so overly concerned about the harvesting sector. I think 10's a more reasonable number.

Lauber: Is there any further discussion? Ready for the question? Voting on Dr. Pereyra's ownership caps, from 5 to 10. Call the roll.

Roll call vote:	Mace	No
	Collinsworth	Yes
	Pereyra	Yes
	Samuelson	No
	Tillion	Yes
	Barker	Yes
	Behnken	No
	Benton	No
	Fluharty	Yes
	Hegge	Yes
	Lauber	No

Passed.

Lauber: O.K., anything else under. . . I guess we couldn't have anything else under that. We'll move on to license use caps. Anything under that? O.K. Vessel designation limits? Moving right along. Buyback retirement program; no buyback will be listed.

Benton: For those items where we now have. . . such as vessel license use caps and buyback retirement program, or say no buyback retirement program, no limit on use of licenses, I would move that we just strike these from the document.

Lauber: I thought that's the way it'll show up, but let's clarify that. Is that the sense of the Council is these things where we say, for instance, no buyback or retirement program, when we've voted on it we say no, that it's not in the document, that we don't indicate that we did that?

Tillion: Yes, I agree.

Lauber: Mr. Mace is pleased with that, I presume.

Fluharty: I think just for the record that this does represent a decision that the Council has made and that it should be recorded, not necessarily as a separate section, but there might be a clean-up thing in the document that just says these items were considered and rejected so that if anyone comes along in the future and wants to know whether we did consider this, it might just save us some time and provide better information for the public.

Lauber: O.K., good idea. Two-tiered license. . .

Lindeman: Mr. Chairman, a question. . . I guess it would be a point of clarification with respect to the ownership caps issue, is it the Council's intent that the cap would apply to. . . with respect if there's a partnership or corporation or whatever, would the cap apply to, say, that partnership, or to the individual persons within the partnership. If three people had a partnership and they owned 5 licenses and then one of the individual partners also owns a license, would he or she be exceeding that ownership cap? I need clarification on what the Council intends.

Lauber: Understand the dilemma?

Pereyra: Well, It's my understanding that somehow the National Marine Fisheries Service and the Coast Guard are going to be able to track all this, so. . . I think the intent here is not to allow any person to acquire more than 10 license and a person is defined in here, I believe, in some shape or form, and that would be my intent.

Hartley: The owner of a license. . . , for example, if I own a vessel with my partnership, my partnership is X Company, that is who is going to own that license and that vessel, presumably. I may not own the vessel, but I'm going to own the license. The question is, is the intent that all other the other partnerships that I'm involved in, and say I'm involved in 20 different fully incorporated corporations or partnerships or whatever it is, do I exceed the cap, I personally, exceed the cap, or since all these are different companies and the company is what owns these vessels and these licenses according to the documentation and all that, I guess that's the question that needs to be clarified.

Pereyra: But that would mean then that if I bought some Con Agra stock I would be in violation because I'm partner in several vessels and Con Agra is . . . [interrupted]

Lauber: Isn't this what the AP was talking about, something about 10% or . . . when they were wrestling with it?

Tillion: We just said an entity. Marcus already said if it's Company X they're allowed to have 5, or now 10, licenses. I certainly don't feel that because I own stock in GCI and Alascom too that I should be charged with a conflict of interest, I'm just making money. I think the way we did it is perfectly clear. What you're doing is saying Trident can't own more than 10, or Tyson can't own more than 10, unless they already have them and are grandfathered. As for the individual stockholders, ah, come on now, you start tracking that down, we'll go nuts.

Hartley: Mr. Chairman, if that's the Council intent, I think that's clear on the record now and we can write the regulations to mirror that.

Lauber: Two-tiered license. Northing? Community Development Quotas, anything on that? And, Community Development Licenses follows in the category of. . .Buyback, anything on that? Now we go to the "other provisions." Turn to that page, I'll go through them. Number 1, license represents a use privilege, any change in that? Severe penalties may be invoked, all of these of course are advisory and that we suggest to the Secretary. Number 3, licenses may be suspended or revoked for violations. . .

Fluharty: It seems to me that it might not require multiple violations for a license to be suspended or revoked. I think. . .I don't know the practice here, but if someone does something really egregious I would just as soon the license be revoked, and I hope that either could be communicated as a sense as opposed to the wording.
[Change to Tape 57]

Lauber: And. . . maybe suspended or revoked for serious and/or serious or multiple violations. Without any objection to that. . . all right, . . .amended to read license may be suspended or revoked for serious and/or multiple violations. O.K., four, Implement a Skipper Reporting System; five, Impacts of Analysis of Various Rent Collection Levels; Vessels which qualify for a license limitation program that have been lost, destroyed, and their eligibility; seven, Vessels targeting non-groundfish species currently allowed to land incidentally-taken groundfish, etc.; anything on seven? Moratorium-qualified vessel and then lost. . .

Pereyra: Why was this when it was written changed from Mr. Benton's original motion? Mr. Benton's original motion addressed other potential areas of concern about. . .we talked about catastrophic engine failures and so forth.

[several people talking at once--couldn't understand]

Hartley: We just handed out a new draft, that is in there. . .it doesn't reflect your very last motion but everything else should be in there.

Pereyra: O.K., thank you, I apologize.

Hartley: We've also given you a new list of the number of participants reflecting your West Yakutat move and also I kind of further refined some of the numbers as well.

Pautzke: It's number 11 on page 3 is now the. . .

Lauber: O.K., nine, empty umbrella? And ten, CDQ vessel exemption. O.K., that takes us down to "sunset," and no sunset provisions, anything on that?

Behnken: I have one more motion I would like to try under other provisions, and that is to allow in the Gulf of Alaska an exemption for jig vessels with a 10,000 lb per week trip limit, and a 50-ft size limit, the 5 machines, per vessel, one line, 15 hooks, all the same things we did in the Gulf, but 50 ft and 10,000 lbs per week. And if I get a second I'll speak to it. [Seconded by Benton] I believe that we have left a little bit of an entry level in the Bering Sea that can be prosecuted safely. I don't think we've done the same thing in the Gulf of Alaska and I really feel that we have that responsibility to do that, to allow. . .I don't think with a

10,000 lb trip limit it can be threatening in terms of overcapacity; I believe it addresses the safety issues that were raised by Capt. Anderson, it encourages clean gear which has been a big premise of our discussions for the past couple years, and it just will give people that little bit of a way to get started safely without being a threat to capacity.

Pereyra: This is sort of in the form of a question. What do you think the impact would be in Southeast if a couple hundred, 200, 300, whatever, vessels decided to go out and jig for canary rockfish on the resource, what would be the impact. Those things are 100+ years old and so forth and understand that. . .

Behnken: Canary rockfish are. . .

Pereyra: It should be yelloweyes, I was thinking yelloweyes, not canary. . .

Behnken: Yelloweye rockfish, thank you. Yelloweye rockfish, first, don't bite jigs, but second of all they're part of the demersal shelf complex which we're handling separately, and they occur primarily in State waters which isn't covered by this plan anyway. I think that we're dealing with offshore fisheries here and there are some species that could be prosecuted with jig gear which we've all decided is a very clean gear; there's some that could be developed that are probably somewhat underutilized at this point and I think it gives people an opportunity without being a big threat to anybody.

Tillion: I hate to have to go against this, but the thing is we're trying to hold the line and you're talking about a type of gear that is very clean, but it also targets in many cases on a species which is very long-lived. I understand that there's not much of a threat to what Ms. Behnken is advocating in Southeastern Alaska, but there's a fleet in the area I live in that could walk through this like a wide open barn door and I'm going to have to vote against it.

Behnken: I guess I feel like yesterday we took some measures to include some people in this program that, oh, their boat qualified in one area under the moratorium and qualified in another under endorsement, or they were a crossover vessel and we kind of twisted things around we pulled them in and some of what we did let in a lot of capacity, a lot of capacity, and the amount of capacity this is going to bring in, you look at the graphs in the back in the appendix that were done by Joe Terry and it doesn't even show up in terms of total capacity, you let in a whole bunch more small boats and yet what it does is give an entry level that would be safe and I think it really would be irresponsible of this Council to ask people to be going outside three miles if they want to get started in these fisheries in a 26 ft. boat in the Gulf of Alaska.

Benton: I'm going to have to speak in response to some of the comments that were just made. I do not believe that we took action that would result in excess capacity entering the fisheries. I think we adjusted the program to deal with a couple of specific problems by the way we configured the program, but I think that when we look at the information that was provided to us on the record and in the analysis that it's clear that the way that we shaped the program does not result in significant increases in capacity and in fact results in reductions in capacity. And, I want to make sure that the maker of the motion is not suggesting that we have done something otherwise, at least in my view. The other thing is that while I have a lot of sympathy for this I cannot support this measure for the same reasons that Mr. Tillion has spoken to. In the instance of the Bering Sea for the jig fishery we already have a quota established and a fishery established with some guidelines and the provisions that we adopted in the Bering Sea conform to that and because we have a TAC for a jig fishery, I can see that that fishery will be under constraint and we do not have a similar kind of measures in the Gulf of Alaska. If we were to put something together in the Gulf of Alaska I think we would have to consider that as well so that we could ensure that we have allowed for a fishery that is going to be manageable and executed in an orderly manner.

Lauber: Any further discussion? Ready for the question. Call the roll, Southeast jig fishery, 10,000. . .

Pautzke: No, Gulf of Alaska. . .50 ft exemption.

Roll Call:	Collinsworth	No	
	Pereyra		No
	Samuelsen	Yes	
	Tillion	No	
	Barker	No	
	Behnken	Yes	
	Benton	No	
	Fluharty	No	
	Hegge	No	
	Mace	No	
	Lauber	Yes	

Failed.

Lauber: All right, any other. . .there was nothing under sunset provisions, huh?

Mace: On the heading for Other Provisions, we say “choose any or none of the options.” Actually, the Council has approved those options; do we need that qualification there?

Pautzke: That shouldn’t have been there; that’s just an oversight; please cross it out.

Lauber: O.K., we had a time certain, which it didn’t turn out to be very certain, Mr. Ackley at 8:00 a.m. this morning, so we’ll take that up after the recess and then we’ll go into the crab section of licenses and then we can vote on the full package.

Recess. (June 17, 9:06 a.m.)

Begin Tape 58, June 17, approximately 9:50 a.m.

Lauber: O.K., . . .all right, now we’ll move back to the crab license options, same ground rules as we did with the groundfish, the original votes were tentative. I believe the most recent document is C-. . ., June 17, 8:00 a.m., we’ll work from that. All right, starting out, same thing, anyone having anything on Licenses Classes? O.K. Anyone have anything under Nature of Licenses? O.K., moving down to License Recipients.

Capt. Anderson: We discussed this yesterday under groundfish, but the same language that causes a problem is now listed under the most recent documents under both crab and groundfish. It discusses current owners of vessels documented in the United States as of 6/15/95. I know we didn’t reach resolution on that issue yesterday, there were a lot of different ideas floating around and I think that what the staff was trying to capture is what they heard yesterday, but I don’t think it was the best resolution and I have a motion, I’d like to change the initial language. And, my motion would be to redefine that first sentence, both under groundfish and crab, to be: license recipients would be current owners defined as those persons eligible to document a fishery vessel under Chapter 121, Title 46 U.S.C. If I can get a second I’ll speak to it. [Seconded by Samuelsen]

Lauber: And that’s as of June 16. . .

Anderson: No, sir, I did not add the particular date in there; I’ll address that also. What we could have in this case, I suppose there’s about probably 40 vessels that may have been reflagged Russian, they may or may not still be U.S. corporations that own those vessels, I don’t know that. But, the language that’s in the existing document would in fact prohibit perhaps a fully-qualified U.S. corporation which happens to be flying a Russian flag on its vessel from the opportunity to reflag that vessel U.S. It is probably no different from any other vessel that may have a landings history that has just been participating in another area of the country in a U.S. fishery. The documentation laws allow these [owners?] to these vessels to return to U.S.

documentation and reacquire their fishery endorsement and the language I proposed would keep that consistency between the documentation laws and the Magnuson Act. By putting a date certain in there I think you may run into. . . I'd defer maybe to NOAA General Counsel, but you may run into some other problems with Administrative Procedures Act of allowing a proper notice of that opportunity to reflag U.S., and you may be better off looking at those vessels and defining current owners without a date for now because if we put a date certain in there, the other problem you run into is U.S. vessels currently, you're going to tie this license to whoever happens to be the owner as of today when you've got a program that may not be in effect until three years from now, so I don't know how that would compound problems with future transactions and owners, so I think I would leave the date out for now. With that, I'll allow any other discussion.

Lauber: O.K., it's been moved and seconded; it basically was the same language I read yesterday, "current owners who are persons defined as those eligible to document a fishing vessel under Chapter 121, Chapter 46 U.S.C." Is there any further discussion? Is there any objection to the motion of Capt. Anderson that I just read? Hearing none, it passes. Is there anything else under that, License Recipients? O.K., License Designations. O.K., Qualifying Period.

Hartley: Just a point of clarification there. There's a little bit of inconsistency with the species that you've defined in the Nature of License and the species that we talk about in this qualifying period, and we would make those match. In other words, Norton Sound red and blue king crab we would call Norton Sound king crab, and the Pribilof red king crab we would just call Pribilof red and blue king crab.

Lauber: Unless there's a Council objection, that's the way it will be done.

Krygier: Pribilof king crab would be fine.

Hartley: Pribilof king crab? [affirmative] And, Norton Sound king crab would be fine as well? [affirmative]

Lauber: Anything else under Qualifying Period? Minimum Landings? Who May Purchase Licenses? Vessel License Linkages? Options Regarding the Separability of Species and/or Area Designations?

Benton: Just make sure with staff that, that this has now been made consistent on the groundfish as well, correct, or it will be?

Hartley: It's in the current groundfish . . .

Benton: O.K., I didn't get a chance to review the other one. O.K.

Hegge: Going back to Who May Purchase Licenses, we added the "no leasing" comment in the groundfish and that isn't in here, I see, on the crab.

Lauber: Maybe that's because we were under groundfish. I don't think we did it under this, did we?

Hegge: I would so move that we add it in here.

Lauber: O.K., your motion is the same language as used under groundfish?

Hegge: Yes, that would be no leasing of crab licenses.

Lauber: Is there a second?

Behnken: Second.

Lauber: Is there any objection to the motion? Do you object, or did you just want to speak?

Pereyra: No, I object.

Lauber: O.K., Dr. Pereyra objects, motion carries. Anything else under separability? O.K., we'll move on to Vessel Replacement and Upgrades.

Collinsworth: I'm not sure which designation it's under, but the issue we discussed this morning about downgrading from one, say the 60 to the less than 125 down to the less than 60 category, that's not explicitly been dealt with; is the right place to do that?

Lauber: Yes, I think it is.

Hartley: That language was actually in the Vessel License Linkages up above, in the last sentence of that Vessel License Linkage, it says "any vessel less than or equal to the maximum length and within that vessel class may use that license," and that's where it is now.

[several people talking at once]

Collinsworth: But we'd want to use the same language that we used for the groundfish.

Lauber: Do you think that covers this though?

Collinsworth: Well, this says within the vessel class; we want to allow it to go down, we don't want a floor.
..

Pereyra: I would assume that we're talking about vessel class with regards to. . .in this regard we're talking catcher processors versus catcher vessels and that allowing a vessel to go downward would be acceptable. I think it's particularly important here because we've gone ahead and bundled those vessels that have got combination groundfish and crab licenses and it's pretty hard for one side of the vessel to go down and the other side not to, and it makes it a little more difficult; makes it controlling on the most restrictive portion, so I think they both have to be comparable.

Benton: I think that the approach that we adopted on the groundfish would apply as well to crab, and that is that a vessel would be allowed to use a designation from a, say 75 or 120-ft vessel on a 58 ft seiner if somebody decided to do that, so they'd be able to use it in a smaller vessel class, for vessel length. . .

Lauber: Is that the Council's desire to conform it to the groundfish language? Hearing no objection, so ordered. O.K., License Ownership caps.

Behnken: I am not quite sure I'm clear on where the discussion ended up with groundfish, but I would assume that in defining ownership that we would also be including controlling share in a corporation. I think that's defined as 10%. Would that be correct, or how wide a door did we just leave with what we did with groundfish?

Hartley: I think right now you're on record, at least my understanding of what you've said, is that the owner of the license is defined by the person that you've issued that to, not. . .and that person is the corporation or the partnership or the individual. You haven't really made any definite statements that says you want to look within that corporation or within that partnership and restrict the ownership of persons within the partnership. Right now you issued them to the person that owns the vessel and that is partnership, corporation, individual.

Behnken: So, in other words, all someone has to do is set up other subsidiaries and there's no ownership cap.

Hartley: That's . . .

Lauber: A comment on your 10%, I think that that number's often used when you're talking about publicly held corporations. Obviously 10% ownership, if you held 10% of a company in which I owned 90% I would take issue with the fact that you had a hell of a lot of control over my . . . , so . . . it may well be that in some cases 10% could do a lot, but . . . others can't do much.

Pereyra: I was going to follow on with that. If you have provisions in your shareholder agreement that require that there be majority decisions on certain key issues and you own 10% you've got veto power on anything that goes on in any of those particular areas, so you can have very significant control as you point out. That's why I think this whole issue is one that's somewhat difficult to get your arms around. I think where we left it with groundfish was probably appropriate.

Lauber: Well, I think the AP covered that as kind of a caveat that the problems of tracking all of this was going to be difficult at best. Other than that, can we move on with Ownership Caps?

Pereyra: I would like, if I could, discuss this a little bit. The groundfish side, we had 10, the crab side at 5; how does this relate to combination vessels, for example? Are they looked at separately, or are they looked at the same? We've gone ahead and we've considered bundling these. It seems to me you're disadvantaging those vessels or those owners of combination vessels as opposed to owners of vessels which don't have any combination aspect to them. We aren't allowing them unbridling, I just think we're, again we're getting into an area that probably we ought to have them be the same. I think the combination vessels should be the same. This is a very serious issue because, for example look at the CDQ communities. I mean, they're corporations and we're trying to do what we can to allow them to develop to get into the fisheries and we're going to constrain them. They're going to be limited in how far they can go. I don't know if that's what you wanted to do or not. I think we should make this 10 to conform to the groundfish.

Lauber: You got us into this, it was your 10. . .

Pereyra: O.K., I make a motion that it be 10, same as the groundfish. [Couldn't hear second]

Lauber: Moved and seconded that the ownership caps be 10 general licenses per person.

Benton: I'd just point out that if the information as I understand it is correct that with regard to the groundfish fisheries we've taken a fleet that has over 2,000, almost 3,000 owner-operators, or owners and we have made it the potential to have that be now converted to . . . 223. . . 230 owners in the groundfish fishery with the increase that Dr. Pereyra promoted for the groundfish fishery. In the crab fishery, if we made it 10 licenses, basically 48 people or so could own the entire license configuration for the Bering Sea.

Behnken: In the text under groundfish it said there was only one owner who would receive 5 vessel licenses initially and none who would receive more than 5 vessel licenses. So there we allowed a cap that was twice more than any one person was receiving and when I look at the graph for crab, it seems to me we're allowing even more of a consolidation and a higher excessive share.

Lauber: What's the number? Does it say?

Behnken: On page 27 of the March 9th analysis there's some graphs there; that's crab. The groundfish is on page 17.

Lauber: What's it look like, Marcus?

Hartley: On page 17 you have your tables for groundfish. That was using a considerably different configuration than you have on the table now, which is 11581.

Lauber: What's crab look like, we're on crab.

Hartley: I thought Ms. Behnken was asking about groundfish. The crab configuration that you have there, again it was using a slightly different qualifying period and a different number of licenses, but there were vessels, 1 vessel that had up to 15, a vessel that had 8, owner, I'm sorry, that had 8, one that 5, one that had 4, 7 had 3. But again, that is a different configuration than the configuration than the one you've come up with now, and it's going to be close, it's going to be within that kind of a framework, but. . .

Lauber: You mean by combining maybe opilio and bairdi and some of these others it might. . .

Hartley: This is vessel owners, and general licenses, it's not talking about . . .

Lauber: What have we done differently that's going to. . .

Hartley: You've changed the. . .this is a different qualifying period. In the March document you didn't have the base qualifying period, endorsement qualifying period combination, and this was based on, actually qualifying period 4, I guess, no, 3, which didn't have your base. . .this combination thing. So, you're probably reducing some of these numbers in some areas. . .I'm not trying to be obtuse, but it's not. . .this one is not the same one.

Behnken: So, we've probably reduced from this, and what this shows is 341 persons receiving 1; 32 receiving 2; 7 receiving 3; and then there's a couple of outliers (?) that would be grandfathered in, you know, 1. . .it's kind of hard to read because you can't see the bar on the graph, so I think as Marcus said there's one or two people that go out there, but I just don't see how you can justify raising this to 10, based on that.

Lauber: O.K., we have before us a motion to go from 5 to 10; is there any further discussion?

Benton: I just want to point out that irrespective of the vote on this particular matter that, given the counselor's comments regarding excessive shares and anti-trust laws that I don't believe that raising the cap will violate National Standard 4. I don't necessarily **[Change to Tape 59, lost some words in changeover]** . . . given what's been represented.

Tillion: While I voted to raise the groundfish to 10, I'm not going to do that with crab. There's a big difference between around 260 owners possibility under one and 47 possibility under another if you raised it to 10, so I think 5 is reasonable enough in the crab.

Lauber: Any further discussion? O.K., call the roll on raising 5 to 10 on . . .

Roll call:	Pereyra	Yes
	Samuelson	No
	Tillion	No
	Barker	No
	Behnken	No
	Benton	No
	Fluharty	No
	Hegge	Yes
	Mace	No
	Collinsworth	Yes
	Lauber	No

Failed.

Lauber: All right. Done with Ownership Caps; we'll move to Vessel Designation Limits; move on to Buyback Retirement Program. I assume that we would follow the same procedures here as we did in groundfish that it will not appear in the body of the document but somewhere in the footnotes, or at some point there will be a notation that the Council considered a buyback program and skipper licenses and so forth and decided not to include them. Anything under Skippers? O.K., same with that. Community Development Quotas, anything under Community Development Quotas?

Pautzke: Is there some deep meaning in the phrase, "any or all GHLS," or is it just all GHLS? What does any or all mean, does that have a significance?

Benton: I think the wording should be "all" because obviously if there isn't one, it wouldn't be there.

Collinsworth: Just so it's absolutely clear on the record, I believe the Council's intent is clear, but I don't know that the record is clear that the Aleutian Island inclusion should be, would be part of the crab program as well. I had some questions from some folks last evening; it was unclear whether the Council had gone on record to include the Aleutian Islands.

Lauber: Yeah, well, we can clarify it, but I think the Council meant the Bering Sea and Aleutian Islands, BSAI.

Collinsworth: I meant Akutan.

Pereyra: I think the reason why you have to have the GHLS in there, because there's some species I believe that don't have GHLS, right, guideline harvest levels? Tanneri, for example, angulatus, they don't have a GHLS, so how do you put 7-1/2% of what?

Benton: The crab that are covered under the CDQ programs are those covered under the Fishery Management Plan for the Bering Sea and Aleutian Islands king and Tanner crab and those species and those GHLS are the ones that would be covered and subject to a CDQ program.

Pereyra: So, if in the future, it would be my understanding for the future, you did establish a guideline harvest level at that point in time, then 7-1/2% would become part of the CDQ program.

Benton: That would be true, and I think that matter would have to become before the Council, we'd want to bring it before the Council before we did anything.

Lauber: O.K., Community Development Licenses, same thing there that we mentioned. Other Provisions. We'll strike "any or none of the options"; we have chosen. Number one, Use Privilege, Severe Penalties, License Suspended or Revoked, same language there as we used before "for serious and/or multiple violations." Implement a Skipper Reporting System, number four, Analysis of impact, rent collection levels, etc.; the expression of the Council's intent to not have additional superexclusive registration areas; vessels which qualified for Council license limitation that have been lost, destroyed, so forth, anything under that? Number eight, . . .

Benton: I hesitate on this one seeing as how I drafted the language, at least in part, and Dr. Pereyra and I did have quite a discussion on this matter on the record. I'm a little bit concerned with the way we worded this, that it may be a little bit too open-ended in terms of the language and could result in some administrative confusion. I recall our discussion and what we said was something along the lines that vessels which qualify under the moratorium that are lost, damaged, or otherwise out of the fishery during the discussion of that language we were talking about catastrophic damage, not the scraping of the paint on the dock that Mr. Samuelsen routinely encounters when he pushes his boat off, and I wonder if we might not want to tighten this up just a little bit in order to provide a little bit clearer guidance as to what is exactly meant here. And what I'm thinking of specifically is that we would change the word 'damaged' to were lost and insert there,

‘suffered catastrophic damage,’ and if somebody has any wisdom about to clarify ‘or otherwise out of the fishery due to factors beyond the control of the owner,’ I’d appreciate some suggestions, but at the present I don’t really have any. So, I would move that we change the language in the first line of Number 8 to read, “Vessels which qualify under the moratorium and were lost, suffered catastrophic damage,” and then continue on with the sentence.

Lauber: I think that’s reasonable, but listening to you intent, wouldn’t you be doing the same thing if you merely just struck damaged, and it read “were lost or otherwise out of the fishery due to factors beyond the control of the owner”?

Tillion: That could be foreclosure.

Lauber: Well, if he paid his bills he wouldn’t be; otherwise you’re going to leave that in.

Tillion: But, if it’s foreclosure, goodbye.

Lauber: Well, I don’t know. O.K., fine, let’s go with the way that. . .

Collinsworth: I do appreciate the discussion to get the flavor of the Council’s intent on this issue, but I think ultimately when we get to the rule packaging that we’re going to need to refine that and also talking with the folks that will be making the determinations they’ve talked about the kind of showing that would be required in order to make these determinations. And, you know, Mr. Tillion brought up the guy who forgot to put oil in the engine and it blew, well maybe it was a leak and it blew because it didn’t have oil in it, so we’re going to have to work on that, try to come up with something to allow the appeals officers and the people making the initial administrative determination and opportunity to verify by some kind of showing and they’ll have to help me define what that is and help you, I think, define what those things are.

Benton: I take that to mean that through the administrative rulemaking process the agency would look at these kinds of things and develop language that would reflect our intention here.

Collinsworth: And, I have no problem with adding “catastrophic,” because that tends to modify damage and gives us a better indication that the Council is talking about something severe rather than something minor, and something totally out of one’s control, an act of God, or something that. . .not forgetting to put oil in the vessel or letting the oil stove run out of control and burning up the vessel. . .

Benton: With that understanding, that what we mean here is something extraordinary and severe, I would withdraw my motion. I’m perfectly comfortable with the discussion; if that’s the understanding on the record, I’m happy.

Lauber: All right. Anything else under 8? 9?

Collinsworth: . . .I’d like to ask Mr. Berg to come to the microphone; he had identified somewhat of a discrepancy between the moratorium and the CDQ regulations and I’d like for him to explain that so we could clarify.

Ron Berg: I just want to identify under the moratorium, what the Council did is that for the purposes of the CDQ program vessels that are exempted, those that were developed for purposes of the CDQ, the Council allowed those vessels to participate in CDQ and non-CDQ fisheries, so. . .[couldn’t understand]. . .it’s not quite exactly the same, now they have under crab here, there they said including the moratorium will continue, but then they said participate in just the CDQ. So, there’s a difference there as to what we actually have under the moratorium. Under the moratorium we said, you can participate in CDQ and non-CDQ fisheries, so I just wanted to bring that up for you to clarify what you want there.

Benton: Question for Mr. Berg. So, that provision is applicable both for groundfish and crab with respect to the moratorium, correct?

Berg: Yes, that's true. You're under crab now, but I was going to bring up the same issue under groundfish as well.

Benton: It was my intention that we would mirror the requirements in the moratorium and I was under a misunderstanding about what was in the moratorium. I guess. . .how does the moratorium work, Mr. Berg?

Berg: Well, what the Council did under the moratorium, it said new vessels constructed after implementation of the CDQ program, pursuant to an approved CDQ project, will be exempt from the moratorium. Then it said these vessels may fish in both CDQ and non-CDQ fisheries.

Benton: And there are some restrictions on sizes of those vessels and whatnot?

Berg: Yes, that's true; it says such exemptions will be limited to vessels 125 ft and under.

Lauber: At some point I raised the issue, we weren't creating a bolt (?) building project here, were we, and at that time I was assured we weren't, and now we might, huh? I can't believe we left that kind of a loophole in there. It must have been late in the day.

Benton: When we come back to vote on the full package. . .is it your intent now that we've made some refinements, both of these we'll get them re-typed from staff before we make a final vote, or are we going to vote on the final package after we get through with the crab licenses.

Lauber: We've gone through groundfish and we're about through crab, and I thought that we would be then in a position to vote on the total package. Obviously, if someone wants to go back and revisit. . .we haven't taken a vote on. . .if someone wants to reconsider their action on groundfish, we can do that.

Benton: The only reason I asked the question is I was wondering there was an opportunity to revisit this particular provision because I wanted to confer with Mr. Berg for a moment, just briefly and then look at it. But if we're going to move forward and. . .

Lauber: I'm going to. . .when we get to a point before we vote I think we'll take a break so that you can come back before the motion is made, I mean I'll take a break, so you can confer with people.

Benton: Then I'd propose no changes at this time.

Lauber: Now, do we have anything else under Other Provisions? O.K., that takes us down to sunset, no sunset; we'll be silent on that. Individual Transferable Pot Quota System, again we would follow the same language, it would not be mentioned, or have an item, but mentioned that we considered it. Now, is there anything else under crab license limitation that you care to bring up at this time?

Hegge: Well, I don't know if it's under the crab independently. I raised the issue earlier about the non-severability of the CDQ program and you mentioned that when we got through we would address it with both of the plans, I guess.

Lauber: O.K., I think this would be the proper time because we're at the end of both the groundfish and crab, so go ahead and let's take it up.

Hegge: I guess a motion that we send this forward as an integral package that could not be separated, the CDQ portion from the license portion, either in the crab or the groundfish proposals. [Didn't recognize voice of second]

Lauber: O.K., it's been seconded. Care to speak to the motion?

Hegge: Yes, I certainly support the entire package but I think the entire package is dependent on each aspect of it. Certainly we would not be voting or attempting to allocate the CDQ without the allocation to the rest of the industry and we have proceeded that way with the sablefish and halibut program and I assume that we're going to be continuing the CRP process, or you folks will, but would not want to see, as I said, either part of the program proceed without the entire package.

Pereyra: By that, do you mean that the CDQ portion and the other portion of the package are unseverable, but within each subset there may be some adjustments that might be made? The concern that I have is you remember the inshore-offshore package after the Secretary got through chewing on it, so forth, came back with some changes they wanted to make in order to make it acceptable. Now, if we make thing all or nothing, and there is some little aspect of it that won't fly, it would endanger the entire program and I don't think that's what you have in mind, do you? . . . I don't know, maybe you do.

Benton: I guess this would be a question of the maker of the motion, but as I understand it, what you're expressing is that it's the Council's intent that this license package is going forward as an integral unit and that the component parts are an integral piece; you can't chop off one piece and chop another piece, because these are integrally linked in terms of the overall package. And with regard to CDQs I would certainly support that they are an integral part of the package for Secretarial approval. And that goes for other component parts of this package as well. For example, if the Secretary decided that the Secretary didn't like vessel size categories for some reason or another and decided to try and eliminate those I don't think that that would be appropriate. I think that those are an integral part of what we have done here, and that goes for the other provisions as well and if I understand it right, that's the intent of the maker of the motion, that CDQs will be treated like other integral parts of this package with regard to Secretarial approval.

Hegge: That's correct.

Lauber: In the case that the Secretary had a problem, my understanding the way this would work would be, they might indicate that they had approval of this, this, and this; they have a problem with a certain portion; could send the whole thing back for Council review and the Council could make or not make adjustments in that. That's the works isn't it?

Lindeman: During Secretarial review and looking at National Standards and whether or not the whole package as well as parts of the package meet those standards, one of the questions is, with respect to partial approval or disapproval is severability. And, the Council can state its intent that everything is so integrally related that it all goes or it all falls. But some of the questions that we look at is, would disapproval of a particular provision change the basic thrust of the Council's program or in other words, I guess, is not only the particular individual provisions of license limitation and CDQ parts is, for example, could the license limitation program if it was determined the National Standards and, say, if the CDQ portion didn't, or vice versa, could the license limitation program go forward and operate independently and meet what the Council wanted to do with the license limitation program in absence of the CDQ program, or do they. . .

Lauber: Well, my understanding of this motion, and the reason that would I support it is, that we could probably do a pretty good job if we had another few days on this to sit down and analyze each - if you take this out, does it have an effect on this and this and this, but, and it may well be that if the Secretary approves, indicates approval of this, and says I would like either this changed or whatever, that that come back to the Council and the Council can make the determination as to whether that is an integral part at that time. It may well not be, . . . overall, this is more important and we'll take that out, or we'll change it so if the Secretary would be so kind to indicate what the problem is with it, we can change it or adjust it or give additional justification, or whatever is required. But, I think that it's important that we have that opportunity and I think that's the thrust of this motion. And, sending word that this to us looks as though it's an integral, intimately

related package, and if there's disapproval of portions of it, that you send it all back to us and then we'll adjust it as a total package.

Pautzke: The only thing that I was going to offer is that this is kind of a special case as far as the Magnuson Act is concerned. Limited entry is the Council's prerogative, it's not the Secretary's prerogative to gin up a program; it's right in the Magnuson Act, it's not like any other regulations that we do where maybe there's some latitude for them to tinker with it. I think as far as technical clarifications, operations as a system, is that probably over the summer we're going to be working on trying to figure out, do we need more technical guidance from the Council or the industry when we come back in September as we're drafting the Proposed Rule. But then once it leaves here, if the Secretary finds that there's something within the license limitation portion of the rule that he or she wants to tinker with, I think that almost requires them to send it back to the Council, rather than trying to adjust it in Secretarial review if they can't accept it, because limited entry is a very special case within the Magnuson Act.

Benton: There is somewhat of fine line between how you make a technical adjustment and how you make determinations about integral components and I'm reminded of the halibut-sablefish IFQ program and the issue of Bellingham and other matters of that nature, and our concern about how that was dealt with in Secretarial review instead of coming back to the Council. And that was considered by the Council at least to be a fundamental component of the overall limited access program that was enacted under halibut-sablefish IFQs, and I too share the concern that the maker of this motion has; my concern does not just extend to the CDQ component; it extends to other components as well in this package, 'cause there are a number of measures in here that I believe are very basic to the structure and to the performance of this overall package. But, I'm glad that we're having this discussion. I think it's very important as Counselor has indicated it really is an expression of our intent and our view of how we constructed this package. In fact, I'm sort of wondering if whether or not we want to modify the motion a little bit to have it not just reflect the CDQ component, but to say that this package is constructed of a number of key components that are all part of the package that would go forward to the Secretary.

Lauber: All right, is there any further discussion; are you ready for the question? Is there any objection to motion? Let's call the roll, then. We're voting on Mr. Hegge's motion sending it as an integrated package.

?: Could you read the motion, Mr. Chairman?

Hegge: I think Mr. Benton was modifying the motion there, though, or did you want to do that?

Benton: Well, I was asking the question, and I don't really have the amendment entirely in my mind, but I think we should modify the motion so that it would be. . . Clarence, could you read the motion to me, please?

Pautzke: Well, basically I just have the concept written here, which is non-severability of the package, it's an integral package if something gets hung up on any part of the package, we want to take a look at it ourselves, we don't want tinkering with it. Is that what you wanted, Ron? If not, you need to tell me exactly what words you want.

Hegge: I believe that I specifically mentioned the CDQ portion as it related to the entire package, and I think that I would want to keep that in there, but also include the comments that Mr. Benton made.

Pereyra: I want to clarify the reason I'm opposed to the motion as it's presently structured, and that is that I think that it's certainly correct that the Councils are the ones that initiate limited entry programs but I don't think that there's anything in the Magnuson Act that says that the Secretary does not have the authority to approve or partially approve IFQ plans. I think certainly, given the relationship between the Councils and the Secretary I'm sure that these things will come back but I'm afraid that we're sort of setting ourselves up for another one of these, 'darn we told you so, why'd you do this,' because this is going to turn out to be a ping-pong match, this thing coming back and forth and back and forth and it'll never get implemented, so I

think certainly it's appropriate to have the CDQ and the rest of it linked, but within those I think there should be some discretion to make certain we get the thing finalized and on its way.

Tillion: I'm going to vote for the motion, but I understand that while the Magnuson Act gives us exclusive authority over the vote on limited entry that it also gives the Secretary the right to a great deal of flexibility, so I think that all our vote is, except on limited entry, is pretty well advisory. The Secretary still has a great deal of flexibility so I don't think the worries of Dr. Pereyra are all that serious. What we're doing is telling the Secretary we'd rather take a look at what you want to do before you do it in case it changes the whole approach to limited entry which is our exclusive [Change to tape 60] prerogative, therefore I have no difficulty voting for the. . .

Benton: Perhaps I could offer as a friendly amendment some hastily drafted language. I'd propose that what we are doing is the Council is adopting as its intent that the CDQ component and other components of the license limitation package for groundfish and crab, including vessel size categories, transferability provisions, qualifying periods, license designations, gear designations and other measures are considered an integral package and are non-separable in the views of the Council.

Lauber: Is there a second? Well, do you accept that as a friendly amendment?

Hegge: Yes.

Lauber: O.K., that is then what we're voting on. Thank you for stating what the question is; call the roll on the motion.

Roll Call:	Samuelson	Yes	
	Tillion	Yes	
	Barker	No	
	Behnken	Yes	
	Benton	Yes	
	Fluharty	Yes	
	Hegge	Yes	
	Mace	Yes	
	Collinsworth	No	
	Pereyra		Yes
	Lauber	Yes	

Pass.

Lauber: All right, we'll take a break.
[Break]

Collinsworth: I would request of the Chair that I'd like to be recognized before we proceed to the final motion?

Lauber: O.K.

Fluharty: In discussions after our last meeting, it appears that there is a sufficient consensus, at least among industry, to accept a motion that was made at the end of this, but I chose not to accept as a friendly amendment and I'd like to kind of clean up this question about what we call a pocket processor amendment for the Gulf of Alaska and the Bering Sea and so I would like to move the previous amendment but with the exception in the Bering Sea that we would accept instead of 18 tons per day, 10 tons per day. Otherwise the motion would be as we discussed at the end of the day yesterday.

Lauber: My recollection of what we did is we voted on that and then we, refresh my recollection, we voted on that, and then reconsidered our vote and so it's been voted on and reconsidered. I think the problem, wasn't that where Samuelson had a problem, we reconsidered the vote. It's been reconsidered; it's basically a non-issue unless we rescind our action.

Mace: I also recall that we mentioned that this was an opportunity for us to come together in September and discuss this as part of the bycatch and full utilization segments of comprehensive rationalization, so it's going to come before us again.

Tillion: It does come before us again, right?

Lauber: Yes, it does come before us again. Yes, unfortunately. . .

Barker: On a separate issue, for clarification of the record and action if necessary, within the vessel designations that we've set up, particularly on the groundfish side by vessel length, within those categories, is it the Council's intent to constrain the flexibility within those categories? You've got catcher processors by size, catcher vessels by size, and there's been some concerns or non-concerns within the industry about the switching back and forth between trawl gear and fixed gear within those categories and right now, the way I read this, that that's an open door, and there's some consideration for maybe a one way, that you can go to fixed gear but you can't go to trawl? Right now it appears to be wide open.

Lauber: Yes, I think so.

Behnken: Mr. Chairman, I had some discussions with people at the break. It was an AP recommendation to not allow people who received a fixed gear license to use trawl gear or to sell that to a vessel that would use trawl gear, or sell it to someone who then used trawl gear because of the potential of increasing capacity. And I know the AP spent some time on this and passed it, 14 to 6, sounds like there's a lot of support for doing that. And, I guess, having spoken to my motion, I'll make that motion, that we do the same; that a person who receives a fixed gear license may only use fixed gear and anybody who purchases that license may use fixed gear.

?: Second.

Tillion: But, how about the other way? A person receiving a trawl gear license can convert to fixed gear?

Behnken: That's right; that's correct. That's my understanding of the AP motion, that would be the intent of my motion.

Lauber: Is there any discussion?

Benton: Is this a . . . I guess this would be a question of the maker of the motion. . . this would be a general reflection then of what the AP discussed, which is that a vessel received a license and area designation based upon activities involved with fixed gear could not then switch over to trawl gear and, similarly though, if a vessel that was using trawl gear wished to they could downgrade and go ahead and use fixed gear or other gear.

Behnken: Yes, that would be my understanding and if a . . . I would assume it's a one-way door. In other words, if it was sold to a vessel that then used fixed gear, it couldn't go back., if we're looking to reduce capacity in that way.

Tillion: I'm going to support this because who I've heard about are some people that are having a shut-off due to bycatch and in some cases with little bycatch left they'd rather be able to put on pot gear, is what they

were thinking about, and not have the bycatch and still take their target species, so I think it's a good thing to put in at this time and so I'll support it.

Benton: I recall that we have discussed numerous times during the course of our deliberations various configurations of licenses, some of which included gear-specific licenses; there was some analysis in the early stages of this license limitation package which provided us with some information. I note that there was a fair amount of public testimony regarding whether or not to use gear-specific licenses during the course of the public hearings that we undertook as we developed and refined the options and components of this program and that the AP has discussed at several times whether or not there would be gear-specific licenses in one form or another. And, Mr. Chairman, I particularly would note that the AP at this meeting made a recommendation similar to what we're acting upon here. The AP did this based upon fairly extensive deliberations of this subject and public comment regarding potential capacity problems caused by vessels that received their licenses and designations based upon trawl activity, or excuse me, on longline activity, and then that would be used to put a trawler into that fishery; the specific concern that was brought to my attention was instances where you had vessels that were just over 60 feet that had been fishing longline, earned a license, and that license then would be applied on another vessel of significantly greater length and to use as a trawl in a trawl configuration, and that there was concerns regarding how that might affect capacity. I think that the AP carefully considered this matter and I think we have also heard significant amounts of information about this over the course of the past year or so.

Lindeman: This would be a question of Council staff, whether or not this is included in the analysis and is there information in there in terms of number of vessels this would affect and capacity, the effect on capacity, and possibly what the Council's trying to achieve.

Hartley: We have included throughout our work on this program some discussions on vessel classes, not vessel classes in the sense of longline, or, that we have in our document, but in terms of how we have examined vessels, a trawl harvester four category and a longline harvester two category, and so on and so forth. Those categories were categories that we developed for study, they're not necessarily exclusive categories or categories that are defined on record. The appendix that Dr. Terry provided you also showed numbers of vessels that fit into those categories. However, so there is some analysis of the number of vessels that roughly fit into those groups, but there hasn't been explicitly analyzed a, say a trawl, non-trawl designation in the license, per se.

Tillion: Marcus, from the data, as far as I can see, a person could figure out the general trend of what it was by the data that you've provided us as far as the analyzing what licenses and what one caught and what the increases would be in answer to Ms. Lindeman, the data's in there if anybody wanted to work it out.

Hartley: And, I think that that was provided for those reasons. I guess I can't give you a number that says 496x boats did this and 315 did that. I guess, further I would have to, I think the Council would want to specify how those designations would be assigned. Is it area by area, is it once for all; what if a vessel was fixed gear in the base qualifying period and trawl in the endorsement qualifying period, or trawl in one year and fixed gear in another year, those kinds of issues. And, since we haven't actually had this issue as an explicit option we haven't really looked into those kinds of things, per se.

Lauber: Without this potentially, of course there's no likelihood it would happen, but potentially you could, every vessel could transfer from whatever gear it's using now to the other gear. Assuming they all went from fixed gear to trawl, you could get a number; also, certainly our analysis and our own personal knowledge in working with this shows that all of the species can be harvested, and in fact one of the problems we're having is too much gear chasing too few fish, so certainly there's an adequate amount of gear available as far as the Council's request as far as capacity, so the only constraints often are bycatch that cut fisheries off, which this may or may not help, but it certainly will not hurt. I think all of that's in the documents or we have, in these documents or others that the Council has considered.

Barker: Point of clarification for the maker of the motion. It's my understanding that vessels would still be able to buy a license if they wanted to switch back.

?: Yes.

Hegge: It seems without having species endorsements this is going to be a little bit difficult to carry out, and earlier on I thought it possibly would be able to be done in that context, but now a person has a license and it's just a groundfish license, and it's pretty hard to identify a portion of it. I envision, though, that the Council is going to be taking up these measures in future meetings. I know the cod distribution is coming up again here shortly, and I imagine we've got an agenda to do the same thing for the Gulf. It seems like these things would be addressed through the independent management measures that the Council takes up in the future.

Lauber: Write us a letter on that, Ron.

Hegge: Well, I'll keep watching for it.

Tillion: I want to make very sure that this does not allow the transfer to trawl for cod under their quota in a year, then switch to fixed gear, fishing that quota, and then switch back for the next year and do it again. This would undermine the cod split in the Bering Sea/Aleutian Islands, and nothing in the action we're taking today would permit that kind of an action. We want to make that very clear, that a person, once they've used up their allocation under a trawl they don't switch to fixed gear. If they have not used up, . . . you know at some time I hope we have ITQs and then you can have a little more flexibility for your share, but right now you can't have vessels switching gear for the purpose of dodging regulations that have closed it down. If they've fished as a trawler for cod, they can switch for next year for fixed gear, but they don't go on into another season and double dip.

Behnken: Mr. Chairman, I'm going to withdraw my motion. After listening to staff's comments I guess I don't feel. . . I think it's similar to the issue we dealt with the limited (?) amount of processing that we could allow on a catcher vessel. I think it's a good idea, I think we need to look at it in the future, maybe something that we take up in September as part of that package, but I do feel like there's some questions we haven't answered about if you get a trawl here and longline here, and what can you do with either, and we probably don't have time to figure all those out now, we haven't had comment on that kind of a procedure, so I'm going to withdraw it.

Lauber: Without objection, the motion is withdrawn. All right, is there anything additional?

Mace: I have a question. We discussed with Ron Berg before the break with respect to CDQ operations, building vessels up to 125 feet and then moving into the groundfishery outside the CDQ program. I would assume that if they did that they would have to buy a license, is that correct?

Pautzke: Well, I wanted to ask Marcus or at least research our record on that, because I thought we allowed vessels to be built for the CDQ fisheries but not be able to cross over into other fisheries so that would be a conduit for it. But I just read the regs, or the proposed rule for the moratorium and it is allowed in there and so I needed to go back and research the record; did at some point we change that for vessels under 125 feet?

Hartley: Well, Mr. Berg has read a version of the moratorium motion and I believe that is the motion that the Council actually passed. There is wording in there -- may I have that, Ron? -- there is wording in there that deals with transfers out of that, which he guess by oversight didn't read. The last sentence of the motion on that issue says, "vessels built pursuant to a CDQ project under this exemption that are transferred to a non-CDQ entity during the life of the moratorium may not be considered eligible under the moratorium," and I think that that may be where some of that confusion may be coming from, if that what it is, that if it's transferred it's not any good outside of the CDQ project.

Pereyra: I'm trying to reflect on this. I know there was a long discussion on this. I recall some discussion about the transferability of the licenses. There was concern expressed that this could result in a conduit for new licenses entering but that if a CDQ organization built a vessel it was felt that in order for that investment or whatever to be viable they had to have all the options available to them and so that they would be allowed so long as they stayed within that entity to go ahead and fish in the other fisheries, but should they decide to get out of that vessel or something, that that vessel would no longer be eligible for access to the open fisheries. I think that was the way it was read, 'cause it was kind of a middle ground that we reached.

Lauber: That's my recollection; allow them the opportunity as long as they were fishing the vessel to engage in other fisheries; that would make sense if they were trying to get people into the fisheries. But, not to act as they say, as a boat-building business to circumvent the moratorium.

Pautzke: Mr. Chairman, I would only add that there is a disparity between the way you're treating vessels that are built for the sablefish-halibut CDQ fishery--they are not allowed to go into non-CDQ fisheries, and as for the pollock one, you're allowing them to go into. . .

Lauber: And that would make sense; they're under an ITQ.

Pautzke: Well, they could be under the CDQ program which they will fish, too.

Pereyra: Isn't the halibut and sablefish ITQ fishery exempt from the limitation?

Behnken: Yeah, it is, right.

Pereyra: So, that means you're going to. . .[interrupted]

Behnken: You don't have to have a moratorium-qualified vessel.

[several people talking at once]

Lauber: All right, is there anything further? Are you getting close?

Mace: We have one typo that Marcus has pointed out. On our reconsideration of the Western Gulf, the last line on that page says, "and less than 125 feet need only make one landing between 1/1/95 and 6/15/95." That should be changed to "1/1/92 and 6/15/95," is that correct, Marcus?

Hartley: Yes, I entered that in error this morning.

Lauber: All right, now we'll engage in discussion preparatory to voting on the total package, groundfish and crab, both are germane, and Dr. Collinsworth's long awaited dissertation.

Collinsworth: No, Mr. Chairman, I'm going to make a motion. I move that the Council postpone action on this agenda item until the September meeting and in the interim that the Council staff, through its newsletter and other means, distribute as widely as possible the program that has been adopted by the Council up to this point, and if I have a second I'd like to address that.

Barker: Second.

Collinsworth: This is a hugely significant action that the Council is about to embark on and it's a very complex program that I don't think has had adequate opportunity for our constituent public to look at and to understand. It is complex and I talked to many people in the audience, the people who have been here this week, professional advocates, the representatives of organizations and individuals, firm owners, that have not been able to really decipher what the implications of this program are. The information that has been

distributed to the public contained a very large number of options, was very difficult even to understand the numbering system, much less the implications that this program might have for them. And most of our public is not here at this meeting; 99.9 something per cent of the people who are going to be impacted by this program know very little of it, if anything. I think that we have a real obligation in terms of public process to get this information back out to the public, allow them to understand how it will impact them and be able to react to that. Under the IFQ program a major effort was made to inform the public; even at that, when our staff went around to many of the villages and communities they found that a great many of our constituents did not understand that program or how it would impact them. I think it would also allow the staff to, and I would congratulate the staff on the work that they have done this week, I think they've done some minor magic between the time that the Council adjourns in the evening and the next morning in putting some data together for us, but I think they also need additional time to understand and present to them what the implications are in terms of the number of vessels, how those vessels would be distributed under this particular system. It would also allow us, our staff in the agency along with Council staff to go through the proposal and to identify where clarification will be needed. I think that there still remains a number of issues that the Council will need to address and to reconcile and to clarify and for those reasons, Mr. Chairman, I think it would be appropriate to hold on taking final action at **[change to tape 61]** this meeting and educate our public to what we're about to undertake. One final thing, I'm not sure that we have a great rush to do this at this meeting in terms of the timing of implementation. Should this program move forward, my best estimate at this time is that it could not be ready for the start of the 1977 (sic) season. That would mean that we would have to implement the program, if we choose to implement it, it would have to be implemented in either mid-year or some later portion of 1977 (sic) or implement it at the beginning of 1998 and in 1997, I don't know the consequences of mid-year implementation because you'd have a fishing pattern with people fishing in areas and taking portions of quotas, portions of bycatches, or whatever else, and then you would have a license limitation program with different endorsements, you'd be fishing in a different pattern. If I were going to get endorsements in one area during the open part of 1977 (sic), I'd go fish someplace else and make sure there's as much left in my endorsement area, so I think there probably are reasons not to implement in '77 (sic), but at the beginning of '78 (sic), '97, '98, I'm still back in when we started this process.

Behnken: Briefly, I oppose this motion. Having been at the heart of the development of the sablefish-halibut IFQ program in a small community, I'm willing to bet there was a lot more confusion then about the changes and it was a much more significant change to the industry than what we're looking at here. Licenses have been around in this state for a long time; people are used to working under license programs. I haven't heard anything from the industry about wanting to wait; maybe I'm talking to different people, or different people are talking me. What I've heard is that it's time to move ahead; we need to do this and we need to get it going now.

Tillion: I, too, oppose stalling. The next meeting is going to be in Seattle; the great bulk of the constituents in the small boat fleet will not be able to get there. If you think this is going you'll have cost them a great deal of money because they'll be panicked about changes. I've never seen NMFS move overly fast; I'm not worrying about no time to do some things considering you have that in your control. I would much prefer to take to the people a finished product, as the Council sees it, at this meeting and not delay. I remember when we started this in '76, and I mean, you know, this snails race that we've been involved in ever since needn't go any slower than it already is. We've worked long and hard on this; there's months of work, a great deal of data been collected; I've heard from a vast area of the constituency and what I want to do now is vote on it and send out as close to a finished product for people to look at.

Pautzke: I had only one question, for the Region or for Lisa. In several instances here, like area endorsements and so on, we have extended the date for qualification through June 15 which was quote, the date of final action. And, if we were to accept this motion and extend through the summer, would we have to adjust that date, and if we did have to adjust it, would that cause some kind of a race out there that maybe we're not. . . would we be able to still use the June 15th date we've got in there right now for endorsement qualifications? It seems like a pretty significant question to me as far as date of final action.

Lindeman: I think with respect to a 6/15 date or a September date, if the Council has justified the 6/15 date and if it's just a matter of months I don't know that that causes a problem with the Council's considering recent participants. It might well be a different thing if it was delayed for, you know, two years or whatever. But even in the halibut-sablefish, four years wasn't considered unreasonable, so. . .

Pereyra: I'm sympathetic to Dr. Collinsworth's concerns; I certainly also believe that these sort of measures need to get as wide an audience as possible so that we can fully understand the impacts of what we're doing here, but in this case, this is not necessarily the last time we're going to see this, obviously. This is an iterative process, they always are, and I recall in the inshore-offshore decision, that certainly was not what I would consider a full package; I mean, we had analyses that had to be done after the fact. That apparently was acceptable. I would rather see us take a vote now. The main reason I feel that way is that, besides the comment that was made earlier about the possibility this would cause a rush for people wanting to qualify, I mean you might not even be able to buy a plate (?) freezer in Seattle next week if we delay this, with people wanting to upgrade to catcher processors, or whatever. But, people never take us serious until we really take a final vote on something and I'm sure that delaying this until September and going out and trying to elicit comments and so forth is going to get us any closer than we are today. I think we're probably better off taking our vote today, tough decision, we vote it up or down, and that becomes the Council's decision, and I'm sure we're going to be getting some feedback, and that feedback during the final review process can result in further adjustments as necessary.

Lindeman: One point is, at least from General Counsel's standpoint, while there's been a lot of analysis, it is a complex program that the Council is putting together and we just want to make sure that the public does understand the impacts on them of what the Council's done. We're also concerned about the analysis as it is, the written EA, and the fact that it's going to take some time; I'll put it this way, that before the written EA comes to the Secretary work has to be done on it to refute specific statements in the EA that a license limitation program is not going to address the problems that were identified by the Council. So, be that now or within the next several months, or whatever, it's going to take time to do that.

Tillion: . . . I've never seen a lawyer that didn't want to postpone. All I can say is there are people here that have spent more than they can afford to get to this meeting where the final decision was to be made. They've worked long and hard, fishermen's associations have gone over this data; we've finally reached the point that we're going to vote; to delay it will cause all sorts of speculative action between now and September that is detrimental to the resource itself. Let's vote today; for God's sake, let's vote today and move on.

Benton: I hate to prolong the discussion any longer than necessary. . . I just want to remind Counselor and Mr. Collinsworth that we were scheduled for final action in April. And at the April meeting we had this suite of options, more or less, in front of us. We deliberated there for several days, we had extensive amounts of public comment, and as a result of that we identified some preferred alternatives and put that back out for public review. I think we did that with the conscious understanding that we did it in part so that the public and the industry would have the opportunity to look at those preferred alternatives, look at the information that had been provided to date, be prepared to deal with a final action at this meeting. Mr. Chairman, we have been working on this now through 8 Council meetings, 8 Advisory Panel meetings, 8 Scientific and Statistical Committee meetings, over a year and almost a half. The State, on our part, has had numerous meetings during the course of this process with industry groups, from everywhere from Portland and Newport, Oregon, to Nome and Bethel and Anchorage and Sitka and everywhere in between. We had numerous meetings with industry groups in Seattle. We traveled down there and discussed these various alternatives on several occasions with most of the representatives of the major associations in this room. I do not believe that the major segments of the industry are not fully aware of what this program is doing; I believe that they understand it; I believe that there's been significant amounts of public scrutiny of what we are doing here. In fact, I think it far exceeds what happened with regard to the halibut and sablefish program in terms of the number of individuals and vessels involved and the amount of public input and scrutiny that went on there. I find it troublesome that, like Mr. Tillion, that we would again wait and take final action in September. Part of my concern about doing that is that we don't even have a moratorium in place at this time. We may or may

not have the moratorium. This program, in my view, is a significant improvement over the moratorium. But, what we do have out there also is sort of the carrot dangling yet again for speculative fishing during the course of the whole summer and I think that the Council has an obligation and a responsibility to end that, and I think this is the time to do it. I think we've had an enormous public discussion about this; the stack of analyses sitting here at my right is about 1/3 of the amount of analysis that has occurred just on this license program. The record on the license program also includes the record on inshore-offshore, a number of other matters that we've taken up before the Council, and I don't think that there's any justification or rationale for putting off a vote on this matter at this time. Thank you.

Lauber: Call the roll.

Roll call:	Tillion	No	
	Barker	Yes	
	Behnken	No	
	Benton	No	
	Fluharty	No	
	Hegge	No	
	Mace	No	
	Collinsworth	Yes	
	Pereyra		No
	Samuelsen	No	
	Lauber	No	

Failed.

Lauber: . . .move the final adoption of the crab, groundfish license limitation program.

Mace: I so move.

Samuelsen: Second.

Lauber: It's been moved and seconded. Is there any discussion?

Tillion: [call for the] Question.

Collinsworth: I must take an opportunity before my other remarks to make a quick response, that if this Council believes that we are adequately informing our constituents, thousands of people out there, and the confused, the people who in this Council family that participate in this forum, then you're operating under a delusion. We're not getting out to all of those people. But, Mr. Chairman, speaking to the motion, I think that this license limitation program, as I said in some early remarks, does not cut the mustard. We dumped out some tinkertoys here the other day and we started putting something together. Mr. Tillion thought it was going to end up being a log cabin; I thought it might end up being a rocket ship. But I think that what we've built here is a glove and the glove doesn't fit; the glove doesn't fit the analysis that we've have over this last six or seven years, the glove doesn't fit the EA/RIR that we have prepared; the consequences of this action are really unknown. We are going to change the complexity and the characteristics of this fishery in unknown ways. The plan does not address the National Standards adequately; it does not meet the objectives of CRP that have been identified; it allows more vessels in the fisheries than we have now under open access and that participated in the fishery in 1993 and 1994, with the opportunity for all kinds of speculation. There is no mechanism to retire any of these licenses; this is intended I guess now to be a durable program. The licenses and endorsements are going to become capitalized. People are going to buy and trade. Lending institutions are going to loan money. We will institutionalize a program here where people have invested a lot of money and notwithstanding the Council's language that says that this program may be altered at any time and not subject to takings, provisions. . . that would ultimately be determined by a court. And, I think that if this were defined within the context of this amendment that it was an incremental or transitional step to a comprehensive rationalization program, and again, I don't mean just license, or IFQs, I mean some comprehensive program that may include open access, license limitation and IFQs, that what we're doing now, we don't know what kind of a base we're going to establish to move. The record I think is severely wanting in terms of addressing the specific items that we find in the EA/RIR. I think that they are replete with instances of where this kind of a program does not address the comprehensive rationalization program objectives. This is going to cost a great deal of money to implement and if it were a step to some other comprehensive rationalization then it might be a different thing, but it now has to be judged as a stand-alone program, without the ability to reduce capital. We don't even know at this point what this means in terms of allocation, in terms of fishing privileges in various sectors of the industry, in terms of regions and endorsements. The State's license limitation program established maximum numbers in areas and specific

fisheries, and then established a program to build a qualifying program; I think you're all aware of how the State's limited entry program works, and so they defined maximum numbers and then made a determination about what kind of preferences they would afford various kinds of past participation and economic dependence and you accumulated points based upon that, and if there were a thousand permits to be issued and you had points in excess of the minimum required, you got a permit and if you didn't, you were out. We don't know how many vessels are going to be participating in various regions and in various fisheries with the various endorsements. We haven't made a determination of what the maximum number of vessels or the amount of effort should be allowed in any particular area. We have certainly done little, if anything, to cap capacity in this motion. Capacity will increase, and I can tell you that a limit seiner in Southeastern Alaska got a seine permit at the time that program was implemented has a good deal more catching capacity today than they had at the time that that program was implemented. Even though they have a 58-foot restriction, they still have increased their capacity, and this does not cap capacity. In fact, we have a program that will allow for the expansion of capacity. Mr. Chairman, there are literally, I think, dozens of specific items within the EA/RIR and the record that this Council has built that the Council has not discredited or overwhelmed in the debate and the discussion that took place this week. And those still stand and they are part of the record and that's part of the record that this program will have to be evaluated against. As I said the other day, I cannot tell you that the Secretary will not approve this, but I think that the record is going to present an obstacle. I'll end at that point; I suspect I may have more to say.

Pereyra: While I share certainly some of Dr. Collinsworth's concerns, I for one don't feel that license limitation by itself is the final answer and certainly I don't look upon this program as being the entire answer. If this was the end point I think I'd be in opposition to the motion, but in my mind this is just a step. You can look at it in various ways, whether it's a small step or a large step, but it is a step and I just feel that we're still on the . . . what I look upon as the yellow brick road of CRP, and we are going along that road and I expect us to be moving forward with other aspects of CRP. CRP in my mind is not an end point itself. It may be a process of diminishing returns, but at this point in time I feel we are making strides and this is one aspect of it. The Council as a body decided that they wanted to delay further actions on ITQs until we went through this, and we had a long discussion on that. We had various motions that have, I think, supported the idea that license limitation by itself was not going to be the end point. So, I'm going to vote in favor of the motion, recognizing full well Dr. Collinsworth's concerns; I share some of those, but I don't think that they should be looked upon at a context as to where we're going.

Behnken: In adding to Mr. Pereyra's comments, I see this as a step as well, and I see it as a very important step; a step where we made a really significant recognition starting in April that we have an industry between the Bering Sea and the Gulf that has very different needs in different areas, very different composition, very different patterns, and that we have to handle those different components of the industry differently. I think this plan contains some solutions for those different areas that provides a measure of stability for different sectors as well as stability for communities, which was a big part of our problem statement for this whole CRP process. I think it provides a framework that allows us to define the players, define where they're fishing, how they're fishing and now we move on with some of our next steps that will address some of the other problems that we face. I think that it's a very important step, I think that it will ease the transition in areas where we move on to the next ITQs, or wherever we go, that's certainly been the situation in the other areas that took that license step before the instituted an IFQ program; it was a lot easier transition than what we've seen with our sablefish and halibut plan.

Barker: I also will mirror Dr. Collinsworth's concerns; I have others as well. I do hope that this is a step down the path to something better, trouble is I think this step is either one off the dock or into something that's on the lawn.

Tillion: As most of you who have listened to me since the Magnuson Act passed, I am a staunch advocate of ITQs; I see this as a step in that direction. If I did not I would not be supporting it. It defines the players. It's 1600 vessels less than the moratorium that was just recently passed by the Secretary, so it's almost a 30% cutback, or, not passed, but the one that they said was coming out, the one that NMFS held for two years in Juneau. I believe that this is a step in the right direction. I think that a delay to September would be

disastrous; I think the speculative entry in that period of time has to be stopped and therefore I'd be very pleased to vote on this at this time.

Hegge: This will be quick; it's just one thing that I don't think was touched on, and that's the . . . two facts; first, the industry is finally going to know who's in and who's out which has certainly been very tough to figure until this time. But, I think more important is, as the Council makes deliberations in the future they're going to be able to have the information precisely provided on effort in specific areas; we're going to know there are this many licenses that can be fished and they can make reasonable and rational decisions on that, and I think that it will provide much greater opportunity to address the bycatch and waste items that we have had no way of knowing the amount of effort or amount of participation in the fisheries before. So, I'll leave it go at that.

Lauber: Any other discussion?

Collinsworth: I appreciate the discussion about this being an incremental step, but when the Council failed to adopt a sunset I think the credibility of that argument was greatly diminished. There's nothing within the context of this amendment that refers to this as being an incremental step or to give anyone any comfort that in fact an incremental step will take place. I think that what happens is that this program becomes institutionalized by allowing the trading and selling of permits and that will make it more difficult and more rigid to move forward.

Benton: Of course, I'm going to support the motion. Listening to Dr. Collinsworth, I can certainly understand some of his concerns regarding informing the public and whether or not they're totally informed about this matter. I for one believe that this has had probably more scrutiny than any matter that has come before the Council for quite a while and I also note that once this leaves the Council that there'll be a rulemaking process; if the Secretary approves it, it's also subject to public comment. This is not the end of the line in terms of the public having a chance to comment and provide their views on this program. I think it's somewhat important to recognize where we are and where we're going, and I think that that is what Mr. Collinsworth is speaking to and I hear and agree with the comments of Ms. Behnken and others, Mr. Tillion, that this is not the final answer, and not the final product, necessarily. Over a year ago when the State came forward with a straw dog, two-step approach to dealing with these matters, licenses were a first step in a two-step process, the State identified a number of kinds of issues and concerns that would be addressed. I think that those are reflected in the problem statement that we've been dealing with under CRP. We have a 14-point problem statement, and I'm not going to go through each and every one of those here, now; I'm prepared to but I don't think it's worth taking everyone's time to do that, but I would note that we are addressing a number of the problems here. I think it's been pointed out that we have reduced the number of vessels significantly from the moratorium. The moratorium in vessels in groundfish are 3,800, almost 3,900 vessels. Staff have provided us [**change to tape 62**] information that this is around 2,800-2900 vessels that would be authorized. More importantly, though, Mr. Chairman, what we've done is, we have provided specific numbers of vessels and ways to gauge effort by area, by size class, and I think that that has distinct and important advantages for management of the fisheries. People will know how many licenses are going to be authorized for an area, by size category, by catcher and catcher processor category. Under the moratorium that situation is wide open. We could see significant capitalization under the moratorium that would far exceed any potential for capitalization under this program. The moratorium is temporary; this program is transitory to other, perhaps, even ITQ programs, in the future, I don't know. But it is a transitional program in that regard, but it also provides some sense of stability and perhaps some permanence in some fisheries, maybe most of the fisheries. I don't think the Council intends to stop here. We have in the works presently measures to deal with full retention, measures to deal with improved utilization of resources, measures to improve catch measurement and monitoring; measures to improve catch reporting. All of these are things that have been identified as being problems during the course of the discussion of the CRP. I want to remind the Council and in particular the Agency that some of these were integral to this proposal when we started but because of the daunting tasks of dealing with the analysis and public comment we segregated those off for that purpose; they're still part of this whole path, as Dr. Pereyra refers to it, for CRP. They are not segregated in that regard. They will be acted on separately, but in the end I think these things come together

in a manner that's going to benefit the fisheries and going to benefit the resource. I'm also somewhat concerned that it's been implied that we have not been using some of the best available information or that we don't have an adequate analysis of what we're doing. We have of course been looking at this now, as I've said through 8 Council meetings. I think staff have done a truly admirable job and I want to congratulate Clarence and the staff for the amount of work they've done and I know sometimes dealing with myself and some of us from the State sector we've not been the easiest people to deal with but, but you guys have really done an enormous amount of work and a really good job on this. We've looked at literally hundreds of alternatives and those alternatives have been before the public, they have been commented on by the public, they have been discussed by the Council and the AP and the SSC through hours and hours and hours of discussion and debate. I'm contributing to that right now. But, those options and elements have been refined by this Council down to a specific suite of alternatives that were preferred alternatives, a couple of options, at the April meeting; those have been out for public review, they've been discussed extensively here this week and I think we have far exceeded the requirements for public scrutiny and public comment to take this action. Now, as I noted that this action will be of course subject to rulemaking and further public comment. I also think it's important to note that this program that we've put together addresses Executive Order 12866, we've discussed that already. That Executive Order talks about cost and benefits, but also refers specifically to social impacts, benefits to communities, and I think we've done some things here that are going to meet the requirements of that Executive Order and that are going to really have some long-term benefits for the communities in Alaska and, I believe, communities outside Alaska. I note that, for example, the CDQ program has brought significant benefits to Seattle and other communities outside the State of Alaska through the partnership arrangements that have occurred and through the business enterprises that have developed. We've also taken steps to deal with preemption and conflicts between gear types and industry sectors here that are not available to us under the moratorium, or the status quo. I think that we've dealt with the problems regarding fishing effort on limited grounds and the measures we took with regard to Southeast Alaska, in particular, deal with that. But, also the general measures we've adopted which limit the number of vessels by sizes and catcher and catcher processor designations. I think we discussed and debated a number of items over the course of this period of time with regard to National Standards. Of course, the most recent one of those was this very day when we dealt with National Standard 4 and excessive share. I believe we have addressed the National Standards myself; I think this will lead us a long way on the path to dealing with bycatch and waste, provide us a good foundation for putting together measures that are going to reduce waste and bycatch in these fisheries. Without such a program I think it's going to be significantly more difficult to do that, and I think we're going to wind up in a situation where we're going to have a wide open fishery under the moratorium if it's adopted, and if no moratorium is adopted it'll even be worse. With that wide open fishery and the specter of other rewards and other potential rents that are going to come about in the future is going to lead to rampant speculation if we do not take this action today. I'm going to close with those remarks, I think I've spoken enough for this week.

Lauber: Call the roll, voting on the final vote on license limitation, final action.

Roll call:	Barker	No	
	Behnken	Yes	
	Benton	Yes	
	Fluharty	No	
	Hegge	Yes	
	Mace	Yes	
	Collinsworth	No	
	Pereyra		Yes
	Samuelson	Yes	
	Tillion	Yes	
	Lauber	Yes	

[Council then took lunch break.]

Later in the afternoon, before going on to other subjects under this agenda item, Mr. Hegge asked to be recognized.]

Hegge: Before we go into this, I like to move to reconsider the action that we just took on the license limitation program.

?: Second.

Behnken: [to the Chair] Could I ask you to explain, or maybe the Parliamentarian, the implications of this reconsideration?

Dave Hanson: The parts that you're concerned about, I think, are a move to reconsider that passes and then you reconsider the main motion, that's the last time it can be reconsidered. If the motion to reconsider fails it can't be made again, so, in essence, you're done with that issue.

Lauber: Any discussion?

Tillion: Does that mean if we vote no on Mr. Hegge's motion we can't take this up again, it's over?

Lauber: That's right.

Benton: If we vote no on Mr. Hegge's motion, then we cannot reconsider again?

Lauber: That's right.

Benton: O.K., thank you.

Lauber: O.K., the motion is to reconsider our final vote on license limitation. Those in favor, vote yes; those opposed, vote no.

Roll call:	Behnken	No	
	Benton	No	
	Fluharty	No	
	Hegge	No	
	Mace	No	
	Collinsworth	Yes	
	Pereyra		No
	Samuelsen	No	
	Tillion	No	
	Barker	Yes	
	Lauber	No	

Failed.

[Council then took up remaining subjects under this agenda item, including a discussion of future steps in comprehensive rationalization.]