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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 PAN-ALASKA FISHERIES, INC.,  
13 SEA-ALASKA PRODUCTS, INC.,  
14 UNIVERSAL SEAFOODS, LTD.,  
15 WHITNEY-FIDALGO SEAFOODS, INC.,  
and ALASKA MARKETING ASSOCIATION,

16 Defendants.

)  
)  
) No. C-82-809

)  
) FINAL JUDGMENT

)  
) Filed: June 30, 1982

)  
) Entered: October 29, 1982  
)  
)  
)

17  
18 Plaintiff, United States of America, having filed its Complaint  
19 in this case, and plaintiff and defendants, by their respective  
20 attorneys, having consented to the entry of this Final Judgment  
21 without trial or adjudication of any issue of fact or law herein and  
22 without this Final Judgment constituting any evidence against or any  
23 admission by any party with respect to any such issue;

24 NOW THEREFORE, before the taking of any testimony and without  
25 trial or adjudication of any issue of fact or law herein and upon  
26 consent of the parties hereto, it is hereby

27 ORDERED, ADJUDGED, AND DECREED as follows:

28 I

29 This Court has jurisdiction of the subject matter of this action  
30 and of each of the parties consenting hereto. The Complaint states

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1 a claim upon which relief may be granted against each defendant  
2 under Section 1 of the Sherman Act (15 U.S.C. § 1).

3 II

4 As used in this Final Judgment:

5 (A) "person" shall mean any individual, corporation,  
6 partnership, firm, association or other business or legal entity;

7 (B) "live crab" shall mean live ocean crab prior to any  
8 processing (i.e., canning, packing, or freezing);

9 (C) "Dutch Harbor area" shall mean the following area in the  
10 State of Alaska: Unalaska Island, including Dutch Harbor, Akutan  
11 Island and the waters within ten miles of the coasts of said Islands;

12 (D) "Dutch Harbor processor" shall mean any person engaged in  
13 the business of canning, packing or freezing live crab in the Dutch  
14 Harbor area, including such person's officers, directors, agents,  
15 employees and subsidiaries, and shall further include defendant  
16 processors as that term is defined herein;

17 (E) "defendant processor" shall mean each processor named as a  
18 party in this action, including its officers, directors, agents,  
19 employees, subsidiaries, or other persons acting on its behalf;

20 (F) "defendant association" shall mean the Alaska Marketing  
21 Association, including its members, officers, directors, agents,  
22 employees, or other persons acting on its behalf;

23 (G) "live crab price negotiations" shall mean contacts between  
24 any fisherman and any Dutch Harbor processor with respect to the  
25 negotiation of prices for live crab to be processed in the Dutch  
26 Harbor area;

27 (H) "fisherman" shall mean one or more fishermen or any  
28 cooperative association of fishermen, including defendant  
29

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1 association, established pursuant to the Fishermen's Collective  
2 Marketing Act (15 U.S.C. §§ 521, 522);

3 (I) "The opening of the Bering Sea Crab Season" shall mean the  
4 later of: (a) the date designated by the Alaskan Department of Fish  
5 and Game for the commencement of a crab harvest in the Bering Sea,  
6 or (b) with respect to any defendant processor, the time at which  
7 such processor has agreed with defendant association or any suc-  
8 cessor association on the price it will pay for the first delivery  
9 of live crab for that season or has announced its intention to pay a  
10 price previously agreed to between such association and any other  
11 Dutch Harbor processor.

### 12 III

13 This Final Judgment applies to the defendants and to their  
14 officers, directors, agents, employees, subsidiaries, successors,  
15 and assigns, and to members of the defendant association and to all  
16 other persons in active concert or participation with any of them  
17 who shall have received actual notice of this Final Judgment by  
18 personal service or otherwise.

### 19 IV

20 1. The defendant processors, and each of them, are enjoined  
21 and restrained from entering into, adhering to, participating in,  
22 maintaining, furthering, or enforcing, either directly or in-  
23 directly, any agreement, understanding, arrangement, plan, pro-  
24 gram, combination, or conspiracy with any processor to determine,  
25 establish, fix, raise, lower, maintain, or adhere to prices or other  
26 terms or conditions for the purchase or sale of live crab to be  
27 processed in the Dutch Harbor area.

28  
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2. The defendant association is enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, or enforcing, either directly or indirectly, any agreement, understanding, arrangement, plan, program, combination, or conspiracy among the Dutch Harbor processors to determine, establish, fix, raise, lower, maintain, or adhere to prices or other terms or conditions for the purchase or sale of live crab to be processed in the Dutch Harbor area.

**v**

1. Each defendant processor is enjoined and restrained from directly or indirectly:

(A) Communicating with any Dutch Harbor processor regarding (i) current prices, future prices, or anticipated changes in prices for live crab to be processed in the Dutch Harbor area; (ii) prices discussed or to be discussed, or offers or counteroffers made or to be made by any party in live crab price negotiations; or (iii) strategy, timing or conduct of live crab price negotiations.

(B) Communicating with any non-Dutch Harbor processor regarding future prices, anticipated changes in prices, or current prices not yet posted, published, or announced on the radio, for live crab to be processed in the Dutch Harbor area;

(C) Participating jointly or collectively with any other processor or processors in live crab price negotiations.

2. The defendant association is enjoined and restrained from, directly or indirectly:

(A) Knowingly engaging in live crab price negotiations in which two or more processors jointly or collectively participate;

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1 (B) Requesting, encouraging or in any way knowingly  
2 facilitating or assisting processors to engage in joint or  
3 collective bargaining in respect to prices to be paid for live crab  
4 in the Dutch Harbor area.

5 VI

6 1. Nothing in Sections IV or V of this Final Judgment shall  
7 prohibit any defendant processor from:

8 (A) Separately negotiating and agreeing with any fisherman  
9 on the prices or other terms for the purchase of live crab by such  
10 processor from such fisherman;

11 (B) Posting, publishing, or publicly announcing by radio  
12 prices which such processor will pay to sellers of live crab to be  
13 processed in the Dutch Harbor area;

14 (C) Requesting, during live crab price negotiations, any  
15 fisherman to confirm orally or in writing any live crab price offers  
16 which it asserts it has received from any other Dutch Harbor  
17 processor, or seeking or giving verification of such live crab price  
18 offers from or to any other Dutch Harbor processors; provided how-  
19 ever, that such verification from or to any Dutch Harbor processor  
20 shall occur only after the opening of the Bering Sea crab season and  
21 shall be confined to communication between legal counsel for such  
22 processors, and shall be limited to confirming or denying represen-  
23 tations made by a seller of live crab as to the price which has been  
24 offered to such seller by the processor from which verification is  
25 sought;

26 (D) Participating with other Dutch Harbor processors in  
27 joint government lobbying efforts;

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1 (E) Discussing with other Dutch Harbor processors common  
2 industry-wide or local issues, provided that, for purposes of this  
3 Paragraph 1(E), such discussions do not relate to prices to be paid  
4 for live crab;

5 (F) Separately negotiating or entering into any bona fide,  
6 arm's length contract, agreement or understanding with another pro-  
7 cessor to sell or furnish live crab to that processor; provided,  
8 however, that any price negotiated prior to the opening of the  
9 Bering Sea crab season shall be specified in terms of one of the  
10 following formulae, rather than a price: (i) the prevailing market  
11 price or the defendant processor's posted price at the time of  
12 delivery; (ii) a stated discount from such prevailing or posted  
13 price; or, (iii) a stated premium or commission to be added to such  
14 prevailing or posted price; provided further that such negotiations  
15 and sales transactions shall not be used by the defendant processor  
16 to communicate with the other party concerning the price (other than  
17 the formula set out herein) that either of them intends to pay any  
18 third party for live crab.

19 2. Nothing in Sections IV or V of this Final Judgment shall  
20 prohibit the defendant association, its officers, agents, employees,  
21 directors or members from:

22 (A) Negotiating and agreeing as to the price, terms or  
23 conditions of sale with any single processor or any other purchaser  
24 of live crab;

25 (B) Engaging in any and all conduct authorized by the  
26 Fishermen's Collective Marketing Act (15 U.S.C. §§ 521, 522);

27 (C) Confirming, orally or in writing, to any defendant  
28 processor during price negotiations with such processor and upon its  
29 request, any price offers which the defendant association has  
30 received from other Dutch Harbor processors.

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1 3. Nothing in Sections IV or V of this Final Judgment shall  
2 prohibit a defendant processor from directly or indirectly:

3 (A) Jointly owning and/or operating a shore-based pro-  
4 cessing facility or a fishing and/or processing vessel with another  
5 Dutch Harbor processor, if such defendant processor has at least a  
6 20% ownership or participating interest in such facility or vessel;  
7 or

8 (B) Contracting with the owner or operator of a processing  
9 or a fishing and processing vessel to process live crab for such  
10 defendant processor,  
11 and engaging in such communications, transactions and activities as  
12 are necessary to carry out such arrangements; provided, however,  
13 that this Paragraph 3 shall not apply to communications, trans-  
14 actions or activities between such defendant processor and any other  
15 defendant processor.

16 4. Without in any way limiting the generality of Paragraph 3,  
17 nothing in Sections IV and V of this Final Judgment shall apply to  
18 communications, transactions or activities solely between Universal  
19 Seafoods, Ltd., its officers, directors, agents or employees and  
20 Dutch Harbor Seafoods, Ltd.; its officers, directors, agents or  
21 employees; provided, however, that this Paragraph 4 shall become  
22 inoperative at such time as the majority of the stock or sub-  
23 stantially all of the assets of either company is transferred to  
24 persons not holding an ownership interest in the respective com-  
25 panies as of the date of entry of this Final Judgment.

26 VII

27 1. Each defendant processor is ordered and directed to:

28 (A) Furnish within thirty (30) days after the date of  
29 entry of this Final Judgment, a copy thereof to each of its  
30 officers, directors, employees and agents who has managerial

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1 responsibility for or authority over determining prices to be paid  
2 for live crab to be processed in the Dutch Harbor area, or who  
3 engages in or has responsibility or authority over live crab price  
4 negotiations;

5 (B) Furnish a copy of this Final Judgment to each suc-  
6 cessor to those officers, directors, employees, or agents described  
7 in Paragraph 1(A) of this Section, within thirty (30) days after  
8 such successor is employed by or becomes associated with the  
9 defendant processor;

10 (C) File with this Court and serve upon plaintiff within  
11 sixty days (60) after the date of entry of this Final Judgment, an  
12 affidavit as to the fact and manner of its compliance with Paragraph  
13 1(A) of this Section; and

14 (D) Obtain from each officer, director, employee and agent  
15 served with a copy of this Final Judgment pursuant to Paragraph 1(A)  
16 of this Section, and from each successor to each such officer, di-  
17 rector, employee and agent served with a copy of this Final Judgment  
18 pursuant to Paragraph 1(B) of this Section, a written statement  
19 evidencing such person's receipt of a copy of this Final Judgment;  
20 and retain such statements in its files.

21 2. The defendant association is ordered and directed to:

22 (A) Furnish within thirty (30) days after the date of  
23 entry of this Final Judgment a copy thereof to each of its current  
24 members, officers, directors and any members, employees or agents  
25 who engage in or have responsibility or authority over negotiating  
26 prices for the sale of live crab to Dutch Harbor processors;

27 (B) Furnish a copy of this Final Judgment to each  
28 successor to those officers and directors and to those members,  
29 employees or agents with responsibilities for price negotiations as

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1 described in Paragraph 2(A) of this Section within thirty (30) days  
2 after such successor is employed or becomes affiliated with the  
3 association;

4 (C) File with this Court and serve upon plaintiff within  
5 sixty (60) days after the date of entry of this Final Judgment, an  
6 affidavit as to the fact and manner of its compliance with Paragraph  
7 2(A) of this Section; and

8 (D) Obtain from each officer, director, member, employee  
9 and agent served with a copy of this Final Judgment pursuant to  
10 Paragraph 2(A) of this Section, and from each successor to each such  
11 officer, director, member, employee and agent served with a copy of  
12 this Final Judgment pursuant to Paragraph 2(B) of this Section, a  
13 written statement evidencing such person's receipt of a copy of this  
14 Final Judgment; and retain such statements in its files.

15 VIII

16 1. Each defendant processor is ordered and directed to:

17 (A) Advise each of its officers, employees or agents who  
18 is engaged in, or who has responsibility for or authority over deter-  
19 mining prices to be paid for live crab to be processed in the Dutch  
20 Harbor area, or who is responsible for conducting negotiations  
21 regarding live crab prices with any fishermen's representative, of  
22 its and their obligations under this Final Judgment.

23 (B) For a period of ten (10) years from the entry of this  
24 Final Judgment, maintain a program to insure compliance with this  
25 Final Judgment, which program shall include, at a minimum, the  
26 following with respect to each of the persons described immediately  
27 above: (i) the annual distribution to them of this Final Judgment;  
28 (ii) the annual submission to them of a written directive setting  
29 forth the defendant's policy regarding compliance with the Sherman  
30

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1 Act and with this Final Judgment, including: (a) an admonition that  
2 noncompliance with such policy and this Final Judgment will result  
3 in appropriate disciplinary action determined by the employing  
4 defendant processor, which may include dismissal, and (b) a  
5 statement that the defendant's legal advisors are available at all  
6 times to confer with such persons regarding any compliance questions  
7 or problems; and (iii) the imposition of a requirement that each of  
8 them sign and submit to his employer, once a year, a certificate in  
9 substantially the following form:

10 The undersigned hereby (1) acknowledges receipt of a copy of the  
11 Final Judgment entered in United States v. Pan Alaska Fisheries  
12 Inc., et al., Civil No. \_\_\_\_\_ (W.D. Wash.) and a written  
13 directive setting forth the company's policy regarding compliance  
14 with the antitrust laws and with such Final Judgment; (2) represents  
15 that the undersigned has read and understands such Final Judgment  
16 and directive; (3) acknowledges that the undersigned has been  
advised and understands that noncompliance with such policy and  
Final Judgment will result in appropriate disciplinary measures  
determined by the company and which may include dismissal; and (4)  
acknowledges that the undersigned has been advised and understands  
that noncompliance with the Final Judgment may also result in con-  
viction for contempt of court and imprisonment and/or fine.

17 (C) For a period of ten (10) years from the entry of this  
18 Final Judgment, whenever such defendant processor invests in any  
19 joint venture, joint buying arrangement, or joint ownership of any  
20 entity engaged in the purchase of live Bering Sea crab with any non-  
21 defendant Dutch Harbor processor, the defendant processor shall  
22 furnish to the plaintiff within 30 days of such investment a report  
23 setting out the names and ownership interests of the parties, a full  
24 description of the activities contemplated, the names of the in-  
25 dividuals with authority to set live crab purchase prices, and the  
26 manner in which the parties intend to allocate responsibilities for  
27 determining the price they will pay for such crab.

28 2. The defendant association is ordered and directed to:

29 (A) Advise each of its officers, directors, members,  
30 employees and agents who is engaged in, or who has responsibility or  
31

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1 authority over negotiating prices for the sale of live crab to Dutch  
2 Harbor processors of its and their obligations under this Final  
3 Judgment.

4 (B) For a period of ten (10) years from the entry of this  
5 Final Judgment, maintain a program to insure compliance with this  
6 Final Judgment, which program shall include at a minimum the  
7 following with respect to each of the persons described immediately  
8 above: (i) the annual distribution to them of this Final Judgment;  
9 (ii) the annual submission to them of a written directive setting  
10 forth the defendant association's policy regarding compliance with  
11 the Sherman Act and with this Final Judgment, including (a) an  
12 admonition that noncompliance with such policy and this Final  
13 Judgment will result in appropriate disciplinary action deter-  
14 mined by the defendant association, which may include expulsion from  
15 the association, and (b) a statement that the defendant association's  
16 legal advisors are available at all times to confer with such per-  
17 sons regarding any compliance questions or problems; and (iii) the  
18 imposition of a requirement that each of them sign and submit to the  
19 defendant association, once a year, a certificate in substantially  
20 the following form:

21  
22 The undersigned hereby (1) acknowledges receipt of a copy of the  
23 Final Judgment entered in United States v. Pan Alaska Fisheries  
24 Inc., Civil No. (W.D. Wash.) and a written directive  
25 setting forth the Association's policy regarding compliance with the  
26 antitrust laws and with such Final Judgment; (2) represents that the  
27 undersigned has read and understands such Final Judgment and  
28 directive; (3) acknowledges that the undersigned has been advised  
29 and understands that noncompliance with such policy and Final  
30 Judgment will result in appropriate disciplinary measures determined  
31 by the Association and which may include expulsion; and (4)  
32 acknowledges that the undersigned has been advised and understands  
that noncompliance with the Final Judgment may also result in  
conviction for contempt of court and imprisonment and/or fine.

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IX

1. Each defendant processor shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in the processing of live crab in the Dutch Harbor area that the acquiring party agrees to be bound by the provisions of this Final Judgment and to file such agreement with this Court.

2. The members of the defendant association agree, and shall require, as a condition to the formation of any successor or alternative fishermen's marketing association formed under authority of the Fishermen's Collective Marketing Act in order to negotiate live crab prices in the Dutch Harbor area, that as a condition to joining any such other association, that such other association agree to be bound by the provisions of this Final Judgment and that no member shall join such other association unless such agreement is obtained. The defendant association and the members agree that any such agreement with any alternative or successor fishermen's marketing association formed to negotiate live crab prices in the Dutch Harbor area shall be filed with this Court.

X

For the purposes of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant processor or to the defendant association, made to its principal office, be permitted:

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1 (1) Access during office hours of such defendant to  
2 inspect and copy all books, ledgers, accounts, correspondence,  
3 memoranda and other records and documents in the possession or under  
4 the control of such defendant, who may have counsel present,  
5 relating to any matters contained in this Final Judgment; and

6 (2) Subject to the reasonable convenience of such  
7 defendant and without restraint or interference from it, to inter-  
8 view officers, employees and agents of such defendant, who may have  
9 counsel present, regarding any such matters.

10 (B) No information or documents obtained by the means  
11 provided in this Section shall be divulged by any representative of  
12 the Department of Justice to any person other than duly authorized  
13 representative of the Executive Branch of the United States, except  
14 in the course of legal proceedings to which the United States is a  
15 party, or for the purpose of securing compliance with the Final  
16 Judgment, or as otherwise required by law.

17 (C) If at the time information or documents are furnished  
18 by a defendant to plaintiff, such defendant represents and  
19 identifies in writing the material in any such information or  
20 documents to which a claim of protection may be asserted under Rule  
21 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant  
22 marks each pertinent page of such material, "Subject to claim of  
23 protection under Rule 26(c)(7) of the Federal Rules of Civil Pro-  
24 cedure," then ten (10) days notice shall be given by plaintiff to  
25 such defendant prior to divulging such material in any legal pro-  
26 ceeding (other than a grand jury proceeding) to which that defendant  
27 is not a party.

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XI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction, carrying out or modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

XII

This Final Judgment shall expire ten (10) years from its date of entry.

XIII

Entry of this Final Judgment is in the public interest.

IT IS SO ORDERED

DATED this 29th day of October, 1982.

/s/ Walter T. McGovern  
UNITED STATES DISTRICT JUDGE

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