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Joel Klein
Assistant Attorney General
Antitrust Division
Department of Justice
Tenth and Constitution Avenue, N.W.
Room 3109
Washington, D.C. 20530

RE: Offshore Pollock Catcher Cooperative Request For Business Review Letter

Dear Mr. Klein:

The 1998 American Fisheries Act, ("the Act"), provides that, after an allocation of ten percent (10%) of the total allowable catch of Pollock in the Bering Sea and Aleutian Islands Management Area to the Western Alaska community development quota program and certain by-catch reserves, forty percent (40%) of the remaining quota is allocated to catcher/processors and catcher vessels harvesting Pollock for processing by catcher/processors. See Section 206. Of this 40%, at least eight and one half percent (8.5%) shall be available to the catcher vessels listed in section 208(b) of the Act. See Section 210 (c).

Under Section 210, "any contract implementing a fishery cooperative under section 1 of the ACT of June 25, 1934 (15 US.C. 521) in the directed Police fishery and any material modifications to any such contract shall be filed not less than 30 days prior to the start of fishing under the contract with the North Pacific Council and with the Secretary, together with a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request."

The catcher vessels identified in 208 (b) have entered into a cooperative pursuant to 15 USC 521. This is a request for a business review letter pursuant to Section 210. Enclosed for your review is a membership agreement creating and governing this cooperative.

All members of the cooperative are Washington Corporations except for Neahkahnie Fisheries, Inc., which is an Oregon Corporation.

The members of the Cooperative own all of the vessels that qualify under section 208(b) of the Act.

The Pollock Fishery has been traditionally managed on an "open access" or "Olympic Competition" basis. Under this management regime, each fishery participant has an incentive to harvest as much resource as possible as quickly as possible, because when the common pool of the relevant sector's Pollock Fishery quota is consumed, that sector is closed to all participants.

Because it promotes a "race for the fish," open access management encourages wasteful fishing and processing practices (as participants have an incentive to maximize harvest rather than optimize utilization of their catch), and creates a strong disincentive to employ careful fishing practices that have been demonstrated to reduce incidental catch of non-target species.

The Members believe that by reaching agreement regarding the amount of the allocation to which each of them will be entitled, it will be possible to maximize the value of product obtained from the fish, to reduce the incidental catch of non-targeted species, and to more safely harvest the fish.

The Act requires that in the event that a catcher vessel cooperative is formed by the Members of this Agreement, the Agreement must provide penalties to prevent the members from exceeding in 1999, the traditional levels harvested by such vessels in all other fisheries in the exclusive economic zone of the United States. Section 1 (d) provides for these penalties.

Description of the Companies

1. American Seafoods Company. American Seafoods Co., charters and operates the F/V American Challenger a 107 ft fishing trawler in the Bering Sea. They also operate a fleet of 7 catcher-processors in the U.S. EEZ.
2. Harvester Enterprises, Inc. Harvester Enterprises, Inc., operates the F/V Ocean Harvester, a 108 ft fishing trawler in the U.S. EEZ.
3. Forum Star, Inc. Forum Star, Inc., operates the F/V Forum Star, a 100 ft fishing trawler in the U.S. EEZ.
4. Neahkahnne Fisheries, Inc. Neahkahnne Fisheries, Inc operates the F/V Neahkahnne, a 110 ft fishing trawler in the U.S. EEZ.
5. Muir Milach, Inc. Muir Milach, Inc., operates the F/V Muir Milach, a 86ft fishing trawler in the U.S. EEZ.
6. Tracy Anne, Inc. Tracy Anne, Inc., operates the F/V Tracy Anne, a 100 ft fishing trawler in the U.S. EEZ.

7. Sea Storm, Inc. Sea Storm, Inc., operates the F/V Sea Storm a 123 ft fishing trawler in the U.S. EEZ. Sea Storm is a wholly owned subsidiary of Arctic Storm, Inc which also operates a fleet of 2 catcher-processors in the U.S. EEZ.

The membership agreement sets forth the following provisions.

1. Entitlement to Harvest as listed in Exhibit A
2. Harvest Entitlement Monitoring
3. Harvest Schedule Enforcement
4. Limitation on Participation in fisheries other than Pollock
5. Term and Termination
6. Public Interest Research and Publication
7. By-Catch
8. Membership Agreement Enforcement
9. Vessel Transfer Restrictions

Because the American Fisheries Act recognized the value of fishery cooperatives and that the membership agreement effectively maintains the pro-competitive nature of the fishery, we respectfully request a favorable enforcement intention letter in connection with this business review request.

Please feel free to contact me if you have any questions or concerns regarding this matter.

Sincerely,



Charles E. Yates

Encl: Membership Agreement

CEY/dp