

LAW OFFICES
MIKKELBORG, BROZ, WELLS & FRYER, PLLC
A Professional Limited Liability Company

MEMBERS
ROBERT O. WELLS, JR.
DOUGLAS M. FRYER
RICHARD L. PHILLIPS
JEFFREY L. JERNEGAN
MARGARET DOYLE FITZPATRICK
JESS G. WEBSTER
NEWELL D. SMITH
MITCHELL A. BROZ

SUITE 3600
1001 FOURTH AVENUE
SEATTLE, WASHINGTON 98154

FACSIMILE: (206) 623-0965
E-Mail: dmfrayer@mbwf.com
(206) 623-5890

ASSOCIATES

VICTOR V. HOFF
REBECCA T. WHITE

COUNSEL TO THE FIRM
JACOB A. MIKKELBORG
RICHARD F. BROZ

OF COUNSEL

G. LAWRENCE SALKIELD, PLLC
JOHN E. LENKER

December 17, 1999

Mr. Joel I. Kline
Assistant Attorney General
Antitrust Division
Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530-0001

**Re: Unalaska Fleet Cooperative
Request for Business Review Letter**

Dear Mr. Kline:

We represent Alyeska Seafoods, Inc., Wards Cove Packing Co., and their affiliates. This letter is a request that the Department of Justice provide us with a business review letter pursuant to the *Business Review Procedure*, 28 C.F.R. § 50.6. We request a statement of your department's antitrust enforcement intentions with respect to the Unalaska Fleet Cooperative's proposed agreement to allocate amongst its members a portion of the fixed quota of pollock that the Department of Commerce regulations allow to be taken from U.S. Pacific waters.

We are enclosing a copy of the membership agreement which is the contract implementing a fishery cooperative pursuant to § 210(b) of the American Fisheries Act. The membership agreement has been executed by the owners of more than 80% of the qualified catcher vessels that delivered pollock for processing by the shore-side plant of Alyeska Seafoods, Inc. in the directed pollock fishery in the year prior to the year in which this cooperative will be in effect. The agreement specifies that, except with respect to an amount of up to 10% of the pollock harvested by the cooperative members, that the catcher vessels belonging to members of the cooperative will deliver pollock from the directed pollock fishery only to the Alyeska Seafoods processing plant during the years in which the fishery cooperative will be in effect. Alyeska Seafoods Inc. has agreed to process such pollock. See copy of letter from Winn F. Brindle of Alyeska Seafoods Inc. agreeing to process the pollock.

We are also enclosing copies of the Articles of Incorporation for the cooperative. The cooperative has a membership of 11 vessels listed on pages 10 and 11 of the membership agreement. Of those vessels, the *Alaska Rose*, *Bering Rose*, *Destination*, *Great Pacific*, *Seawolf*, *Miss Amy*, and *Messiah* are owned by Wards Cove Packing Co. or companies in which Wards

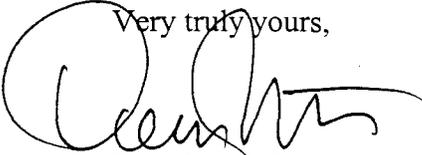
Joel Kline
December 17, 1999
Page 2

Cove Packing Co. or Alyeska Seafoods Inc. has an interest. Alyeska Seafoods Inc. also has a 25% limited partnership interest in the *Morning Star*. A complete breakdown of the ownership of the vessels is attached under the heading of "Alyeska Seafoods Surimi Fleet." Wards Cove Packing Co. is a minority shareholder of Alyeska Seafoods Inc. and is the manager of the Alyeska processing plant.

You will note that the contract between the members provides that the cooperative shall have no function to process, market, or sell product, the members of the co-op will engage in processing, marketing and sales only on a fully independent basis and the cooperative shall have no discussions nor collect nor distribute any information on pricing, processing, marketing or sales (§ 10). The Articles of Incorporation contain similar restrictions. See Article II and Article IV.

Thus, this cooperative has been formed to restrict its function to allocation of the harvest in an orderly manner. We submit that the formation of this cooperative is in line with the congressionally stated policies behind enactment of the American Fisheries Act, namely that where there is a fixed quota of fish in a highly regulated fishery, the creation of fishery cooperatives does not undermine the goals of the antitrust laws. See letter of December 10, 1999 from Randall D. Moss, Office of Legal Counsel.

Accordingly, we request that the antitrust division will issue a favorable enforcement intention letter in connection with this business review request.

Very truly yours,

Douglas M. Fryer

DMF:eb
Encls.

cc: North Pacific Fishery Management Council
Secretary of Commerce