

TESTIMONY OF KEVIN B. O'LEARY
TO THE UNITED STATES SENATE COMMERCE COMMITTEE
ON REAUTHORIZATION OF
MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT

Madam Chair, My name is Kevin B. O'Leary. I would like to thank the committee for inviting me to present testimony today. I am a commercial fisherman from Kodiak, Alaska. I have resided in Kodiak for over twenty-five years working in the commercial fisheries as a crewmember, captain, and vessel owner. I currently am a member of the North Pacific Fishery Management Council and am beginning my fifth year of service on the Council. I have been asked to focus my testimony on two issues related to the Magnuson–Stevens Act; my experience in the halibut and sablefish IFQ program and the need for prompt rationalization of the Bering Sea crab fisheries by the formation of co-ops using the American Fisheries Act as a model.

Both issues I have been asked to address are related because they have fishery rationalization at their core. I would like to tell you of the evolution of my thoughts on fishery rationalization. I was an opponent of the attempts to rationalize the halibut and sablefish fisheries in the 1980's. I believed as many did and still do in Kodiak that as long as the fisheries are managed with the best available scientific data in setting Total Allowable Catch (TAC), for each year's harvest and

fisheries are prosecuted within those limits, that the health of our fisheries would be adequately insured. Fears of the unknown, concerns over the equity of initial allocations, the effect of large scale consolidation on fishery dependant communities, the efficacy and cost of management and enforcement are some of the most important reasons for my initial skepticism and opposition to IFQ's. Since the implementation of the halibut and sablefish IFQ program, the program is working and working well. Loss of life and injury at sea are down significantly, ex-vessel value of product is up substantially, product quality is much improved, and there is now nearly year-round availability of fresh product.

The key element of the program that allows for all these improvements is the end of the race for fish between users. Stake holders can now refocus their efforts on safety, conservation of the resource, and product quality. With fishermen having spent millions of dollars paying for their particular share of the resource since the implementation of IFQ's, there is a tremendous economic incentive for them to be very concerned with sustainable resource management. No longer competing for a share of the resource while prosecuting the fishery allows them the time to move from areas of high by-catch of non-target species. They also now have the flexibility to alter fishing practices and modify gear to address conservation concerns without fear of losing their share of the fishery.

The North Pacific Council continues to have substantial challenges in responsibly managing all of our fishery resources in the North Pacific. Reducing the impacts of commercial fishing on benthic habitat, by-catch reduction of non-target species, and as our scientific knowledge grows, movement toward a more ecosystem based approach to fishery management are three goals we are currently working toward in the North Pacific. If we are to achieve them we will need to have management regimes that provide flexibility for both the managers and fisherman to respond to the challenges we face. Ending the race for fish is fundamental to providing the needed flexibility. Our experience in the halibut and sablefish IFQ program provides a empirical example of how this form of rationalization can make a significant contribution to achieving our fishery management goals.

In the next iteration of the Magnuson–Stevens Act as you work toward reauthorization, I urge you to provide your managers at the North Pacific Council and at the National Marine Fisheries Service all the management tools that could be available to them. Certainly there are social and economic issues with regard to IFQ programs that are difficult to resolve. The current halibut and sablefish program is a good and successful first attempt at addressing them. What has been learned by all the participants in the public process through the development and implementation of the halibut and sablefish IfQ program is invaluable in the development of any future programs for other fisheries. The Council forum created by the Magnuson–Stevens Act is the best place to resolve

these issues.

There was more than just over-capitalization and the problems created by the race for fish that led the pollock industry to seek a legislative solution for their problems. To the extent that the North Pacific Council did not have all the rationalization tools at its' disposal, the industry had to have a legislative solution to solve the capitalization portion of it's problems. It is the timely rationalization of the pollock fishery through the formation of at- sea processor and shore based delivery co-ops as provided for in the American Fisheries Act, that has given both the management and fishery flexibility necessary to have a pollock fishery in the Bering Sea in 2000 in the face of the Steller sea lion situation and the exigencies of the Endangered Species Act. The lack of both management and fishery flexibility that rationalization could provide in the Gulf of Alaska makes responding to the Steller sea lion situation much more difficult and the impact of the management measures potentially devastating to the Gulf communities.

The current circumstances of the crab fisheries in the Bering Sea are dire and the future of most crab fisheries is in doubt. The Bristol Bay red king crab fishery, which through the 1970's and early 1980's was both healthy and the most lucrative crab fishery in the North Pacific, crashed and the stocks have never recovered to their historical norms for that period. The bairdi tanner crab fishery has also been on a continual downward stock trend with only a modest and

brief period of recovery in the early 1990's. The North Pacific Council has worked to develop rebuilding plans for the bairdi tanner crab resource. In the mid 1980's with the large declines in king and bairdi tanner crab fisheries and the robust state of opilio tanner crab stocks, the Bering Sea crab fleet became increasingly dependant on opilio tanner crab as it's most lucrative fishery. Opilio tanner crab became the mainstay that underpinned the economic viability of the crab fleet and crab processors from the mid 1980's until now. This summer's survey work confirmed a tremendous decline in the biomass of opilio crab and that resource has now been declared overfished. Current projections indicate a severely curtailed fishery this year with the fishery likely being closed to commercial fishing in the year 2001. The causes of the decline of the crab fisheries are complex and commercial fishing is a component of the decline, although oceanographic conditions appear be the fundamental reason for crab stock declines. Until we get an oceanographic regime shift to conditions more conducive for crab we are likely facing continued low levels of crab abundance. Given the current status of the stocks in the crab fisheries we are at disastrously high levels of over-capitalization in both crab fleet and crab processing industry. This level of capitalization exacerbates the effort to manage the crab fleet effectively and promote recovery of the crab resource. These circumstances have prompted the crab industry to come forward and ask the North Pacific Council to help facilitate industry discussions to develop co-op arrangements which are similar to those provided by the American Fisheries Act. Dr. Dave Fluharty, a North Pacific Council member from Washington State and

myself, have been involved in this effort.

The current prohibition on implementation of IFQ programs or quota share-like programs prevents the North Pacific Council from directly developing the kind of solution many crab industry members want. The very fact that it is industry members calling for this sort of solution is an indication fishermen are coming to grips with the reality of over-capitalization and are seeking meaningful solutions to their problems. The formation of co-ops similar to those developed as a result of the American Fisheries Act is another viable form of fishery rationalization and capital reduction. Currently formation of such co-ops is restricted by the Fisherman's Act of 1934 and the crab industry would need the direct help of Congress to act expeditiously to move forward to solve its' problems. Moreover the excess of capital in the crab industry is so great that a direct reduction of capital through a buyback is likely necessary to facilitate the formation of co-ops.

As you move forward in the process of the Magnuson-Stevens Act reauthorization, I would ask that you provide the Councils with the ability to consider and implement a variety of management options in order to fully rationalize the crab and groundfish fisheries of the North Pacific.

Let me thank you again for allowing me the opportunity to present my views.