

**August 21, 2002**

**Written Testimony of John Winther  
Ocean Prowler LLC, P.O. Box 1364, Petersburg, Alaska 99833**

**U.S. Commission on Ocean Policy  
Management of North Pacific Living Marine Resources, Panel II**

Mr. Chairman, Members of the Commission.

My name is John Winther, and I would like to thank you for the opportunity to speak at this hearing on ocean policy. I am a third generation fisherman from Petersburg, Alaska. Both my grandfather and father were trollers and longliners. I have been involved in commercial fishing with fixed gear in the North Pacific waters for 38 years with 25 of those years captaining my own vessels. I have fished the Alaskan coast from Southeast to the Bering Sea.

Today, I have been asked to represent the fixed gear fisheries of the North Pacific. The fixed gear used in Alaska is primarily pot and longline gear. This is stationary fishing gear that uses bait as an attractant. Fixed gear is set off a vessel, left on the ocean floor for a period of time, and then retrieved.

Pot gear can vary in configuration, size, and weight. They can be squares or cones ranging from 2 to 8 feet and weighing 50 to 700 pounds. A typical Bering Sea king crab pot would be a 7 X 7 square weighing 700 pounds. Pot gear is used both for crab (king, opilio, Bairdi, hair) and Pacific cod (p-cod). Generally, the baited pots are set individually although there are two fisheries in the Bering Sea where pots are longlined in a string. Pot boats range in length from 80 to 175 feet and can be either a catcher-vessel (CV) or a catcher processor (CP).

All the longlining in Alaska is bottom (demersal) longlining. The gear consists of a groundline anchored on each end on the seabed with evenly spaced baited hooks. The length of a longline set can vary from one to ten miles with seven miles being an average set in the Bering Sea. Longline gear is primarily used to target halibut, black cod, and p-cod.

The groundline is approximately 9mm (3/8 inch) with a hook size that varies depending on the target species (13/0 to 16/0). Longline gear is the same regardless of vessel size or type. The gear configuration is not a function of horsepower or vessel length; it is simply longline gear. Vessels using an autobaiting system may use a different hook shape that differs slightly from hand-baited gear.

The longline fleet is quite diverse ranging from 17 foot skiffs fishing for halibut to 175 foot Bering Sea freezer-longliners (CP). It should be noted that in the halibut IFQ fishery, 50% of the IFQ holders have 3,000 pounds or less and 70% have 10,000 pounds or less so there are a considerable number of smaller vessels in that fishery.

Both types of gear (pot and longline) provide for the highest quality seafood product possible as the catch is kept alive until landed on the vessel or processed.

I am presently the managing owner for Prowler Fisheries, a commercial fishing company that operates three freezer-longliners in the Bering Sea/Aleutian Islands (BSAI) and the Gulf of Alaska (GOA) since 1985. These vessels use hook-and-line gear primarily for Pacific cod (p-cod) and black cod. Due to the great distances and the severe weather conditions involved in the Bering Sea, these vessels are catcher-processors ranging from 115 to 155 feet in length. The fish come over the rail one at a time and are immediately processed into a high quality frozen-at sea product.

All three Prowler vessels also participate in the CDQ (Community Development Quota) fisheries. Prowler has entered into a successful partnership with two of the Bering Sea native community associations. I am also the owner of a crab boat that has participated in Bering Sea crab fisheries annually since 1974.

Over the years, I have seen many changes in the fisheries. I fished alongside the foreign fleets before the two hundred mile limit came into effect. From the early 1960s to the mid 80s, the predominate fishery in the North Pacific available to U.S. fishermen was crab. Groundfish was harvested almost entirely by foreign vessels fishing off our coast with the permission of the U.S. government.

American fishermen tried to enter into the groundfish fishery but were unable to compete with the foreign vessels because there was no available market. At that time, Japan was the primary market but it had a closed market system. Many of the vessels in the foreign fleet were Japanese owned and had their own import quotas to bring fish into Japan.

It wasn't until Senator Stevens assisted the industry in negotiating a "fish and chips" policy that Americans were able to enter the groundfish fishery in our own waters. The "fish and chips" policy stated that in order for foreign countries to receive allocations to fish in the U.S. waters in the North Pacific, they would have to open their markets and purchase groundfish from U.S. fishermen as well as building shoreside infrastructure in Alaska. This was the beginning of Americanization of the fisheries, developing in what is now considered the largest and best managed fishery in the U.S.

It was not an easy transition. It was a long and contentious process that is still evolving today. For the most part, it is a success story. The more recent management actions have been addressing rationalization of groundfish and crab fisheries. The purpose of these rationalizations is to promote safety at sea, prevent overcapitalization, and end the "race for fish" as well as provide opportunity for improved product forms and better recovery rates.

Most of the changes in Alaskan fixed gear fisheries came as a direct result of decisions made at the North Pacific Fisheries Management Council. For many years, I have participated at the regional management council and I have also had the honor of serving on the Council from 1983-89. Presently, I am serving on the Council's Steller Sea Lion Mitigation Committee.

The waters of Alaska are big and so is the task for which this Commission has been charged. An examination of the working draft of "Toward a National Ocean Policy: Ocean Policy Topics and

Related Issues” reveals a considerable list of topics and questions previously raised before the Commission. Today, I would like to focus on a few key themes:

1.) Recognition of regional differences: What may work in one region of the U.S. may not necessarily make sense in an other region due to many factors such as differences in ecosystems, population bases, or types of fishing fleet. While we should look for similarities in formulating a national policy, it is important to recognize the differences in regions as well. Sufficient allowance should be made for flexibility. One size rarely fits all.

2.) Support for the regional management council system: This has proved to be a successful process in the North Pacific in developing practical management measures while providing for conservation of marine resources. The regional system provides the necessary flexibility for differences in areas. However, the regional council process only works if there is sound scientific data and extensive public participation. Both of these elements require sufficient funding and hard work on the part of agencies, the members of the panels, and the public.

Statements have been made to the effect that the regional management council system be disbanded or drastically changed on the perception that it wasn't working well in some regions. I am not as familiar with other regional management councils but given the track record here, it would be a shame to end this public process. If it is warranted, it would seem to make more sense to try to improve the process in the other regions rather than discontinue it nationwide.

One key aspect in the success of the NPFMC (North Pacific Fisheries Management Council) is the availability of the members and staff to the public. It is an open process. The SSC (Science and Statistics Committee), the AP (Advisory Panel), and the Council all meet in the same location, on the same issues, in sequence. This allows the public (and Council members) to follow an issue and testify in front of all three bodies. The physical availability of all three bodies in the same location gives the public the opportunity to ask questions or get a clarification on an informal basis outside of the formal meeting process. Open dialogue is essential between the three bodies as well as the with the public.

I believe an other strength of the NPFMC is the strong role of the SSC in providing scientific input to the Council. The Council listens to the SSC. The credibility of the entire Council process is inextricably linked to adherence to sound science. Therefore it is important for the public to be able to observe and interact with the SSC. An inclusive public process with the SSC reduces the likelihood of an “ivory tower” syndrome and lessens the tendency toward an “us versus them” scenario between fishermen and scientists.

3.) A key element of sound fisheries management policy is an appropriate TAC setting process: The cornerstone of successful management is the ability to assess abundance and establish harvest levels that will provide for a sustained fishery. It is fundamental to have adequate surveys, catch sampling, and modeling that is continually upgraded in a peer reviewed scientific manner to reflect changing abundances and conditions. To the extent practicable, the process must be made generally understandable to the public. The more the public understands, the more acceptance there seems to be to changes in TACs. Scrutiny is a good thing. Again this requires effort on the part of the scientific community and the public.

4.) The management council process is being hamstrung by NEPA and ESA related lawsuits:

One developing problem is that both meetings and documents are increasing in length and bulk as a direct result of litigation. The longer meetings and documents inhibit public participation as well as progress. Most of the lawsuits seem to be process related (NEPA, ESA) rather than on the merits of the issue. It is ironic that many of the same groups that are calling to dismantle the council process are the same groups that choose to litigate rather than participate at the Council. It is somewhat of a self-fulfilling prophecy.

Contributing to the problem is the conflict between the Magnuson-Stevens Act (MSA) and numerous other laws and executive orders. MSA provides for national standards and the regional management council system and appears to be working. There is a need to synchronize other applicable laws to streamline the regulatory process so that councils are able to make progress in a timely fashion.

If one didn't know any better, you would think that conservation of marine resources is the sole invention of some environmental groups. However, there is a long history of conservation in the North Pacific that precedes the emergence of environmental groups. One example is the successful management and conservation of the halibut resource since the 1920s.

Environmental groups need to be encouraged to meaningfully participate at the Council. I recognize it is not an easy process since the volume of data and information is considerable, however nobody else gets a free pass from doing their homework. An informed and knowledgeable environmental group can be highly effective at the Council.

At present there seems to be only one environmental group that has taken the time and energy to consistently participate at the NPFMC. That group is AMCC (Alaska Marine Conservation Council). I may not always agree with them but I respect them for their diligence in attending meetings and wading through the large volume of material.

5.) The longline fleet has successfully worked through a number of issues at the NPFMC resulting in rationalized and sustainable fisheries:

With the Americanization of the groundfish fisheries mentioned previously, new opportunities opened up for U.S. longliners. Formerly, longliners traditionally targeted black cod, halibut, and some rockfish. Pacific cod presented a new market for American fishermen. The Pacific cod fishery is now the second largest fishery in Alaska after pollock.

The cod fishery has gone through many management actions leading to gear allocations and rationalization. Cod is caught by both trawl and fixed gear. To avoid gear conflicts and provide gear types some stability in their respective fisheries, the industry requested, and the Council subsequently divided the allowable harvest of cod between trawl, fixed gear, and jig.

The fixed gear allocation has since been further divided between pot gear, freezer-longliners, and catcher-vessel longliners. There is also an allocation for vessels under 60 feet using any type of

fixed gear. The end result is that freezer-longliners catch about half of the cod quota in the BSAI. The other half is caught by trawl, pot, and jig gear.

While the gear split allowed each sector to manage their vessel time more efficiently, it did not eliminate the race for fish within each sector. As entry into the fishery was not limited, there was still significant risk of overcapacity. The American Fishery Act had put limits on the trawl sector while the fixed gear fishery was still wide open to anyone who wanted to fish.

The difficulties facing fisheries with too many vessels include short seasons, safety at sea, bycatch problems, and risk of financial failures. After seeing these difficulties in various other fisheries, the freezer-longliners proposed to the Council to limit the number of vessels in the fixed gear cod fishery. This became Amendment 67, which will be in effect January 1, 2003.

Speaking only for the freezer-longline portion of the fleet, Amendment 67 is the first time I can recall that the regulatory process has been ahead of the curve in preventing overcapitalization of a fishing fleet. This amendment gave permits to any vessel with a history of participation in the fishery in any year from 1996 through 1999. This keeps the fleet at its current size while allowing some limited growth. By using these years, it did not eliminate anyone who truly depended on this fishery nor anyone who was fishing at the time this amendment was passed.

In the halibut and sablefish longline fisheries, rationalization occurred in the form of IFQs. IFQs transformed the season from just a few days a year to eight months. Formerly in the “derby days” most of the halibut was frozen due to the high volume of deliveries in a few days. Now over 70% of the halibut goes to the fresh market over the course of eight months resulting in a higher ex-vessel price. The change from derbies to IFQs significantly improved safety at sea for fishermen. Refinement of the IFQ program is an ongoing process. Recently, Council action has allowed coastal communities to hold quota share. To resolve long-standing allocational issues between commercial and charter halibut fishermen, the IFQ program was expanded to include halibut charter.

6.) The longline fleet has taken the initiative to reduce bycatch: The longline fleet has consistently shown its willingness to take the initiative to resolve difficult issues in a practical and effective manner. Two issues the longline industry has been involved with at the Council include seabird avoidance regulations and a halibut bycatch reduction program.

Halibut: Halibut is a prohibited species bycatch in the cod fishery. There is a regulatory cap on halibut bycatch by gear type. If the PSC cap is reached, the entire fishery is closed even if there is cod quota left on the table. It is to the fleet’s advantage to cooperatively minimize halibut bycatch and mortality.

This why the Careful Release Program came into being. Each vessel ends up with a “report card” based on observed bycatch and viability estimates. Each vessel’s bycatch rate then becomes public record and is published. If a vessel has high bycatch mortality, it hurts the rest of the fleet, and they’re going to know about it. The result is that peer pressure from the fleet can be an effective management tool.

The basis of the calculation of the bycatch rate is from observer data. Freezer-longliners in the cod fishery are observed vessels. According to NMFS, 94% of the catch occurs on observed vessels, and 66% of the actual hauls are directly observed. During the CDQ cod fishery, observer coverage is doubled. The cost of observers is presently funded by the fishing industry.

Seabird Avoidance: The longline fleet has been at the forefront of initiating seabird avoidance regulations at the NPFMC. Interactions between longliners and seabirds are rare events. Even so, these interactions needed to be minimized in consideration of the Short Tailed Albatross (STA) as well as for general seabird populations. The Short Tailed Albatross is a foreign Endangered Species whose population was nearly wiped out in the 1930s by meat and feather hunters in Japan. Seabird avoidance regulations for longliners were implemented in 1998 at the NPFMC.

From 1998 to 2001, the bycatch rate of seabirds was reduced seventy-four percent (-74%) in the BSAI longline cod fishery (from unextrapolated observed data). Preliminary numbers from 2002 indicate a ninety percent (-90%) reduction or more from the 1998 rate. At the same time, the population of the Short-Tailed Albatross is steadily increasing by all measures (adult counts, egg counts, and chick counts).

These regulations were subsequently revised and strengthened by the Council based on two years of new research. The new regulations will be implemented in 2003 are expected to even further reduce bycatch rates. When these regulations were being revised at the October and December Council meetings, only one environmental group was present (AMCC).

In the new research that was done cooperatively by the Washington Sea Grant program with longliners, there was an interesting aspect that is not included in most studies. The study not only looked at minimizing seabird bycatch, but compared the effects of the various methods on catch (CPUE) of the target species and crew safety. These considerations in research are greatly appreciated by fishermen.

7.) The Bering Sea crab fisheries are working through a stock rebuilding and rationalization process:

The status of the crab stocks in the Bering Sea are cyclic and related to environmental factors such as water temperature. Currently we are experiencing a low abundances and severely restricted harvests for major crab stocks. For the three crab stocks in the region that are considered "overfished", aggressive rebuilding plans have been implemented. Two fisheries are closed entirely and the other is severely restricted. The available data indicates that the abundance of these stocks is largely dependent on environmental factors other than harvest.

The combination of declining stock abundance with an over-capitalized crab fleet mandated the need for rationalization of the Bering Sea crab fisheries. The Council recently took action on crab rationalization. I am not going to pretend that aspects of this action are not controversial but I would offer a few observations.

a.) No one is going to argue against the need to rationalize these crab fisheries. Some people may not like all the elements of the solution, but everyone recognizes that the need for rationalization is quite real and overdue.

b.) This was not a fast track agenda item. This issue has an extensive history at the Council. Various crab rationalization plans have been in front of the Council since 1995.

c.) There was an extensive public process including a public committee. There was a Council analysis of the alternatives that ran over 500 pages.

d.) The Council vote was a unanimous 11- 0. Given the above considerations, this is a pretty strong message that there is a real problem and a solution has been arrived at in a very deliberative fashion. The result is a program with elements to provide for a balance of interests. This solution deserves to be fully considered.

8.) Appropriate use of ecosystem management and the precautionary approach: These terms have their place in fisheries management. However, these are also very broad terms without a clear working definition. Frequently these terms are inappropriately employed by groups who seek merely to shut down fishing, i.e. the end justifying the means.

What constitutes “ecosystem management” is not an agreed upon term of reference. It can be taken to extremes on both ends of the spectrum. The definition seems to be in the eye of the beholder. People tend to incorporate their own value system in defining what is a “good” or healthy ecosystem. During the course of testimony on Steller sea lions, it was stated that some people want all populations to be stable or increasing. Unfortunately, nature has its own ideas and there will always be ups and downs. Therefore, a downward cycle does not necessarily indicate a “bad” or unhealthy ecosystem, just a changing ecosystem to which we have to react.

The precautionary approach is an essential part of fisheries management. Managers must continually evaluate the accuracy of the data used in their decision making process and allow for uncertainty. Most of what we have learned in fisheries management has been through an incremental process of small steps over time. Management decisions should be made on what is known, tempered by what is unknown. There is a lot we don’t know about oceans but it would be incorrect to ignore what we have learned.

9.) Appropriate use of Marine Protected Areas (MPAs): MPAs also have their place in fisheries management, if they are based on sound scientific research and fisheries management principles. MPAs seem more appropriate where a fish spends its whole life in that area. A year round no-take zone may not make much sense for a migratory species that only seasonally occurs in that area.

Some of the MPAs that have been proposed are not no-take zones but are reallocation from commercial to sport as the only take that is prohibited is commercial. Several environmental groups are calling for establishing a flat percentage to be set aside as marine reserves. As marine resources are not distributed evenly, this would seem to be a rather arbitrary method.

The need and benefits of MPAs are still under review. There are many claims as to the benefits. On the other hand, another study indicates that out of more than 350 fish stocks examined, the no-harvest zones offered no fishery management benefit in 98% of the stocks studied. This study indicates that as a tool for fisheries management where the goal is maximum sustained yield, no-take MPAs are generally not as effective as traditional management measures such as the use of size limits, catch limits, and seasons.

MPAs should be designed in a manner consistent with overall fishery conservation and management goals, not simply to meet some arbitrary and undefined objective. Decisions about no-take zones should be done at a local level such as the regional management councils.

Currently there are approximately 100,000 square miles of the North Pacific closed year round to trawling. There are many other seasonal trawl closures and fixed gear closures that are too numerous to quantify.

10.) There is a strong need for additional research which is directly applicable to present management concerns: The U.S. does not appear to be the world's leader in applied fisheries research. For example, just about every scientific paper on longlining originates from Norway. While the volume of research in the U.S. is considerable, there appears to be less on what is directly applicable to commercial fishing methods. The focus of fishing research in the U.S. sometimes appears to be more focused on how to put you out of business rather than how to improve things.

I am not saying that all research should only be on commercially viable species and commercial fishing but it seems that the balance has tipped the other way toward more academic pursuits. It is no doubt fascinating to study the rare and exotic crabs located on seamounts in the Gulf of Alaska using a deep sea submersible. But at the same time there are large gaps in our knowledge of juvenile life stages of major Bering Sea crab stocks that are in decline. There are very few submersible observations of juvenile snow crab and little is known about their habitat needs.

11.) Provide for more flexibility for input and innovation by members of the public: One database of information that is sometimes discounted and disregarded by NMFS is the fishermen themselves. The days, months, and years spent on our boats have made us pretty good observers of ocean conditions as well as the state of the resource. While sometimes we find a receptive ear, the general perception is that if the information comes from fishermen, it must be discounted. I am not suggesting that anecdotal evidence replace statistical sampling but in some situations the information provided by the public is useful particularly when considering that the vast size of the North Pacific makes it impossible to survey completely.

For example, we are told that each bird in the Short Tailed Albatross population have all been banded (Torishima Island and Minami-kojima Island). However many longline skippers in the Bering Sea have also reported seeing STAs with no leg bands. This was also reported by observers on the IPHC survey. Even assuming some error, it still seems to indicate that the population may be larger than estimated or there may be an other breeding site. Both of these are important considerations in a small population such as the STA.

An other area that could be made more flexible is the rigidity of the process to obtain a research permit. A fishermen may have an innovative idea in regards to bird avoidance measures and would like to test it while commercial fishing. The only avenue available to do so on a commercial fishing vessel in normal commercial fishing operations is an Exempted Fisheries Permit (EFP). An EFP requires a Federal Register notice as well as approval by NMFS and the regional council. This can take anywhere from six months to two years. This seems to inhibit innovation rather than encourage it.

The other categories of research permits are not applicable. An EEAA (Exempted Educational Activity Authorization) prohibits the fish from being sold. An SRP (Scientific Research Permit) can not be used on a commercial vessel during normal fishing operations. An EFP is the only current option.

Conclusion: In closing, I would urge this Commission to strongly recommend continuation of the regional management council system. It has proven to be an effective method for involving fishermen and other members of the public in the regulatory process for each region. The proof that it can work is the track record of the NPFMC.

This concludes my testimony. I appreciate the opportunity to address the Commission and I wish you good luck.

John Winther  
Prowler Fisheries  
Petersburg, Alaska