

North Pacific Fishery Management Council

Eric A. Olson, Chairman
Chris Oliver, Executive Director



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MEMORANDUM

.TO: Council, SSC and AP

FROM: Chris Oliver
Executive Director

DATE: March 28, 2013

SUBJECT: Documents for April meeting

Posted on website:

Amendment 80 Cooperatives (C-6a)
Alaska Seafood Cooperative

Rockfish Co-op Reports (C-6b)
GOA Rockfish Best Use Cooperative

AFA Co-op Reports (C-6c) (received)
Pollock Conservative and High Seas
Mothership Fleet
Akutan Catcher Vessel Association
Peter Pan Seafoods (*reposted, page missing first draft*)

Have not received as of today:
Northern Victor
Unalaska
Catcher Vessel Inter Co-op

IPA Reports
Bering Sea Pollock Mothership Salmon Saving Incentive Plan (copied under memo C-6(d)(1))

Other Items of Interest: (*attached to this memo*)
Aleutia letter to APICDA regarding ROFR



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Sand Point, Alaska 99661
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RECEIVED
MAR 21 2013

March 18, 2013

Larry Cotter, CEO
Aleutian Pribilof Island Community Development Association
234 Gold Street
Juneau, Alaska 99801

Re: Denial of Aleutia's Right of First Refusal

Dear Mr. Cotter:

I write in response to your Mar. 7, 2013 letter. On behalf of Aleutia, I disagree fundamentally with your summary of the state of negotiations between our organizations.

Your letter appears to convey two primary points:

First, you state that offering Aleutia the Right of First Refusal (ROFR) was not necessary at (or before) the 2008 transfer between APICDA and Snopac apparently because the Port Moller-based quota is now being processed in Akutan.

Second you indicate that Aleutia believes that processing took place in the AEB until Aug. 1, 2008. Therefore, you state, the matter is settled.

Aleutia does not agree with your premise. Aleutia has merely stated that it believes the shares were processed within the AEB during the "cooling off" period, which ended July 1, 2007.¹

In addition to this misunderstanding of Aleutia's position, your conclusion is premised on a version of events that remains unsubstantiated and uncertain. This uncertainty has been exacerbated by representations you have made to both Aleutia and the Council that are contradictory and unclear. At one time you offered to help remedy some uncertainty by sharing details concerning the timing and terms of the sale. You have since stated that you will no longer do so.

¹ Aleutia knows with certainty that the Port Moller shares were processed within the Borough in 2006. Aleutia assumes that the law and terms of the ROFR were followed during 2005 and 2007, but has no information. Aleutia would like to know for certain where the Port Moller shares were processed in 2005 and 2007.

Larry Cotter
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The information Aleutia has received from APICDA, from Greg Blakey and the scant public information available, clearly indicates that Aleutia's ROFR was triggered on at least two occasions. The first appears to have been a 2008 lease agreement between Snopac and an undisclosed entity. The lease constituted a temporary transfer of ownership in harvested shares (i.e., Port Moller shares processed in Unalaska). You have referenced this transfer a number of times because it occurred under APICDA's ownership. The second is the sales agreement between Snopac and APICDA, which transferred, by your own account, the Port Moller shares to St. George.

Some details of these triggering events (as well as the well-documented lack of required notification that occurred at the time of transfer) are available in the Council discussion paper dated January 2013 entitled "Modifications to Community Provisions."² Obviously, there is no agreement between APICDA and Aleutia regarding the "fundamental" factors that determine that Aleutia was deprived of its Right Of First Refusal in the sale of the Port Moller shares. The matter is far from settled.

The information available to Aleutia does not support APICDA's assertion. However, I do encourage you to disclose further information concerning the timing and terms of the 2008 lease agreement, as well as Snopac's sales agreement with APICDA. Disclosure of this information will benefit all parties concerned.

I share your regret in having to involve the Council in the reconciliation of this matter. It was always Aleutia's intention that we would reach some agreement that would in the very least assist the Council and our respective communities in fully understanding this issue. However, your reluctance to share the information makes it clear that an official investigation by the Council presents the only viable means of doing so.

An investigation of this sort is especially warranted due to the fact that the Program has at its heart the purpose of protecting Alaska's very important coastal communities. It is Aleutia's sincere belief that the course of events leading up to the loss of the Port Moller shares demonstrates that the Program's community protection measures have not achieved their purpose.

It is my hope that the Council will not simply set Aleutia and the communities it represents adrift.

Sincerely,



Duane Kapp
President

CC: Eric Olson, Chair, North Pacific Fishery Management Council ✓

² Incidentally, a close review of the Council's "Modifications to Community Provisions" implies that Aleutia's ROFR was triggered.