March 15, 2000

Pacific Fisheries Management Council
Attn: Jim Lone, Chairman
2130 S.W. 5th Ave., Suite 224
Portland, Oregon  97201

RE: American Fisheries Act (AFA); Control Date

Dear Council Members,

I am writing in support of the industry agreement from the September council meeting where the control date of September 16, 1999 was established to protect fisheries under the jurisdiction of the Pacific Fishery management Council and the participants in those fisheries from adverse impacts from the American Fisheries Act (AFA), or by any fishery cooperatives in the directed pollock fishery.

At the September Council meeting, members from the Midwater Trawlers Cooperative (MTC) and United Catcher Boats (UCB) presented a unified statement in favor of an AFA control date of September 16, 1999. The Council has approved this control date and NMFS has published this date in the Federal Register.

At the March Council meeting, a second option of December 31, 1997 was presented. The people presenting this date stated it was the date that the North Pacific Fishery Management Council used to determine participation in the North Pacific. As far as Pacific fishery management is concerned, this date is not significant. It does not correspond to any management issue. It does not link to any licensing or moratorium program.

The qualifying period of January 1, 1995 to December 31, 1997 was used in the North Pacific because it worked for the participants in the North Pacific. Industry members of the North Pacific got together and negotiated these dates. Just like the industry members of the Pacific have gotten together and determined that September 16, 1999 works for the industry members in the Pacific fisheries.

Members from the MTC and UCB are the most likely participants who will be affected by AFA. These organizations have agreed on a unified control date of September 16, 1999. The Council has passed this control date and NMFS has published it in the Federal Register. The Control date has gone through the necessary process and is defendable. The new proposal would have an adverse impact on my company and therefore we do not support this proposal.

We encourage the Pacific Council to reject any changes to the industry agreement.

Sincerely yours,

Dale W. Myer
March 14, 2000

Pacific Fisheries Management Council
2130 SW 5th Avenue, Suite 224
Portland, Oregon 97201
Attn: Jim Lone, Chairman

RE: American Fisheries Act (AFA)

Dear Jim,

I am writing on behalf of our vessel, the Sea Storm. The Sea Storm purchased its Limited Entry permits in 1997, prior to any discussion on the AFA. That permit was a “Groundfish” Trawl A permit which permitted the vessel to fish all groundfish (whiting At-Sea, whiting shore-side and groundfish shore-side). We purchased the permit with the intention of fishing whiting for the mothership sector and whiting for the shore-side sector. Every year since purchasing our permit, we have contacted members of shore-side whiting processors in an attempt to get a market.

In 1999, we were contacted by one of the shore-side plants in the middle of the season. The plant told us that 60 to 80% of their whiting fleet were abandoning them. Those vessels were leaving to go up to Alaska to qualify for Pollock Co-ops permitted under the American Fisheries Act (AFA). The plant asked us if we could come down and fill in for their fleet. We did, and because of our efforts, we kept the plant running for another two weeks. We kept people employed where otherwise the entire plant and its community would have been deserted. At the end of the season, the plant manager said we did a real good job and thanked us for our efforts. Thinking we might have a chance for the next season, we asked the plant manager where we stood for next season. He said, “Top of the Standby List”, same place we were at the beginning of the season.

I have no problem with the plants decision. I understand and appreciate the plant’s loyalty to vessels that have fished for them for years. These vessels, however, were leaving their market in a lurch, so they could qualify for a Pollock Co-op in Alaska. The same vessels probably will never fish that Pollock, but will lease it and remain on the West Coast to fish whiting. I have no problem with them leasing their Pollock. However, I do have a hard time hearing that these same vessels need protection under the American Fisheries Act (AFA). It seems these vessels are twisting the AFA around for their own benefit.

The Sea Storm paid very good money to retire existing permits and enter the whiting fishery. We made the investment prior to the AFA. Although we have no shore-side market for the near future, we wish to be able to have the opportunity to pursue a shore-side whiting market. Admittedly, the West Coast fisheries are in trouble, however, no one knows where they will be in the future. Rockfish bycatch may force all whiting vessels to fish outside 100 or 150 fathoms of
water. Whiting stocks may continue to be pushed way to the North. If these patterns continue, the shore-side plants may once again need more vessels. I would like the Sea Storm to have the opportunity to be one of those vessels. An opportunity we paid for when we purchased our Limited Entry permits. We feel strongly that to lose that opportunity under the guise of AFA would be a form of takings by the federal government without due compensation.

The Sea Storm is a member of United Catcher Boats (UCB). In September, members from Midwater Trawlers Cooperative (MTC) and UCB worked out an equitable agreement that would not adversely affect either of their members. That control date was September 16, 1999. In the name of fairness, I urge the council to go forward using the previous industry agreement as the control date in regards to AFA restriction. To do otherwise so that our Sea Storm would not qualify to fish shore-side whiting would be discriminatory and unjust.

Thank you for your understanding of our situation.

Sincerely yours,

Wally
Walter T. Perez
General Partner
F/V Sea Storm
16 March 2000

Pacific Fisheries Management Council
2130 SW 5th Avenue, Suite 224
Portland, Oregon 97201
Attn: Jim Lone, Chairman

Re: Alternative Control Dates and Tonnage requirements For Participation in the Hake Fishery

Dear Sir:

Following intensive discussions and negotiations within the Groundfish Advisory Panel, the Panel with the concurrence of the Trawl Fishery Organizations recommended to the Council that the Council adopt a control date of September 15, 1999, for purposes of determining entitlement to participate in future Hake shoreside and at-sea fisheries. As a result of this negotiated recommendation, the Council adopted a similar date. During these negotiations, there was input from every organization representing trawlers on the West Coast, and there was intense scrutiny of the vessels that would be impacted by this control date.

In the case of the Muir Milach, it was noted that she was built in Coos Bay Oregon in 1979 specifically for the Hake fishery, and had participated in that fishery almost every year since her construction. She has delivered Hake shoreside whenever she has had a market, which included the years 1996 and 1999. It was recognized by all the participants in the discussions that she would qualify for Shoreside endorsement only if the control date was following the 1999 season. And it was for that specific reason that we requested that date and agreed to certain conditions with the trawl groups in order to gain approval of that date.

We understand that the question of the control date has again been raised before the Council by individual members of the same organizations that agreed to and benefited from the previous negotiations about the date. This places the Council in the position of having to choose between the recommendation of the organizations of the fishermen affected by the Council decision or the individuals who choose to request actions contrary to the recommendation of their organization.

The problem with ignoring the organizations is two fold. One, ignoring the organizations recommendation is the equivalent of telling them that the Council doesn't trust the judgment of these organizations or care about their input. If the reasonable recommendations of the organizations carry no weight with the Council there would be no reason for anything but the anarchistic input of all individuals, thereby condemning the Council and its Panels to sorting through endless testimony and disjointed information in attempting to make its decisions. Secondly, if the Council ignores the negotiated resolution of issues by the organizations, it would severely handicap the ability of these organizations
to continue in their capacity as an informal co-manager of the fishing activities. If the Council won't back the reasonable recommendations of the organizations, then the organizations lose credibility.

A collateral issue apparently is that, in addition to changing the control date, it has been requested that entitlement to participation in the Hake fishery be attached to permits rather than to vessels. The reason for the consideration of a restriction into the entry of the Hake fishery was because of this being required by the American Fisheries Act. Under the act certain vessel were entitled to certain rights in the Alaskan Pollock fishery so long as that vessel did not use those rights to expand its participation in other fisheries. The Act is vessel specific and this requires that the "side boards" restrictions and entitlements granted pursuant to the AFA also be vessel specific. To consider a restricted entry into the Hake fishery via a permit would constitute the implementation of a limited entry program, which would require the Council to engage in a much more exhaustive investigation of the issues.

We respectfully request that the Council retain 15 September 1999, as the control date for the Hake fishery, or in the alternative, set the minimum delivery prior to that date at 25 tons.

Thank you for your consideration of this matter.

Sincerely,

Charles E. Yates

CC: Midwater Trawlers Association
    Fishermans Marketing Association
March 14, 2000

Pacific Fisheries Management Council
Attn: Jim Lone, Chairman
2130 SW 5th Avenue, Suite 224
Portland, Oregon 97201

RE: American Fisheries Act (AFA)

Dear Chairman Lone,

The American Fisheries Act was passed by congress in the fall of 1998 and enacted by the President on October 21, 1998. AFA requires the PFMC to exercise its authority under the AFA to adopt regulations to protect the existing West Coast fishery from further capitalization by AFA qualified vessels. The intent is to restrict further investments being made by vessels that received a benefit from AFA.

The Nordic Fury purchased its West Coast groundfish trawl permits in 1996 and combined those permit on the vessel in 1997. This investment was made almost two years prior to any talk of an American Fisheries Act. Those groundfish permits qualified the Nordic Fury to fish all groundfish on the West Coast. The vessel was qualified and still is qualified to fish mothership whiting, shore-side whiting and groundfish. To say that the Nordic Fury took advantage of the AFA to make further investments in the West Coast fisheries is completely wrong.

The Nordic Fury has fished in the mothership whiting fishery every years since combining our permits. However, we have not fished shore-side whiting or groundfish. We do not intend to exacerbate the West Coast fishery by fishing the Nordic Fury for other groundfish. However, we would like to maintain the value of our permit by retaining the opportunity to fish shore-side whiting. No one can predict the future for whiting and there may someday be a market for the Nordic Fury. Both Alternatives being put forth would disqualify the Nordic Fury from ever being able to fish shore-side whiting. We feel this unfairly takes away the opportunities for which we made our investments and severely devalues our Limited Entry permit. In the AFA the federal government was very careful not to create a “takings without just compensation”.

There is a very simple solution. As an new alternative, the Council should consider as their preferred option:

1) “An AFA qualified vessels which does not have a West Coast Limited Entry Permit, could not participate in the West Coast fisheries without first buying a permit from an AFA vessel that had a Limited Entry Permit at the time of the passage of the AFA.”
This alternative would freeze AFA qualified vessel’s investments and fishing effort at the time of passage of the American Fisheries Act (October 21, 1998). It would preserve the value of the existing permits by allowing AFA qualified vessels to buy and sell permits. It would prevent “unjust takings without compensation”. AFA qualified vessels could purchase Limited Entry permits only from other AFA qualified vessels. There would never be any increase of effort from AFA qualified vessels. It would be simple to implement. It would be easy to justify and defend. Most importantly, it would be equitable.

Thank you for your consideration and understanding.

Sincerely yours,

Stan Hovik
F/V Nordic Fury
**MTC Proposal with modifications in bold type.**

1. AFA qualified CVs that have not harvested at least **50** tons of whiting in the mothership fishery in the years **1994 through September 16, 1999** will be ineligible to participate in the mothership fishery for whiting in the future.

2. AFA qualified vessels that have not landed at least **50** tons of whiting in the inshore fishery in the years **1994 thorough September 16, 1999** will be ineligible to participate in the inshore fishery in the future.

3. AFA qualified vessels that do not have inshore landings of groundfish other than whiting in the years **1994 through September 16, 1999** will be prohibited from participating in those fisheries in the future. Bycatch amounts of other groundfish in the Pacific whiting fishery shall not be eligible for qualifying a vessel under this provisions.

4. The Council should immediately announce a control date of **September 16, 1999** to the extent necessary to preserve the status quo.
Rod Moore:

1) Define “AFA processor” as any company that is part of an on-shore cooperative in Alaska under the American Fisheries Act

2) Require that, in order to process Pacific groundfish (including whiting), a processing facility must obtain a permit from NMFS

3) No permit may be issued to a company identified as an AFA processor unless that company has engaged in processing Pacific groundfish (including whiting) prior to April 7, 2000.

4) The permit requirement will continue until changed by the Council. The prohibition on AFA processors will expire on December 31, 2004, unless the Congress extends the life of on-shore processor cooperatives, in which case the prohibition will be automatically extended.