

Adak Community Development Corporation

PO Box 1943 Adak, Alaska 99546
(907) 592-2335

January 26th 2015

Dan Hull, Chairman NPFMC
605 W. 4th Avenue. Suite 306
Anchorage, Alaska 99501-2252

Re: C-3 AI Pacific Cod Directed Fishing Allowance and Delivery Requirement

Dear Chairman Hull,

(The 1st two pages of this letter contain new comments, the rest of the material has been updated or modified based on the revised analysis.)

Adak Community Development Corporation believes the Initial Review draft analysis of the "Aleutian Island Pacific Cod Directed Fishing Allowance and Delivery Requirement" contains the information necessary to inform a decision on the alternatives. We request the Council take the next step and schedule final action.

The problem was brought to the attention of the Council in 2008. As the history of the action (page 17 & 18) shows, the issue has gone through 4 discussion papers and 4 versions of Initial Review drafts over the last 6 years. The problem statement developed for the December 2009 Initial Review Draft has remained relatively unchanged, and it is clear that this is not a problem that will go away by doing nothing.

Clarifying the Problem Statement and "Historical Share"

The analysis (page 10) suggests the "Council may wish to consider the wording of the problem statement in light of the information presented in the analysis." It goes on to state that Alternative 2 "would create an inshore allocation that significantly exceeds the inshore historical share."

The best case option of a 5000 ton priority for AI CV cod deliveries does not "exceed" Adak's historic share of the BSAI aggregate cod TAC.

All Amendment 85 sectors receive an allocation based on the aggregate BSAI cod TACs. For reference purposes Adak's historic share should be calculated on the same basis. Using the data in table 2-26, between 2003 and 2009 (the year the Council adopted the problem statement) Adak processed 4.3% of the "Total BSAI Pacific cod processed (mt)." 4.3% of the current combined BSAI cod TACs is 10,836 mt, more than double the most generous option. Even adding the years through 2014, during which Adak has been impacted by the issues identified in the problem statement, Adak's share would be 2.8%, which is over 7,000 mt based on current combined BSAI cod TACs.

If the Council chooses to modify the problem statement for clarity, it could do so by inserting “of BSAI cod” in the last line, to read: “...diminishing the historical share **of BSAI cod** of other industry participants and communities that depend on shorebased processing in the region.”

Preferred Alternative

ACDC supports Alternative 2 with both options 2 and 3 as the preferred alternative with the following date and tonnage sub-options:

Prior to March 21st the A season trawl CV Pacific cod harvest in the Bering Sea shall be limited to an amount equal to the BSAI aggregate trawl CV sector A season allocation, minus the lesser of the AI directed fishing allowance or 5,000 mt. Harvest of the AI Pacific cod directed fishing allowance is limited to CVs delivering to shoreplants west of 170 degrees longitude in the AI prior to March 15.

Option 3 - Implementation

The analysis notes NMFS may have concerns with determining intent. ACDC believes those concerns can be addressed by modeling the implementation language on the regulations for the exemption from the WAG regional landing requirement. In that case NMFS doesn't determine intent, it simply determines whether it received a signed letter.

680.4 (o) Exemption from Western Aleutian Islands golden king crab West regional delivery requirements

(1) Request for an Annual Exemption from Western Aleutian Islands golden king crab West regional delivery requirements. The eligible contract signatories (see qualifications at § 680.4(o)(2)(i)) may submit an application to NMFS to request that NMFS exempt West designated IFQ and West designated IPQ for the Western Aleutian Islands golden king crab (WAG) fishery from the West regional delivery requirements at § 680.7(a)(2) and (a)(4). All eligible contract signatories must submit one completed copy of the application form.

...

(C) Municipalities: designated officials from both the City of Adak and the City of Atka or an authorized representative.

....

(5) Approval

(i) NMFS will approve a completed application for the exemption from Western Aleutian Islands golden king crab West regional delivery requirements if all eligible contract signatories meet the requirements specified in paragraph (o)(2)(i) of this section

If Adak or Atka do not sign the request for an exemption to the WAG regional landing requirements, there is no exemption that season whether or not there is “intent” or capacity to process in the region.

Like the WAG exemption, the use of the suspension will hinge upon the good faith of the municipalities. If they un-reasonably refuse to submit a request for suspension of the AI cod regional delivery requirement, then they should expect political consequences that could result in the loss of protection measures. This reality counter balances any “incentive” a municipality might have to withhold consent.

Definition of Shoreplant

We endorse the definition of a shoreplant as “a processing facility located on land” that was adopted by the Council for purposes of this action in October of 2014.

The Range of Alternatives

The multiple discussion papers and draft analyses have served to scope the range of reasonable alternatives. As the analysis points out (page 18) the approach in the proposed action alternative has several advantages compared to options the Council has considered in the past.

We believe that short of a rationalized CV cod fishery with regionalization, there are no other reasonable alternatives to analyze beyond what is in the Initial Review draft.

Comments on the Impact Analysis

ACDC believes the Initial Review draft contains the necessary data for reaching a decision and is substantively complete.

ACDC offers the following comments on some of the speculation concerning potential impacts:

Stranded Cod

The analysis includes a discussion of the potential for “stranded” cod in the AI (pages 12 & 70.) It states “*both March 7 and 15 would likely result in some unharvested AI Pacific cod*” and that the AI cod fishery peaks during the 1st two weeks of March and then “*the fishery is quickly diminishing over the next few weeks*” (page 68.)

While it is true that there is “*rapid decline in fishing and processing active over the next two weeks*” (page 67) during the years used in Figure 8 (2009-2014), the decline is not due to a decline in CPUE. It is due to the closure of the fishery. Table 2-32 provides the closure dates going back to 2003 and shows that 2003 is the only year during which the fishery was open through the last week of March. Table 2-33 provides weekly catch rates but only goes back to 2010. The 2003 NMFS report on catch by week (https://alaskafisheries.noaa.gov/2003/halibut_psc.xls) shows 11,700 tons of trawl cod harvested in the AI during the last two weeks of March, of which over 3,000 tons each week was harvested by shorebased CV’s.

Even if CPUEs were lower for trawl CVs during the last half of March (which we don’t believe to be the case), cod not harvested by trawl CVs would be available to all other sectors for the remainder of the year. Given that the CP H&L and AM-80 sectors seem to want more AI cod, it is unlikely that any cod would ever be “stranded”. For the CV trawl sector, any cod they don’t harvest in the AI is available to them in the Bering, so there is no “stranding” issue for the CV trawl sector.

Capacity

Table 2-33 is a comparison of AI and BS CV cod catch by week versus the AI ITAC. The data in this table for 2010 provide some insight into the ‘mop up’ capacity of CPs taking deliveries from CVs in the AI.

2010 was a year that the shoreplant in Adak was essentially not operating and all but 298 tons (table 2-26) of the CV AI cod harvest was processed by offshore CPs and floaters. The data in table 2-33 show that these at-sea processors took 4474 tons the 1st week of March and 4180 tons the 2nd week.

Adding in the potential catch of trawl CPs and fixed gear CPs, these data makes it clear that under status quo, the entire AI cod DFA could be taken in a week by offshore processors.

Redistribution

The analysis states (page 71) *"In those occasions that the BS Pacific cod fishery is closed to directed fishing to prevent preemption of the AI Pacific cod fishery, the effect of this limitation would be a redistribution of Pacific cod from trawl CVs operating in the BS to trawl CVs operation in the AI."*

The accuracy of this statement is dependent on the baseline used. Relative to what can happen under status quo, preventing preemption does "redistribute" from CVs fishing the BS to CVs fishing the AI. However, as the analysis shows (page 63 & table 2-21) that over the last decade Adak deliveries *"often ranged from 6,000 to over 9,000 mt"*.

Relative to that historic baseline, reserving up to 5,000 tons of the AI cod DFA for AI shorebased delivery, only limits the amount of "redistribution" away from CVs fishing the AI to CVs fishing the BS. It is the status quo that has resulted in an ongoing redistribution of ex-vessel value away from the AI trawl CV operators to the BS trawl CV operators relative to the 2002 to 2009 baseline.

Displacement/Redeployment

The analysis states (pages 9 & 62) *"Vessels displaced from the AI Pacific cod fishery have limited opportunities for redeployment into other BSAI or GOA groundfish fisheries."*

While there may not be opportunities in other non-cod targets, there is no need to shift targets for vessels "displaced" from AI cod. As the analysis points out elsewhere each sector has a sector allocation of cod at the aggregate BSAI level. Every pound of cod harvest "foregone" by an Amendment 85 sector in the AI is available to that sector in the BS.

PSC

The analysis notes (page 62) that trawl halibut bycatch rates in the AI are 1/10th the rates in the Bering Sea. It states *"the trawl halibut PSC limits could potentially prevent trawl CVs and CPs that historically participated in the AI Pacific cod fishery from catching their sector allocation in the BS."* It follows that to the extent the action alternative results in more AI CV catch, it benefits the BS CV fleet in halibut savings, offsetting the PSC impact on trawl CPs that substitute BS cod for AI cod.

H&L halibut rates are not mentioned in the analysis, but previous Council documents have shown significantly higher bycatch rates for H&L CPs in the AI than in the BS. Thus, to the extent the action alternative constrains the amount of the H&L harvest being taken in the AI, it represents a halibut savings.

Relative Impacts

The analysis states (page 58) *“Vessels shifting their Pacific cod harvests from the AI to the BS may receive a lower price for Pacific cod in the BS...”* This is true, but it needs to be viewed in the context of the data provided in tables 2-11 & 2-13. These data show that the weighted averages of AI cod revenue for the period 2003 to 2013, by trawl and fixed gear CPs that retained AI cod, were 4.8% and 3.6% respectively.

Thus because cod catch “foregone” in the AI is available to the each sector in the BS, even if the average premium for AI cod was as much as 25 to 30 percent, at most the net dollar loss is around 1%. Further, because the AI cod TACs are much lower than they were in the previous decade, most of this “loss” is a function of TAC rather than of the action alternative.

In contrast, communities in the AI experience 100% loss of revenue for every foregone pound of AI cod, as they have no means of substituting Bering Sea cod.

Competition and Innovation

The analysis includes a discussion on the impact of the alternative on ex-vessel price to AI harvesters (page 60). While it is generally the case that more buyers mean more competition and higher prices to harvesters, there are some offsetting factors that should be considered. Many of the non-shorebased processors that have participated in the AI cod fishery have company owned fleets. Because these processors have the ability to direct their vessels to fish at whatever price they set, it restricts the ability of independent vessels to negotiate price in a derby fishery such as AI cod. In contrast, processors operating in Adak have always had a high degree of dependence on deliveries from boats over which they have no control and for which they have no alternative source of supply, while the boats delivering to them generally have alternative markets.

In 2014, 2/3rds of the harvest of the AI cod DFA took place in a two week period, during which the Adak shoreplant was racing against a CP acting as a mothership. The Adak processor was an innovator who was trying to produce individual vacuum pack filet portions. The fact that he was racing against a mothership operation contributed to his decision not to operate the plant in the future. In this case excess capacity acted as a barrier to innovation.

At-sea Processing Baseline

Table 2-26 has been expanded to differentiate CP catch from CV catch in the section on “at-sea processing”. The information demonstrates the shift of excess processing capacity from the rationalized sectors into the mothership mode in the AI cod fishery.

The document notes (page 65) that *“those offshore processing vessels that have historically participated in the AI Pacific cod fishery will likely experience a reciprocal decline in economic activity from the loss of AI Pacific cod harvesting and processing.”*

With reference to “processing,” this statement overlooks the option these vessels have to buy cod from CVs in the Bering Sea. With regards to “harvesting” all Amendment 85 sectors are assured their aggregate BSAI allocation whether harvested in the BS or AI, and the rationalized CP Amendment 85 sectors have that assurance at the vessel level.

Sideboards

The analysis summarizes the sideboards applying to the AFA, AM 80 and Crab Rationalization program. It also notes (page 31) that the FLLC co-op is effectively a rationalized fishery that allows H&L CPs to change the way they operate. Under status quo this could allow them to increase their A season AI participation. It should be noted that this is the only rationalized sector not subject to sideboards in the BSAI.

Conclusion

The task at this meeting is not to choose an alternative, but to evaluate the adequacy of the analysis and the range of reasonable alternatives. The six year scoping process has produced one action alternative (with sub-options) that addresses the problem statement. The Initial Review draft is substantively complete and contains the relevant data.

It's time to move the document forward for final action.

Thank you for considering our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "dave fraser". The signature is written in a cursive style with some overlapping loops.

dave fraser
ACDC



Ph. 206.284.2522
2303 W Commodore Way Suite 202
Seattle, WA 98199
www.freezerlonglinecoalition.com

January 27, 2015

Mr. Dan Hull, Chairman
North Pacific Fishery Management Council
605 W. 4th Ave, Suite 306
Anchorage, AK 99501-2252

RE: Agenda Item C-3, AI Pacific Cod Allocations

Dear Chairman Hull,

Please accept the following comments from the Freezer Longline Coalition (FLC) in regards to agenda item C-3, the AI Pacific Cod Directed Fishing Allowance and Delivery Requirement.

The analysis has identified that this action will have additional negative effects on the CP hook-and-line sector in Aleutian Islands p-cod fishery. The analysis recognizes the declining harvest and participation of the hook-and-line CP sector from the cumulative effect of previous actions such as the BSAI p-cod ABC split and SSL management measures. Those actions have turned the historic year-round all-gear AI p-cod fishery into a compressed trawl fishery lasting but a few short weeks. The reasons for the declining harvest opportunity for the CP H&L sector (as well as all fixed gear sectors) in the AI p-cod fishery are:

- Lack of an AI seasonal A/B p-cod apportionment (as in the EBS and GOA).
- Lack of AI p-cod sector allocations (as in the EBS and GOA).
- Lack of an AI p-cod trawl/non-trawl split (formerly used in the BSAI).
- Increasing proportion of AI p-cod ABC allocated to the AI Statewater GHF fishery and the subsequent decrease in the TAC for the federal fishery.

The problem statement for this action refers to the “*diminishing historical share of other industry participants*” in the Aleutian Islands p-cod fishery. To address the diminishing historical share of the AI p-cod fishery by fixed gear, and to provide for a more spatially and temporally dispersed AI p-cod fishery, the FLC requests the Council add an alternative to this action that establishes either (or both):

- A/B seasonal apportionment; and/or
- Trawl/non-trawl split based on historical years prior to the implementation of the 2010 BIOP (such as 2001-2010).

Freezer Longline Coalition (FLC)

The FLC represents the owners and operators of over 30 vessels that participate in the hook-and-line catcher processor (HAL CP) sector of the federal P-cod fishery in the Bering Sea and Aleutian Islands (BSAI). FLC member companies are the pioneers of the HAL CP sector in Alaska and have over 30 years of history fishing for P-cod in the North Pacific including the Aleutian Islands. The HAL CP fleet is a P-cod single species directed fishery fleet, and, therefore, is nearly fully reliant on P-cod.

The AI P-cod fishery is important for FLC members as a whole as well as for individual member vessels within the fleet. Members who historically harvest P-cod in the AI are skilled operators in these waters with decades of experience navigating and harvesting in the AI fishing grounds. This has enabled them to sustain fishing operations in the AI despite the higher operational costs relative to similar costs in the Bering Sea. Importantly, AI P-cod are typically larger in size than those found in the BS and return stronger prices on the international market, creating unique benefits for operators who can efficiently participate in the AI fishery. Re-deployment to the EBS cannot make up for the loss of the access to the large P-cod found in the Aleutians. It is important to keep these niche markets active with an ongoing supply of AI fish.

Negative impact of the proposed action: The initial review draft identifies that the proposed action will have further increased negative impacts on the hook-and-line CP sector:

- *“Hook-and-line CP sector would likely be negatively impacted from the proposed action”¹*
- *“The proposed delivery requirement of AI Pacific cod to AI shore plants will negatively impact offshore processing vessels that have historically participated in the AI Pacific cod fishery.”²*
- *“During the 2014 season, the combination of AI and BS Pacific cod split and the Steller sea lion protection measures implemented in 2011 have limited the ability of the freezer longline sector to participate in the AI Pacific cod fishery.”³*

The initial review analysis and the most recent AI p-cod SAFE recognize the declining harvest and participation of the hook-and-line CP sector in the AI p-cod fishery (as well as the entire non-trawl sector, see **Figure 1**).

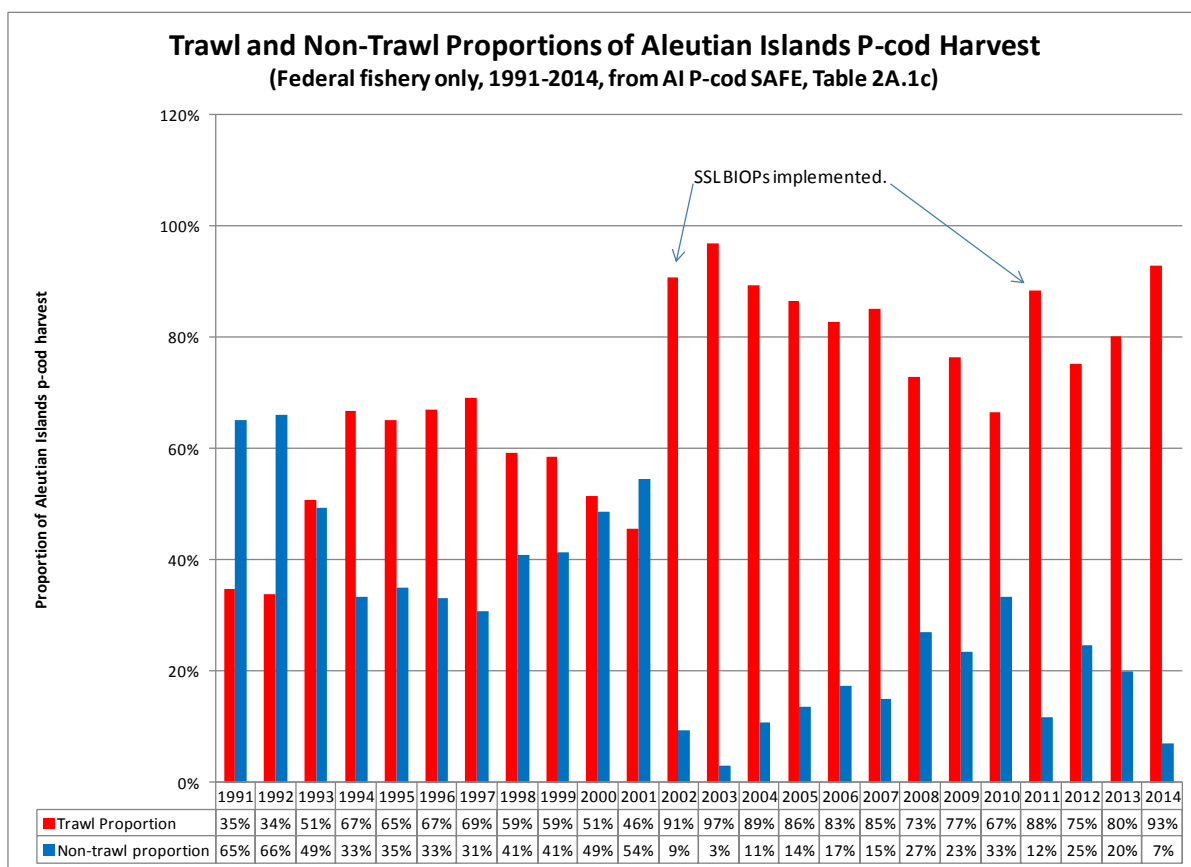
- From 1991-2010, the non-trawl proportion of AI p-cod harvest was **33%** non-trawl and 67% trawl.
- After the 2010 BIOP, the non-trawl proportion decreased to **18%** (2011-2014).
- In 2014, the non-trawl proportion of AI p-cod harvest decreased further to **7%**.
- In 2014, only one CP H&L vessel was able to participate in the AI p-cod directed fishery. In 2010, eleven CP H&L vessels participated in the AI.
- In 2014, the total non-trawl harvest of AI p-cod (federal fishery only) was 429 mt (with 340 mt in the directed fishery). In 2010, the non-trawl harvest was 8407 mt.

¹ P. 9, Aleutian Islands P-cod Allocation, Initial Review Draft, February 2015

² P. 11, Ibid.

³ P. 34, Ibid.

Figure 1:



Temporal Dispersion:

In 2014, the AI p-cod directed fishery closed on March 16 with most of the catch in a three week period, (see **Figure 2**). The stated intent of the management measures in the 2014 SSL final rule is to:

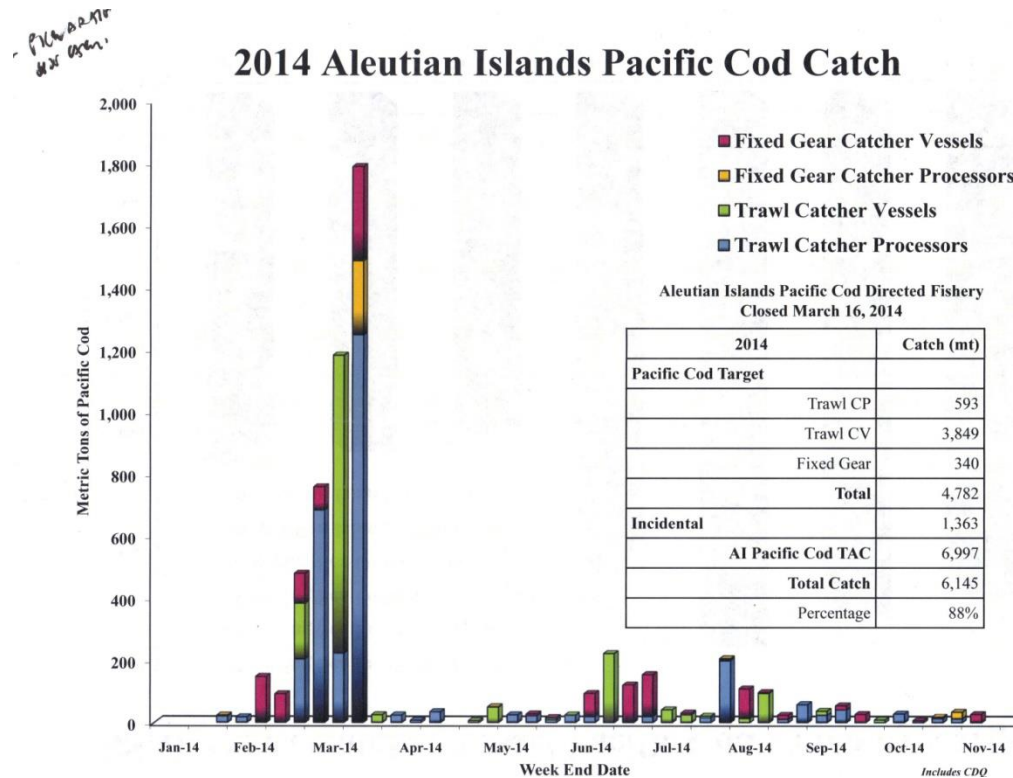
- *“Disperse fishing effort temporally and spatially to provide protection potential competition for prey resources between Steller sea lions and these fisheries.”⁴*
- *“Spatial and temporal fishery dispersion is accomplished through closure areas, harvest limits, **seasonal apportionments of harvest limits**, and limits on participation in a fishery.”⁵ (emphasis added)*

The 2014 BIOP noted numerous times that the non-trawl p-cod harvest was more temporally and spatially dispersed than the trawl fishery, as well as fishing at a slower rate that is less likely to contribute to localized depletion. The management measures resulting from the 2010 BIOP restricted the non-trawl p-cod harvest in the Aleutians. However, the 2010 SSL final rule contained re-consultation triggers of guideline harvest limits for trawl and non-trawl sectors in the AI p-cod fishery. Despite public comment for including such limits, the management measures in the 2014 final rule did not include any guideline harvest limits for trawl and non-trawl sectors (as was found in the 2010 final rule). The failure to include the trigger limits in the 2014 SSL final rule will further reduce harvest opportunity for non-trawl gear in the AI p-cod fishery.

⁴ P. 1, SSL Protection Measures, Final Rule, November 25, 2014.

⁵ P.9, Ibid.

Figure 2: 2014 Temporal compression of AI p-cod harvest



Prior to implementation of the 2010 BIOP, the AI p-cod harvest occurred in both the A and B season, (see **Figure 3**). A large portion of the B season harvest was by non-trawl gear. This pre-2010 seasonal distribution of harvest was the basis of numerous statements in the 2014 BIOP regarding non-trawl gear. However, the final rule did not include measures to ensure non-trawl harvest and opportunity in the AI p-cod fishery.

- Rate: 2014 BIOP, pp. 204: *“Overall catch rates are lower in the non-trawl fishery and the harvest is more dispersed temporally.”*
- Temporal: 2014 BIOP, p. 149: *“Pacific cod catch by non-trawl gear is distributed throughout the year to a much greater extent than trawl gear.”*
- Temporal: 2014 BIOP, p. 152: *“From the catch data we see that Pacific cod trawl fisheries are the most temporally compressed fisheries (mid-February to mid-March).”*
- Spatial: 2014 BIOP, p. 112: *“Compared to trawl vessels, the catch by non-trawl vessels is dispersed throughout the Aleutian Islands.”*
- Spatial: 2014 BIOP, p.203: *“For perspective, the Pacific cod catch by trawl gear inside of critical habitat in Area 541 always exceeded the total amount of Pacific cod caught by the non-trawl fleet in the entire Aleutian Islands.”*

Figure 3: Temporal Distribution of AI p-cod harvest (2010-2014 and 2004-2010)

2010 – 2014: Figure 6 (below) is from the Initial Review Draft analysis (p. 54) with very little B season harvest (mostly incidental harvest).

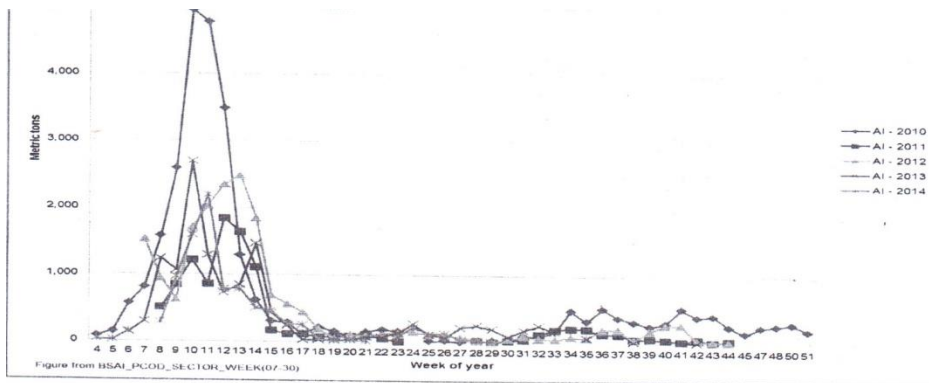


Figure 6 Total retained harvest of Aleutian Islands Pacific cod by week, 2010 through July 2014

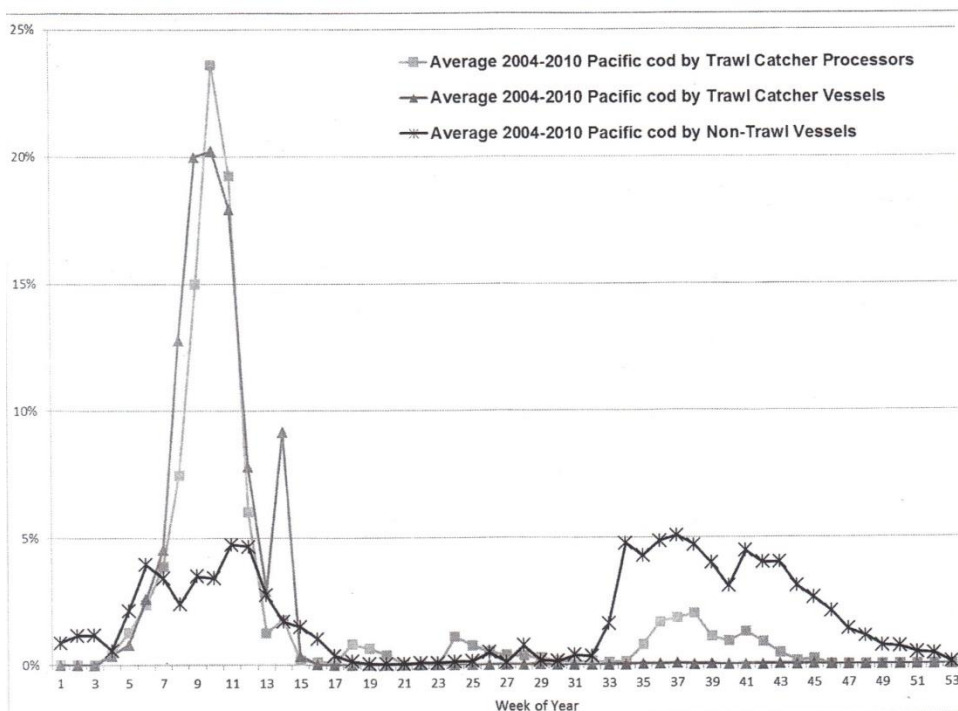


Figure 3-8 2004-2010 Average weekly percentage of Pacific cod catch by sectors

2004-2010: Figure 3.8 of the SSL EIS (above) shows the proportion of catch by week by sector for 2004-2010. The non-trawl catch is more temporally dispersed throughout the year and there is significant catch in the B season (2004-2010). The B season non-trawl harvest that is evident in 2004-2010 is absent in the figure depicting 2010-2014.

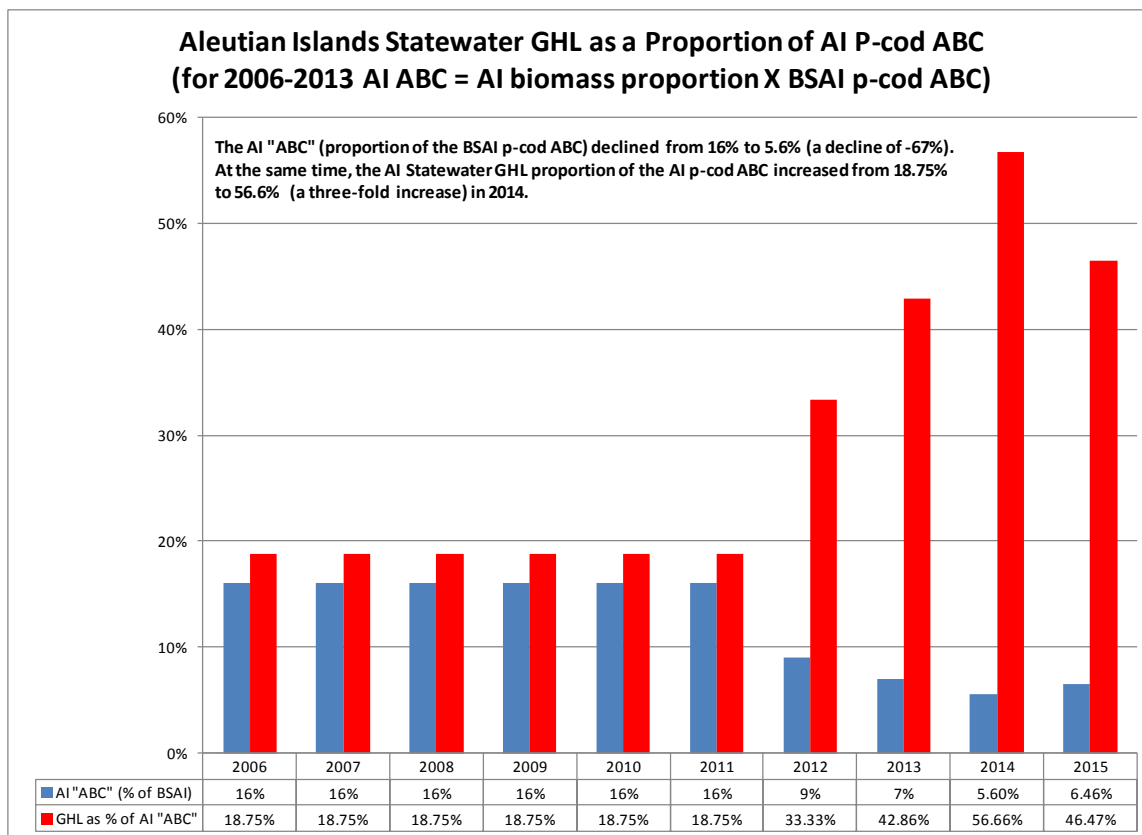
Increasing proportion of AI Statewater GHL p-cod fishery and stranded catch

In 2014, the Aleutian Island p-cod statewater GHL was fifty-seven percent (57%) of the total Aleutian Islands p-cod ABC (see **Figure 4**). This proportion declined in 2015 due to the reduction in the EBS p-cod ABC (which more than offset the slight increase in the AI p-cod ABC). The statewater GHL is currently calculated as 3% of the combined EBS and AI p-cod ABCs. For 2015, the AI p-cod GHL is 8178 mt (or 46% of the AI p-cod ABC). The 2015 AI p-cod ABC is 17,600 mt. The DFA (directed fishing allowance) for the federal fishery is 6400 mt (or 37% of the AI ABC) and will be caught in a few weeks.

The current regulations for the AI statewater GHL p-cod fishery are designed to ensure shore-side delivery by catcher vessels and effectively preclude participation by CPs. In particular, longline CPs that have historically participated in the AI p-cod fishery are precluded from the AI statewater GHL fishery.

In the GHL statewater fishery, uncaught p-cod is stranded and does not roll back to the federal fishery. For 2011-2014, 56% of the GHL was not caught and stranded (or 3686 mt a year).⁶

Figure 4:



⁶ 2015 AI P-cod SAFE, Table 2A.1c, p. 36 and State of Alaska Fishery Management Report No, 13-33, Table 9, p. 22

Summary: Given the identified negative effect of this proposed action on the CP H&L sector; the cumulative effect of previous Council actions (2010 BIOP and p-cod ABC split); and the expected effect of the 2014 SSL final rule management measures, the FLC requests that if the NPFMC proceeds with this action (establishing an allocation for shoreside processing), that the action and analysis also include:

- An alternative establishing a trawl/non-trawl split based on historical years prior to the implementation of the 2010 BIOP such as 2001-2010.
- An option for all alternatives providing for a seasonal A/B apportionment of p-cod in the federal fishery (as is currently found in the EBS, GOA, and the AI GHL fishery). This will ensure a more temporal dispersion of harvest – as well as providing for a B season. Non-trawl vessels have historically fished AI p-cod in the B season (as well as the A season) but after 2011, the B season was greatly reduced, and disappeared in 2014. In 2015, a B season is not likely to occur nor in subsequent years under the new SSL measures. Directed fishing for p-cod in the AI in 2014 closed on March 16 (and will likely close sooner in 2015).
- The analysis should also include an expanded discussion of the effects of the statewater GHL fishery on participants in the federal fishery including: the GHL proportion of the federal AI ABC; the total amount of p-cod harvest in 0-3 miles (parallel fishery plus GHL fishery); and the amount of harvest left uncaught in the GHL fishery and stranded. To provide a more complete representation of harvest trends by sectors, the analysis should include a historic catch by gear type or sectors from the combined AI federal fishery and GHL fishery – to the extent practicable. Due to confidentiality, the gear types may need to be further aggregated such as trawl and non-trawl.

The FLC makes this request due to the steadily declining harvest opportunity in the Aleutian Islands p-cod fishery for the CP hook-and-line fishery. The longline p-cod fishery in the Aleutian Islands is the most spatially and temporally dispersed p-cod fishery in the AI and least likely to result in localized depletion.

The CP hook-and-line p-cod vessels have a long history of participation in the Aleutian Islands but the opportunity has steadily decreased due to the cumulative effect of previous actions. The action before the Council today will also have further negative effects on the CP hook-and-line sector as identified by the analysis.

Thank you for your consideration in this matter,



Chad I. See
Executive Director
Freezer Longline Coalition



2303 West Commodore Way
Suite 202
Seattle, WA 98199
Office Phone 206-284-2522
Cellular Phone 202-487-3562
Fax 206-284-2902
chadisee@freezerlongline.biz

Groundfish Forum

4241 21st Avenue West, Suite 302
Seattle, WA 98199
206-213-5270 Fax 206-213-5272
www.groundfishforum.org

January 26, 2015

Mr. Dan Hull, Chairman
North Pacific Fishery Management Council
605 W 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Re: AI Pacific Cod Directed Fishery Allowance and Delivery Requirement

Dear Chairman Hull,

Groundfish Forum represents the Amendment 80 sector. The trawl catcher processors of the Amendment 80 sector have a long history, and dependence, on the Aleutian islands Pacific cod (AI cod) fishery. We are writing you to comment on the proposed action to allocate AI cod to the trawl catcher vessel sector with a requirement to deliver to AI shoreside processors.

I. Community protections should not disregard other AI cod stakeholders and take the form of an excessive allocation of processing privileges to the Adak plant.

The Council's problem statement indicates the goal is to provide community protections for Adak and Atka from processing vessels. However, as the analysis points out the proposed action will "create an inshore allocation that significantly exceeds the inshore historical share (pg. 10)." The proposed action will result in a processing allocation to the Adak plant because it's the only AI plant that is set up with a cod line; essentially all the AI cod would be forced to one processor.

Amendment 80 vessels have been fishing for AI cod for decades and also operate as motherships providing important markets for trawl catcher vessels. Customers around the world rely on high quality, frozen at sea, AI cod from Amendment 80 vessels. The proposed action ignores the Amendment 80 vessels historic dependence on the AI cod fishery, and allocates everything to only the shoreside processors. By preventing Amendment 80 vessels from fishing for AI cod, they will spend more time in the Bering Sea where halibut bycatch rates are significantly higher.

There's no rationale basis to allocate fishing privileges to a plant that is currently not operating, and to another that has never processed AI cod. Furthermore, the analysis doesn't even consider whether two AI cod plants could survive if both are operating. A major assumption behind this action is that a year round plant on Adak is a sustainable business, when in fact a number of experienced operators have failed and not because of offshore competition, but more likely due to a variety of factors, including a short cod season and high operating costs. If only the Adak plant is able to process AI cod, assuming it does open again, and if harvesters are forced to deliver there for a fixed period of time, the Adak plant will be receiving the very processing privilege that the Magnuson Stevens Act, and for that matter the Alaska State constitution, both intend to prohibit.

II. Adak has received fishing privileges and other Federal and state benefits in the past, this additional AI cod allocation is excessive and should not be characterized as a protection.

Fishing privileges for the benefit of Adak have been put in place over the years including allocations of golden king crab and pollock. The state waters Aleutian island fishery for Pacific cod is now even larger than the Federal fishery. The Federal government spent millions of dollars to build a large Naval base and the Aleut corp. received that infrastructure after a 2004 land swap. The Aleut corp. also owns the processing plant on Adak, and they want it to succeed financially.

Advocates for the Adak plant view their request for an allocation as protection from offshore processing and believe shoreside processors' historical share of AI cod is diminishing. However, the tables in the "Harvest Distribution of AI Pacific Cod" section of the analysis lead to a completely different conclusion - the plant on Adak's share of Pacific cod has been increasing.

Whenever the plant on Adak is open for business it receives a substantial amount of AI cod, and by excluding the two years when it was closed the following trends becomes apparent:

- 2003 - 2008 Adak/Atka processed 28% of the AI cod harvested on average.
- 2008 - 2014 Adak/Atka processed 38% of the AI cod harvested on average.¹

Adak and Atka are grouped together in Table 2-26, which is referenced above, but the analysis also indicates Atka has not taken any deliveries of AI cod from trawlers. All the increased shoreside processing should be attributed to Adak. In fact, Atka's plant isn't set up to process AI cod at the volume a trawl catcher vessel delivery requires, and has zero AI cod processing history.

The proposed action sets aside a portion of the trawl catcher vessels' A season Pacific cod allocation so that it must be taken in the AI, and requires all the AI cod harvested to only be delivered shoreside for a period of time. However, nothing in the proposed action prevents the shoreside sector from processing 100% of the AI cod available at present ITAC levels, especially if the Council decides to preclude anyone else from processing AI cod until March 15. The Council's community protections problem statement conflicts with their analysis of the impacts because this action would give the Adak plant the exclusive opportunity to process all the AI cod.

III. Establishing an allocation of processing privileges for the Aleut corp.'s Adak plant violates National Standards within the Magnuson Stevens Act and is legally problematic.

Previously, the Council received guidance from the Department of Commerce (DOC) on AI Cod processing sideboards similar to the proposed action, which raised concerns about excessive shares disconnected from any conservation purpose.² The DOC also cited problems when the Council mandates delivery to a particular entity if the Pacific cod TAC is divided geographically.

The Council should consider reviewing the DOC's previous letter and request an updated opinion. The BSAI Pacific cod TAC is now split, and the proposed action gives the Adak plant inordinate market control with the excessive share yardstick, the separate AI cod ITAC.

¹Reference Table 2-26 on page 57. The average did not include 2010 and 2011 because the plant was closed.

² Letter from the Department of Commerce to Mr. Eric Olson dated January 28, 2009.

An anti-trust consultation from the Department of Justice would also be helpful. AI cod is recognized as a unique seafood product from Bering Sea cod and the proposed action will allocate nearly all AI cod to be processed at one plant, reducing marketing and processing innovations.

National Standard 1 requires that fisheries be managed to achieve optimum yield. If access to AI cod is limited to catcher vessels with a requirement they deliver to AI shoreside processors until a certain date, there is a substantial risk the resource will go unharvested. For example, if the Adak plant breaks down during the season, or isn't able to begin processing fish, there's not a waiver provision in the proposed action to allow offshore processing prior to the threshold production or calendar deadlines. Even with a waiver provision, given the distance vessels must travel, there probably will not be enough time for the offshore processing vessels to get into position to fish, or take deliveries, before the AI cod are no longer aggregated.

National Standard 4 prohibits allocations of excessive shares of fishing privileges and requires that allocative actions be reasonably calculated to promote conservation. Requiring shoreside deliveries when there is only one shoreside AI cod plant, (although one could argue that none are in operation at the present) results in an excessive allocation of a fishing privilege, regardless of whether it can be considered an unlawful processing privilege. The Council has simply not articulated any conservation rationale for this action.

National Standard 5 prohibits economic focused allocations. If the Council wants to direct more revenues toward Adak and Atka, it should be through conservation and fisheries management opportunities that foster competition between processors and harvesters and provides a net benefit to the nation. The Council's proposed action is only designed to provide economic benefits.

IV. Forcing Adak to be more dependent on the plant is detrimental. The cultural impacts of an expanded plant on Atka should be considered, and may be extremely negative.

The Aleut corp.'s representatives want the Council to believe that Adak is completely dependent on the plant they own and that the community can only thrive economically if their plant is given a substantial allocation, even if it's beyond their historical share. Corporations are not communities, and it's unfair to other stakeholders to begin to equate the two in order to justify a fisheries management structure that is completely focused on helping one plant succeed economically.

As the largest landlord and employer, the Aleut corp. benefits if the number of people that live on Adak increases, new tenants and employees provide additional revenues. However, Adak's economy may be better served if there is a small processing plant competing for Pacific cod from the state waters fishery and the Federal ITAC, with processing vessels also making port calls. A diversified economy, even if small, is probably better than having everything depend on the plant. For example, under the proposed action shoreside support businesses that provide fuel, food and other services to processing vessels would lose a substantial part of their market, which would result in higher costs to other (community-based) customers, and few employment opportunities.

Atka has no historic sustained participation, or current dependency on AI cod shoreside processing, it's unclear how they fit into the problem statement, unless the goal is to provide them an economic allocation to be accessed at some point in the future. Atka is reported to be one of the last areas where Unangan is still spoken, and the Council should carefully consider the impacts on

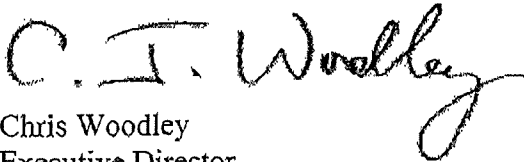
the cultural fabric of that community before creating a fisheries management structure that incentives their scarce resources to be spent on expanding processing in the small existing plant

If the Council decides to move forward on this agenda item, additional analysis on whether there will be net economic benefits beyond the Aleut corp. for Adak may be helpful along with a closer look at the cultural impacts on Atka if seasonal laborers are needed to support their plant.

--

We recommend that the Council take no further action on this proposal.

Thank you for the opportunity to comment.



Chris Woodley
Executive Director