

Nov. 29, 2011

Eric Olson, Chair
N P F M C
605 West 4th Ave, Suite 306
Anchorage, AK 99501

Dear Chairman Olson:

I want to urge the Council to get serious about local depletion as you work on the Halibut Catch Sharing Plan. How can you fulfill your mandate to protect halibut stock if, one after another, grounds available and important to local people for home use and small-scale commercial use become depleted?

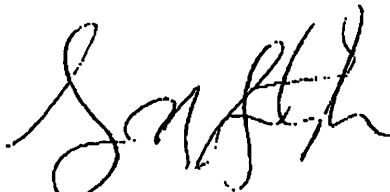
Icy Strait is the case in point that matters most to me. All of us in the small towns adjacent to it depend heavily on its abundance. I personally have lived here over 40 years, and have depended on halibut every year to feed my family. In the last decade or so, a "gold rush" mentality has hit here, resulting in much more pressure on the stock. Since we still have big fish (an increasingly rare thing) trophy and meat charter fishing is adding to the already substantial commercial catch. When you add this to the alarming stock statistics for the stock over its general range, the prognosis for Icy Strait is pretty bleak. Management is far behind the curve, and if that doesn't change, it is pretty predictable that we will be scratching for fish soon. Please don't let that happen! This is going to take some real action on the Council's part, not hesitant and piecemeal actions.

Despite what you may have heard, Gustavus residents (as distinct from the seasonal operators that show up when the fish do and leave when they are gone) are mostly behind such actions.

The charter fleet is doing its best to find cracks in your management scheme. Unfortunately, such cracks are obvious and easy to use. The most important one is to pose as self-guided facilitator, which gets them mostly around the restrictions you put into place in the last couple of years. As a personal use fisherman, I would be glad to live with severe restrictions on my catch if that would help to close that loophole.

I watched the volume of fish going out of here and Elfin Cove last summer. Friends describe similar things from Hoonah and Excursion Inlet. It is hard to imagine that that volume can be sustained from our small area. It has the feel to it of "shooting buffalo from the train".

In closing, I plead with the Council to take strong action on this issue before we are in a position of trying to rebuild stocks in this important area. As you deliberate on the Halibut Catch Sharing Plan, take the firmest actions available to you.


Sincerely,
Greg Streveler
Box 94, Gustavus AK 99826

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan

We understand NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis.

We urge you to:

1. Give clear direction to IPHC to hold the charter sector in both 2C and 3A under their GHL in 2012 using management tools considered in the catch sharing plan.
2. Address policy questions raised by NMFS from public comment and publish the final catch sharing plan rule by June 1 for implementation in 2013. Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013. The use of a trailing amendment is a long standing procedure for the Council to modify
3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate of method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

My family has been halibut longlining for the past 60 years. My father was in it for 40 years and my brother and brother-in-law are currently longlining. My family is dependent on this for a significant portion of our income and it is important to our community to resolve allocation with the charter sector. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,

 11-29-2011

Steve Thorkildsen
19730 82nd Lane NE
Kenmore, WA 98028



United States Department of the Interior

NATIONAL PARK SERVICE

Glacier Bay National Park and Preserve

P.O. Box 140

Gustavus, Alaska 99826-0140

Tel: 907-697-2230 · Fax: 907-697-2654



IN REPLY REFER TO:

C38

November 29, 2011

Chris Oliver, Executive Director
North Pacific Fishery Management Council
605 West 4th, Suite 306
Anchorage, AK 99501-2252

Dear Executive Director Oliver,

I am writing to you about an emerging charter halibut fishing business model which may impact your efforts to properly manage this important fishery. This past summer, National Park Service staff observed several charter vessel operators offloading clients into skiffs they had towed out to fishing grounds. Once in the skiff, without a guide, the clients evidently become "unguided anglers" under 50 CFR 300.61, which allows them to each catch two halibut of any size (rather than the "guided angler" limit of one 37 inch fish). After fishing for a while, the clients re-board the charter vessel with their expanded catch of halibut and continue on with their charter fishing activities or return to port.

It is unclear whether this activity is an unintended "loophole" in 50 CFR 300.61, but it nevertheless appears to circumvent the intent of the 2011 halibut bag and size limits for guided anglers as it seems likely that the clients are still benefiting from the expertise and experience of the guides, even though they are temporarily "on their own." Further, it seems likely that this business model will grow as charter operators and clients realize there is an opportunity to retain more and larger halibut. We intend to continue to monitor these activities, but also encourage the Council to carefully consider the potential impacts of this new activity as you address the multitude of issues related to the proposed catch sharing plan.

Sincerely,

Susan L. Boudreau
Superintendent

TAKE PRIDE
IN AMERICA 

North Pacific Fishery Management Council

RECEIVED

fax 907-271-2817

Eric A. Olsen; Chairman

NOV 21 2011

Dear, Council members

I am a current and longtime charter boat owner/operator in area 3A. I have many concerns with the current CSP.

1: It does not follow our GHL which already stair steps down with abundance, simply takes allocation from charters, puts it in the CEY, then gives 85% to Commfish and 15% to us. Does not save a single fish for conservation. This alone will sent this proposal to the courts as the GHL allocation has been deemed "fair and equitable".

2: GAF fish proposal is fundamentally flawed, our customers pay to go fishing, weather they catch a fish or not, they do not pay by the pound or they would go to the fish market and buy it. No matter what weight fish you say is the GAF fish weight is, our customers will only keep a fish if they see it as a deal.

IE.. If GAF weight is 20 pounds then if they catch a 40lb or even bigger they would pay to keep it (20lbs x \$5 = \$100 extra). Let's say next year the GAF weight is 50lbs, now they won't keep a fish unless its huge say 75 lbs or over (50lbs x \$5 = \$250) because it's too expensive and that's more than the cost of an entire new charter. Our customers pay for the experlence and they quickly figure out what's a bargain when it comes to paying extra. Myself I will never lease a single pound of fish from commfish, it's a waste of money, now I would support a plan to buy, transfer and pool IFQ for charters, that makes sense.

Change the CSP to match the GHL and trash the GAF fish idea altogether.

Thanks,

Frank Casey

Alaska Wildrose Charters

PO Box 343

Clam Gulch, AK. 99568

907-252-4525

Mr. Eric Olson, Chair
NPFMC
605 W 4th Ave, Ste 306
Anchorage Ak 99501

Mr. Olson,

Re: Agenda Item c-6 Halibut catch sharing Plan

I understand NMFS has delayed the publication of the halibut catch sharing plan finale rule to obtain guidance from the council and strengthen parts of the analysis.

I have made my living from halibut since 1975 raised a family with my earnings bought more IFQ and still in debit to the loan, staying current on payments, even after losing more then 50% of my annual fishing pounds. My kids are now invested in halibut IFQ and have less the 1/3 of the IFQ pounds purchased they are however subsidizing their payments from other jobs. AND NONE OF US 3 HAVE EVER GONE OVER OUR IFQ ALLOTMENT.

My family and I urge you to :

1. Give clear direction to IPHC to hole the charter sector in both 2C and 3A under their GHL in 2012.
2. Fix policy questions that concern NMFS from public comment and publish the finale catch sharing plan rule by June 1 for 2013. Review Tier 1 – low abundance– management measures and propose a trailing amendment, if needed, for implementation in 2013.
3. Publish an interim rule for 2012 allowing for leasing of commercial IFQ for guided angler fish, so the charter group has no reason to exceed their GHL, and please adopt an accurate method for calculating the weight of the GAF. This allows for the take of larger fish.

Please resolve the charter abuse of the halibut resource.

Thanks Bill Connor



P.O Box 1124

Petersburg Ak

99833

Mr. Eric Olson, NPFMC Chair
605 West 4th Ave, Ste 306
Anchorage, AK 99501

RECEIVED 11/23/2012
NOV 25 2011

Mr. Olson,
With historically annual reductions to our IFQ catch, I trust NPFMC to hold the charter fleet to no more than the GHL.

I fervently hope, also, that at long last NPFMC will expeditiously implement the catch sharing plan.

Further, I strongly favor making IFQ poundage available by lease to charter operators in order to allow the charter fleet access to larger halibut on an equitable basis.

I'm an original IFQ holder for area 3A, having just recently purchased, for the first time, an additional IFQ block in area 3B. However, I also ran a charter business (Alaska Fjord Charters) from 2001 to 2010, so have been involved in both camps. Over the years, I watched the Seward charter fleet expand with many operators adding more vessels and hired skippers for their charter operations while every year the commercial fleet was cut back. It never seemed very fair, even to me as a charter operator. Please expedite your attempts to an equitable resolution!

Thank you for the honest and fair approach that your office seems to be trying to make.

Sincerely,


Charles See

seeqv@att.net

907-283-4199

Halibut IFQ permits: #00001638 & #00136766

Cc:

Governor Sean Parnell, State of Alaska

Senator Lisa Murkowski

Senator Mark Begich

Congressman Don Young

Commissioner Cora Campbell, Alaska Department of Fish and Game

Please read before your meeting Dec. 5 to 13

RECEIVED

NOV 25 2011



Virginia M Kenyon
3180 Will Logan Rd
Ozark AL 36360-5117

3180 Will Logan Road
Ozark, Alabama 36360
21 November, 2011

Dear Chris Okice,

Please read this letter before you throw it out. I know you agreed to E-mail - forgive me, I have no computer. I have already written one letter to the office in June and did not get a response from them. I will try to plead to you about the halibut limits & worry of all the size limit in Ketchikan.

I am a 76 year old woman who has been fishing at Salmon Falls resort for 16 years. I really don't mind the one a day but the size makes no sense to any of us. We take 8 to 12 friends with us & do use the guided boats. We see that unguided can get 2 halibut of any size each day - We do not understand this. We pay more money & spend more money in your state & we are penalized. Believe me it costs a lot of money to fly from ~~lower~~ lower Alabama & then get one halibut 37 or less. Makes no sense & I'm sure you know by now it is causing many places to close. You are destroying one of your greatest industries. I wonder if any of you actually fish. It is much easier to get a small halibut off a hook than a larger one - especially not to hurt the fish.

How three species live - of all of elk, venison, quail & pheasant - Only thing missing is good white fish like halibut - My husband (75) & I fish for food, not sport. Please reconsider the size limit. Thank you for listening.

Sincerely,

Virginia Kenyon

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

RECEIVED
NOV 28 2011

November 23, 2011

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan

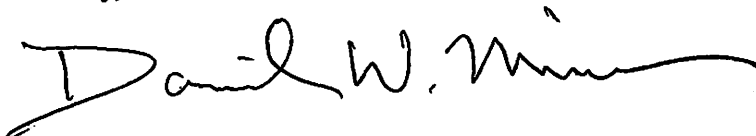
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We urge you to:

1. Give clear direction to IPHC to hold the charter sector in both 2C and 3A under their GHM in 2012 using management tools considered in the catch sharing plan.
2. Address policy questions raised by NMFS from public comment and publish the final catch sharing plan rule by June 1 for implementation in 2013. Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013. The use of a trailing amendment is a long standing procedure for the Council to modify
3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

My family is dependent on halibut longlining for significant portion of our income and it is important to our community to resolve allocation with the charter sector. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,



Dan Miner
1406 34th St
Anacortes, WA 98221

Copy : Senator Lisa Murkowski
Senator Mark Begich
Commissioner Cora Campbell, Alaska Department of Fish and Game

__ November 2011

SENT VIA FAX to (907) 271-2817

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan


We understand NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis.

We urge you to:

1. Give clear direction to IPHC to hold the charter sector in both 2C and 3A under their GHL in 2012 using management tools considered in the catch sharing plan.
2. Address policy questions raised by NMFS from public comment and publish the final catch sharing plan rule by June 1 for implementation in 2013. Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013. The use of a trailing amendment is a long standing procedure for the Council to modify
3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate of method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

My family is dependent on halibut longlining for significant portion of our income and it is important to our community to resolve allocation with the charter sector. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,


Name/address

Ryan Nichols
305 Islander Drive

Sitka AK 99835

24 NOV. 2011

North Pacific Management Council
Eric A. Olsen, Chairman
605 W. 4th Ave. Suite 306
Anchorage, AK. 99501-2252

Subject: Halibut Charter management, area 3A.

Mr. Chairman Olson,

My name is Tony Arsenault. My wife and I run Falcon Charters out of Homer. Falcon Charters has been in Business operating out of Homer since 1991. Prior to that I ran several other boats out of Homer starting in 1984.

Falcon Charters has 1 boat, the "Falcon". It is a 6-passenger vessel that I run myself.

I feel the very first thing that needs to be done is limit halibut charters to 1 trip per vessel per day.

In 2011 there were between 10-14 large charter boats (18-20 passengers) running 2 trips a day out of Homer. The problem is that these boats are operating within a 25-mile radius of Homer, and are going to deplete near coastal stocks. They are restricted by time so they have to stay inshore therefore over-fishing the areas closest to the port of Homer.

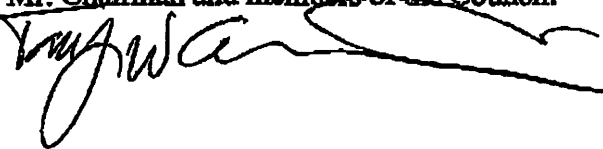
Last year we were issued Halibut charter permits. I qualified for a 6-person permit. When these were issued, it was my understanding that it limited the fleet by 30 %. So what I don't understand is how someone with an 18 or 20 passenger permit can use it twice in one day? This does nothing to conserve the resource and essentially has not limited the fleet size. It just eliminated some boats (and good people I might add), but gave the fish to the boats that a running 2 trips per day.

These Permits that were issued should only used once a day. Instead of a 20-passenger permit, it is essentially a 40-passenger permit. Or even 60 if they decided to try and use it 3 times. This is going to devastate our fishery in Homer if left the way it is. Also these 10-14 boats are running up the GHIL numbers for the rest of the fleet in area 3A. Once we are all limited to the number on the permit, THEN we are all on the same playing field.

If this were to be placed in effect, it is my conservative estimation that over 15,000 fish would be allowed to swim and grow towards maturity at the end of the 2012 season, and every year thereafter.

Thank you for your time Mr. Chairman and members of the Council.

Capt. Tony Arsenault
Falcon Charters
2277 Aspen Ct.
Homer Alaska, 99603
907 299 2169



Mr Eric Olson, Chair North Pacific Fishery Management
Council 605 West 4th Ave, Ste 306 Anchorage, AK 99501

Dear Mr. Olson, Re: Agenda Item C-6 Halibut Catch Sharing
Plan

We understand NMFS has delayed publication of the halibut catch
sharing plan final rule to obtain policy guidance from the Council
and strengthen parts of the analysis.

We urge you to:

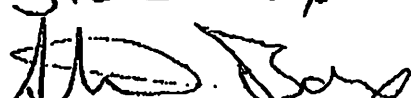
1. Give clear direction to IPHC to hold the charter
sector in both 2C and 3A under their GHL in 2012
using management tools considered in the catch sharing
plan.
2. Address policy questions raised by NMFS from
public comment and publish the final catch sharing plan
rule by June 1 for implementation in 2013. Review
Tier 1 (Low abundance) management measures and
propose a trailing amendment, if needed, for
implementation in 2013. The use of a trailing
amendment is a long standing procedure for the Council
to modify

To be continued 1 1

3. Publish an interim rule for 2012 allowing for
leasing of guided angler fish and adopt an accurate of
method of calculating the weight of GAF. This will
allow guide clients to access larger fish if desired.

My family is dependent on halibut longlining for significant
portion of our income and it is important to our community to
resolve allocation with the charter sector. The Council acted
correctly in October 2008 and it is well past time to publish the
final catch sharing rule.

Sincerely,

Steve Boy




F/V Lady Simpson

P.O.Box 240449
Anchorage, AK
99524-0449

907/726-0941
(Fax) 907/726-5641

Monday, November 28, 2011

Dear Mr. Eric Olsen:

I am writing to issue my concern on the lack of action by the North Pacific Management Council to finalize and implement the agreed plan for over capitalization and harvesting by Charter Fleet Operators ultimately threatening the stabilization of halibut fisheries.

The line was drawn once ten years ago for the charter fleet, and a plan formulated. Yet since then there has been much debate on how it was to be accepted. I urge you to end the debate. Take action and implement the original plan before it is too late to have a sound biomass to fish.

1. Give clear direction to IPHC to hold the charter sector in both 2C and 3A under their GEL in 2012 using management tools considered in the catch sharing plan.
2. Address policy questions raised by NMFS from public comment and publish the final catch sharing plan rule no later than June 1 for implementation in 2013. Review Tier 1 (low abundance) management measures and propose a trailing amendment if needed for implementation in 2013.
3. Publish an interim rule for 2012 allowing charter operators to lease commercial quota and use as Guided Angler Fish (after identifying an accurate method of calculating the weight of GAF). This will allow guided clients to access larger fish if desired.

With the sincerest respect,

Kenneth M. Simpson
Co-Owner/ Operator
F/V Lady Simpson

CC:

Senator Lisa Murkowski
US Senate
709 Hart Senate Building
Washington, DC 20510
FAX (202) 224-5301

Senator Mark Begich
144 Russell Sen. Office Bldg
Washington, DC 20510
Phone (202) 224-3004
Toll free. 877.501.6275*
From Area Code 907 only

Congressman Don Young
US House of Representative
2314 Rayburn House Office Building
Washington, DC 20515-0201 224-2354
Phone (202) 225-3765

Governor Sean Parnell
State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001
Fax:(907)465-3532

SENT VIA FAX to (907) 271-2817

**Mr. Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501**

Re: Halibut Catch Sharing Plan

Dear Mr. Chairman,

I am a second generation IFQ holder who lives in Homer. After working as a crew member for 15 years I have slowly accumulated some IFQ's of my own. In investing in the halibut resource I was aware of the volatility of the stock and accepted the risks. Living in Homer I have had firsthand experience witnessing the growth of the charter industry. I appreciate their role in the economy and understand the need to share the resource. The only thing I ask is that the professional charter industry be held accountable to a defined and enforceable limit.

Thank you for your dedication to the Council Process. Please make sure the Council takes action in time for implementation by 2013. The council acted in 2008 and we need to publish a final catch sharing rule.

Sincerely,

George Malcolm Milne

PO Box 1846

Homer, Alaska 99603

Deep Sea Fishermen's Union of the Pacific

5215 Ballard Avenue N.W.
Seattle, WA 98107
Phone: (206) 783-2922
Fax: (206) 783-5811
www.dsfu.org



Established 1912

November 28, 2011

Mr. Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson

Re: Agenda Item C-6 Halibut Catch Sharing Plan

The Deep Sea Fishermen's Union understands the National Marine Fisheries Service (NMFS) has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis.

We urge you to:

1. Give clear direction to the International Pacific Halibut Coalition (IPHC) to hold the charter sector in both 2C and 3A under their GHL in 2012 using management tools considered in the catch sharing plan.
2. Address policy questions raised by NMFS from public comment and publish the final catch sharing plan rule by June 1 for implementation in 2013. Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013. The use of a trailing amendment is a long standing procedure for the Council to modify.
3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

The members of this Union believe in sustainable harvesting methods and comply with IPHC commercial harvest guidelines despite considerable reduction in their harvest levels. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,

Mr Standart
President

CC:
Governor Sean Parnell, State of Alaska
Senator Lisa Murkowski
Senator Mark Begich
Congressman Don Young
Commissioner Cora Campbell, Alaska Department of Fish and Game

Nov 23 11 07:21a

Bill Connor

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p.1
Page 1 of 1

Mr. Eric Olson, Chair
NPFMC
805 W 4th Ave, Ste 306
Anchorage Ak 99501

Mr. Olson,

Re: Agenda Item o-6 Halibut catch sharing Plan

I understand NMFS has delayed the publication of the halibut catch sharing plan finale rule to obtain guidance from the council and strengthen parts of the analysis.

I have made my living from halibut since 1975 raised a family with my earnings bought more IFQ and still in debit to the loan, staying current on payments, even after losing more then 50% of my annual fishing pounds. My kids are now invested in halibut IFQ and have less the 1/3 of the IFQ pounds purchased they are however subsidizing their payments from other jobs. AND NONE OF US 3 HAVE EVER GONE OVER OUR IFQ ALLOTMENT.

My famäy and I urge you to :

1. Give clear direction to IPHC to hole the charter sector in both 2C and 3A under their GHIL in 2012.
2. Fix policy questions that concern NMFS from public comment and publish the finale catch sharing plan rule by June 1 for 2013. Review Tier 1 – low abundance– management measures and propose a trailing amendment, if needed, for implementation in 2013.
3. Publish an interim rule for 2012 allowing for leasing of commercial IFQ for guided angler fish, so the charter group has no reason to exceed their GHIL, and please adopt an accurate method for calculating the weight of the GAF. This allows for the take of larger fish.

Please resolve the charter abuse of the halibut resource.

Thanks Bill Connor



P.O Box 1124

Petersburg Ak

99833

November 27, 2011

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan

We understand NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis.

We urge you to:

1. Give clear direction to IPHC to hold the charter sector in both 2C and 3A under their GHIL in 2012 using management tools considered in the catch sharing plan.
2. Address policy questions raised by NMFS from public comment and publish the final catch sharing plan rule by June 1 for implementation in 2013. Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013. The use of a trailing amendment is a long standing procedure for the Council to modify their actions.
3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate of method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

My family, like many others in our small SE Alaska communities, is very dependent on halibut longlining for significant portion of our income and it is important to our community to resolve allocation with the charter sector.

The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,

Otto Florschutz
F/V Nephi
Box 547
Wrangell, AK 99929

11/27/11

22:17

Fields Wild Salmon

907 486 8387

p.02

November 27, 2011

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan

It is my understanding that NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis. I ask the Council to give clear direction to IPHC which will hold the charter sector in both 2C and 3A under their GHL in 2012 by using management tools considered in the catch sharing plan. In addition I would ask the Council to address policy questions raised by NMFS from public comment, publish the final catch sharing plan rule by June 1 for implementation in 2013, review Tier 1 (Low abundance) management measures, and propose a trailing amendment, if needed, for implementation in 2013. And finally, publish an interim rule for 2012 allowing for leasing of guided angler fish which adopts an accurate method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

I have fished commercially for halibut since 1971, beginning in a skiff with my father and brothers and fishing for weeks at a time. Over the past forty years income from Halibut fishing has always been important to my family. I have taken on substantial debt to purchase larger fishing vessels and quota for my halibut business. These past four years my catch limits have declined 45% and burdened us with financial hardship, I accept the declines as necessary for conservation; however, what I cannot accept is not requiring all commercial users to share in this conservation. It is time to publish the final catch sharing rule to resolve allocation with the charter sector and require they share in the conservation burden as well.

Sincerely,



Wallace Fields

PO Box 1691, Kodiak, AK 99615

Copy: Governor Sean Parnell, State of Alaska
Senator Lisa Murkowski
Senator Mark Begich
Congressman Don Young
Commissioner Cora Campbell, Alaska Department of Fish and Game

11/28/2011 10:13 9077724190

ALPINE DESIGN

PAGE 01

Date: November 28, 2011

Mr. Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda item C-6 Halibut Catch Sharing Plan

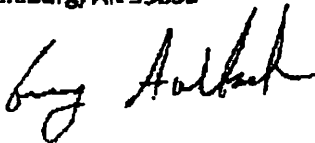
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3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

I have been a long line Halibut fisherman since before IFQ's existed. I currently operate my Halibut fishery at a deficit because of the reductions in our quota. It is extremely important to me, my family and our community to resolve this allocation problem with the charter sector. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,
Gary Aulbach
Box 726
Petersburg, AK 99833



Nov. 28. 2011 9:25AM

No. 5690 P. 2

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan

We understand NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis.

We urge you to:

1. Give clear direction to IPHC to hold the charter sector in both 2C and 3A under their GHF in 2012 using management tools considered in the catch sharing plan.
2. Address policy questions raised by NMFS from public comment and publish the final catch sharing plan rule by June 1 for implementation in 2013. Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013. The use of a trailing amendment is a long standing procedure for the Council to modify
3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

My family is dependent on halibut longlining for significant portion of our income and it is important to our community to resolve allocation with the charter sector. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,

John D. Baird

Name/address

P.O. Box 6091
Sitka, AK 99835

Copy: Governor Sean Parnell, State of Alaska
Senator Lisa Murkowski
Senator Mark Begich
Congressman Don Young
Commissioner Cora Campbell, Alaska Department of Fish and Game

Nov 28, 2011

MR ERIC OLSON, Chair
N. P. F. M. C.
605 W. 4th Ave. Ste 306
Anch. AK. 99501

-Ref. Item C-6 Halibut

MR OLSON,

I understand NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the Analysis.

I urge you to:

- 1) Give clear direction to IFHC to hold the charter sector in both 2C & 3A under their GHL in 2012 using management tools considered in the catch sharing plan.
- 2) Publish and interim rule for 2012 allow for leasing of guided angler fish and adopt an accurate method of calculating the weight of QAF.

I am a semi-retired fisherman. I depend on the income from fishing Halibut to supplement my income. Needless to say, my operation is very small.

Thank you

Ric Ursalovic
P.O. Box 709
Whittier, AK. 99693

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan

I understand NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis.

I urge you to:

1. Give clear direction to IPHC to hold the charter sector in both 2C and 3A under their GHF in 2012 using management tools considered in the catch sharing plan.
2. Address policy questions raised by NMFS from public comment and publish the final catch sharing plan rule by June 1 for implementation in 2013. Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013. The use of a trailing amendment is a long standing procedure for the Council to modify
3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

My family is dependent on halibut longlining for significant portion of our income and it is important to our community to resolve allocation with the charter sector. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,

John Stack

P.O. Box 1983, Cordova, AK 99574

907-271-2817

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan

I understand NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis. Please resolve these issues without further delay as to allow the status quo to continue is ruining the longline fishery for halibut. It is also causing a lot of very hard feelings among sectors in the communities as well as severe economic impact on the longline fleet.

I urge you to:

1. Give clear direction to IPHC to hold the charter sector in both 2C and 3A under their GHL in 2012 using management tools considered in the catch sharing plan.
2. Address policy questions raised by NMFS from public comment and publish the final catch sharing plan rule by June 1 for implementation in 2013. Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013. The use of a trailing amendment is a long standing procedure for the Council to modify
3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate of method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

My family has been in the longline fisheries since 1985 and is dependent on halibut longlining for significant portion of our income. The impact that the overfishing by the charter sector has had on us is economically huge. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule. This is an 18 year allocation problem that you have delayed and delayed on I urge you to not delay on this and to stand up and address the above issues and get this done.

Sincerely,

Carolyn Nichols



111 Knutson Drive

Sitka, AK 99835

November 2011

Sent via Fax to (907) 271-2817

Mr. Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan


We understand NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis.

We urge you to:

1. Give clear direction to IPHC to hold the charter sector in both 2C and 3A under their GHL in 2012 using management tools considered in the catch sharing plan.
2. Address policy questions raised by NMFS from public comment and publish the final catch sharing plan rule by June 1 for implementation in 2013. Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013. The use of a trailing amendment is a long standing procedure for the Council to modify
3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate of method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

My vessel, the Ambassador, has been based in Kodiak for the past 30 years and is operated by my son John Ed Boggs and his family (John Ed is a Kodiak resident). Our operation there is dependent on halibut long lining, which is a significant portion of our income. It is important to the community to resolve allocation with the charter sector. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,



John R. Boggs
3900 Railway Ave
Everett, WA 98201

November 2011

SENT VIA FAX to (907) 271-2817

Mr. Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave
Ste 306
Anchorage, AK 99501

Re: Agenda Item C-6 Halibut Catch Sharing Plan

Dear Mr. Olson,


We understand NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis.

We urge you to:

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2. Address policy questions raised by NMFS from public comment and publish the final catch sharing plan rule by June 1 for implementation in 2013. Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013. The use of a trailing amendment is a long standing procedure for the Council to modify
3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

My family is dependent on halibut longlining for significant portion of our income and it is important to our community to resolve allocation with the charter sector. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,



James S. Daniels

Jill W. Daniels

3507 Halibut Point Road
Sitka, AK 99835

SENT VIA FAX to (907) 271-2817

**Mr Eric Olson, Chair North Pacific Fishery Management Council 605
West 4th Ave, Ste 306 Anchorage, AK 99501**

Dear Mr. Olson, Re: Agenda Item C-6 Halibut Catch Sharing Plan

We understand NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis.

We urge you to:

- 1. Give clear direction to IPHC to hold the charter sector in both 2C and 3A under their GHL in 2012 using management tools considered in the catch sharing plan.**
- 2. Address policy questions raised by NMFS from public comment and publish the final catch sharing plan rule by June 1 for implementation in 2013. Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013. The use of a trailing amendment is a long standing procedure for the Council to modify**
- 3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate of method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.**

My family is dependent on halibut longlining for significant portion of our income and it is important to our community to resolve allocation with the charter sector. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,

**Randy Kraxberger
2832 Hancock St.
Port Townsend Wa. 98368
Ph. 360-531-0655**

__ November 2011

SENT VIA FAX to (907) 271-2817

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan

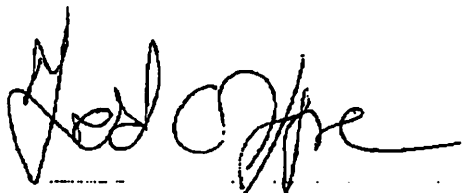
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3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate of method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

My family is dependent on halibut longlining for significant portion of our income and it is important to our community to resolve allocation with the charter sector. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,



Todd Hoppe
P.O. Box 2589
Homer, AK 99603

__ November 2011

SENT VIA FAX to (907) 271-2817

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan


We understand NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis.

We urge you to:

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My family is dependent on halibut longlining for significant portion of our income and it is important to our community to resolve allocation with the charter sector. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,



Kim Perkins

235-5045

Box 3763

Homer AK 99603

Mr. Eric Olson, Chair
NorthPacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan

I understand NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis.

I urge you to:

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3. Publish an interim rule for 2012 allowing for leasing og guided angler fish and adopt an accurate of method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

I am a commercial halibut longliner. My family is dependent on halibut longlining for significant portion of our income and it is important to our community to resolve allocation with the charter sector. The Council acted correctly in October 2008. Its time to publish the final catch sharing rule.

Sincerely,



Revelle Russell
PO Box 1227
Homer, AK 99603

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan

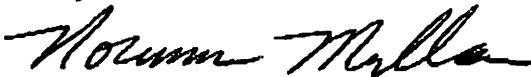
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We urge you to:

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3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

I am an Alaska resident, born and raised. My family is 100% dependent on commercial fishing including halibut longlining for the significant portion of our income. I have been fishing halibut since 1983 and I have invested in IFQ's since they were implemented. It is important to the resource as well as our community to resolve allocation with the charter sector. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,



Norman Mullan
PO Box 92
Kodiak, AK 99615

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan

We understand NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis.

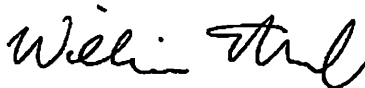
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3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

I have been fishing halibut since 1983 and my family as well as many families in Petersburg are dependent on halibut longlining for a significant portion of our income and it is important to our community to resolve allocation with the charter sector. The Council acted correctly in October 2008 and it is well past time to publish the final catch sharing rule.

Sincerely,

William Macnab



11-26-11

Box 711 Petersburg, Alaska 99833

Copy: Governor Sean Parnell, State of Alaska
Senator Lisa Murkowski
Senator Mark Begich
Congressman Don Young
Commissioner Cora Campbell, Alaska Department of Fish and Game

Mr. Eric Olson, Chair 11/29/11
North Pacific Fishery Management Council

Dear Mr. Olson,
Re: Agenda Item C-6 Halibut Catch Sharing Plan

I was very disappointed & frustrated to hear NMFS has delayed publication of the Halibut Catch Sharing Plan final rule. (This has gone on and on for 18 years)

I understand NMFS is looking for policy guidance from the Council, and strengthening parts of the analysis.

I urge you to make this a priority.

My family is dependent on halibut longlining for our income. It's important to us and our community to resolve this 18 year allocation struggle with the charter fleet. Sincerely, Marty Remund

Copy:

P.O. Box 1295
Haines, AK. 99827

- Governor Sean Parnell
- Senator Lisa Murkowski
- Senator Mark Begich
- Congressman Don Young
- Commissioner Cora Campbell ADF&G

North Pacific Fishery Management Council
Eric Olson, Chairman
605 West 4th Avenue, Suite 306
Anchorage, AK. 99501-2252

November 25, 2011

Dear Mr. Chairman,

As an active charter owner/operator with 27 years in this industry I wish to advise the council of the following.

To correct the CSP for secretarial review the NPFMC must address the following two issues, first the CHP was issued to the participants with a historical angler endorsement, the CSP must restrict the total daily bag limit or harvest to equal but not exceed the Angler Endorsement bag limit. The second issue is to allow CHP holders to purchase the necessary commercial IFQ to use as GAF instead of allowing the CHP holder to rent the IFQ.

The CHP was issued to all qualified participants with an historical angler endorsement, for each vessel, under the GHL or the CSP there are no restrictions to how many trips a charterboat can make in a day so now the large boat fleet has modified their business plans to include providing 2 trips per day, doubling their harvest numbers.

How can this council justify kicking out some 300 fully capitalized charter businesses in the name of placing harvest controls on the industry and then allow any and all remaining vessels to make multiple trips in a day and essentially double their previous harvest? We will now need enough fish for all CHP holders to make 2 trips a day!

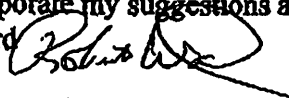
Every time this council makes a restriction the industry is already figuring ways around it. We need to create a level and manageable standard within the fleet if the proposed management plans are to be beneficial to all permit holders. Please consider restricting all charter vessels to a daily bag limit not to exceed their Angler Endorsement Bag Limit. This will allow multiple trips but places a total daily harvest limit that is based on the vessel's Angler Endorsement number.

We all know that the charter industry participation in the current commercial IFQ plan on an equal basis will be the only viable solution for the allocation division between the commercial and charter industries, with each participant responsible for their own allocation needs through the free market just like everything else we encounter in life. There are still many members of my industry that believe the IFQ is the only rational plan for the future. Under the CSP we request the council consider allowing CHP holders to purchase commercial IFQ for use as GAF in the charter business.

We know that ownership develops responsibility and until we have that ownership in our halibut resource there will never be that level responsibility for the resource, the resource management, or even industry concerns as evidenced by the lack of charter owner participation in the council process.. The proposed compensated re-allocation plan is burdensome and costly with more controls and oversight than is justified when a successful program is already time tested and ready to be modified to accommodate both user groups in an equitable manner. We want to be treated fairly and equally to the commercial fleet, making our own individual business decisions based on our own individual needs. We believe the constitution make reference to this very right in many statements as the very foundation of this country. Treat us fairly.

Please incorporate my suggestions as you address the CSP. Thank you

Captain Robert Ward
P. O. Box 631
Anchor Point, AK. 99556



Mr. Eric Olson, Chair
NPFMC
605 West 4th Ave. Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

I am writing concerning the delayed publication of the halibut catch sharing plan.


We have been in this allocation battle for way too long a time. My wife and I were rejoicing over the fact that something would finally be settled. It was not to be again. I think the environment has lost at least one large tree turned into pulp and then paper since I first started writing about this issue. There has been way too much foot dragging by those responsible for solving the halibut allocation problem.

I have seen my IFQs go from a high of 18,000 pounds to 4000 pounds this last year. Since I used my retirement savings to purchase 2 blocks, I am not in the situation that some of my young friends are in-trying to pay off loans on IFQ without the remaining pounds to generate the income, but my future plans and retirement are sure suffering.

My family has been in the fishing business since 1967. The golden years were right around the corner. Now we struggle along like so many fishers, hoping to finally see the end to the halibut wars so we can once again do some planning without the allocation monkey on our backs.

Our need for this coming season is to have the council work with IPHC to formulate regs to keep the charter group under their GHL. I believe the catch sharing plan has the ingredients to do this.

The points brought forward by NMFS need to be addressed now! The final rule needs to be published as soon as possible in order for the plan to be in effect by 2012. If possible, publish an interim rule for the coming season that would allow for leasing of guided angler fish.


Robert D. Schell
Box 1367
Sitka, AK. 99835
alfaye@gci.net

November 29, 2011

Eric Olson, Chair
NPFMC
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Subject: Agenda Item C-6 Halibut Catch Sharing Plan

Dear Mr. Olson,

Please do not throw out the baby with the bathwater just because there was political intervention at the last minute on the catch sharing plan. The Council and importantly, the public, has spent years developing this program and NMFS should have moved it forward well before now. Stalling is not an acceptable management tool when we have fish to protect and livelihoods to consider.

Please keep the catch share plan moving forward, it is common for the council to improve issues while their amendments are implemented and working. Consider the numerous tweaks to the commercial IFQ program. A trailing amendment will work if there are changes needed to the approved tier system in low abundance years.

Clearly allow the IPHC to hold the charter sector to their GHs in both 2C and 3A using the CSP management measures. Although last year it would appear the charter sector in 2C was below their allocation, this is the FIRST time in the history of their allocation that they were not significantly over and it is not appropriate to veer too far off path because of one low year. If they were managed like commercial fisheries they would have been docked this amount in overages in any event. For the first time in years local personal use and subsistence fishermen have remarked that their fishing is improving. It would be wrong to have this trend reversed if management action was liberalized just because the charter sector didn't get their full allocation one year out of 9 years in 2C – 89% of the time they have exceeded their allocation.

I supported IFQ for charter years ago when they got a percent of the allocation as IFQ and don't understand the reluctance to allow IFQ or leasing of guided angler fish now. Let the fair market provide more options for charter clients that "have" to have meat as opposed to a fishing opportunity.

I have been a commercial halibut fishermen since 1976, starting as a deckhand and working my way to owner and operator of a 55' longline vessel. I only longline and depend heavily on a well managed halibut resource as one of my key target species. Please lead the nation in fisheries management and move this Catch Share Plan forward at this meeting.

Sincerely,



Dick Curran
608 Etoilin Street
Box 1336
Sitka, AK 99835
CC Campbell, Parnell, Murkowski, Begich, Young

29 November 2011

Mr. Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave., Ste. 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan

I understand NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council and strengthen parts of the analysis.

I urge you to:

1. Give clear direction to IPHC to hold the charter sector in both 2C and 3A under their GHL in 2012 using management tools considered in the catch sharing plan.
2. Address policy questions raised by NMFS from public comment and publish the final catch sharing plan rule by June 1 for implementation in 2013. Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013.
3. Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.

I have fished Halibut in 2C and 3A for 23 years and have suffered financially as the quota cuts in the current population downtrend have been primarily shouldered by the commercial fleet. It is time to bring a management plan to the charter industry that will protect the resource for all users so we can end this 18 year process and move forward. Thank you for considering my comments.

Sincerely,

Matthew R. Metcalf
2999 Joshua Court
Holland, MI 49424

Mr. Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave. Suite 306
Anchorage, AK 99501

November 24, 2011

Dear Mr. Olson:

This letter is in regard to Agenda Item C-6 Halibut Catch Sharing Plan (CSP). Recognizing that NMFS has delayed publication of the CSP final rule to obtain policy guidance from the Council, I respectfully request that you give clear guidance to the IPHC to keep the charter sector in both areas 2C and 3A within their Guideline Harvest Limits in 2012 using tools outlined in the CSP.

In addition, I ask that you are a lifelong Alaskan and a resident of Cordova. I have fished commercially for salmon for over thirty years, and after purchasing halibut quota shares in 1997, began fishing for halibut in addition to salmon.

I am writing to ask you to support the halibut Catch Sharing Plan (CSP) developed by the North Pacific Fisheries Management Council (NPFMC). You are probably aware that this plan has been developed over a period of many years through an exhaustive Council process including many days of testimony by hundreds of stakeholders, analysts and scientific experts.

While no plan is perfect, the CSP presents a fair and reasonable method for alleviating what I see as the biggest problem with the current halibut allocation system: its lack of equitable conservation burden on the two commercial user groups; sport/charter and commercial longline. Since I began halibut fishing, I have endured the annual fluctuations in my quota as it rose and then fell dramatically in relation to the halibut biomass as measured by the International Pacific Halibut Commission (IPHC). During this time, the statewide catch by the charter fleet has grown dramatically, resulting in a further reduction of my catch, and that of the longline sector as a whole.

It is essential that the sport/charter sector be held to the same conservation standard as the commercial longline sector, and equitably share the burden of conservation of the resource, while also sharing in the benefits of fishery abundance.

I realize that clamping down on the relatively unregulated sport/charter sector may be politically distasteful. In fact, if I were a charter operator, I would probably be complaining about the CSP or any other regulation that would limit the profit potential of my business. There is no doubt the CSP will have an economic impact on the charter sector. Fairness, however, demands that the current system be corrected. The sport/charter sector must not be allowed to continue to increase their catch at the expense of the longline sector, and they must share the burden of resource conservation.

It has been very frustrating watching and participating in a very thorough and inclusive NPFMC process for too many years that has tried to solve issues regarding growth of the charter sector, only to see all the work and compromises be thwarted by political forces at some higher level. I ask that you do your best to see that this does not happen again.

Sincerely, Bill Lindow

Bill Lindow

Mr. Eric Olson, Chair, NPFMC
 505 W. 4th Ave. Ste 306, Anch, AK 99501
 Dear Mr. Olson:

Re: Halibut Catch Sharing Plan Agenda Item C-6

Because NMFS has delayed publication of the halibut catch sharing plan final rule to obtain policy guidance from the Council, please address policy questions raised by them and do all in the Council's power to facilitate publishing the final rule by June 1 for implementation in 2013. It has been incredibly frustrating to watch charter halibut management bounce back & forth between NMFS and NPFMC for 18 of the 21 years I have been commercial fishing. My family used to halibut fish all summer and the loss of quota has crashed us financially. We have not been able to make up the difference in our other fisheries.

The charter sector needs to be held under their OHL in 2012 using management tools in the catch sharing plan or any other effective interim strategies until implementation of the final rule in 2013.

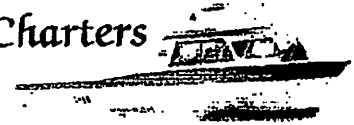
Thank you for taking seriously the urgency of this situation. The halibut stocks won't wait

for humans to get it together.

To be continued 1. 1

L. Mastrella
~~Box~~ 1295 Haines, AK

Tall Tales Charters



(907) 235-6271 • P.O. Box 545 Anchor Point, AK 99556 • www.talltalescharters.com

November 29, 2011

Eric A. Olson, Chairman
North Pacific Fisheries Management Council
605 W. 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Chairman Olson:

We are a family owned business, Tall Tales Charters, which has been in operation for the last twenty plus years; as such we feel we have a vested interest in this fishery and would like to make the following comments on the proposed Catch Sharing Plan for Guided Sport and Commercial Fisheries for Pacific Halibut.

We do not support the CSP and do not support the GAF leasing.

The CSP as designed is not about limiting the charter industry to stay within their allocation but rather to destroy the industry and the tourist industry along with them.

Leasing GAF is unworkable! To take fish from the guided allocation and redistribute it to the commercial sector and then rent it back to the guided angler is ridiculous. A large percentage of our clientele are Alaskans and military personnel, the remainder are ordinary Americans from all parts of our country; not only is it not right to ask them to pay an extra \$150.00 to \$200.00 to catch a fish which is a public resource, but they cannot and will not pay the extra amount.

We do Support:

- 1) Area 3A and 2C being regulated separately. The halibut fisheries are vastly different in fleet size, business structure, and client base and should be regulated accordingly.
- 2) Status Quo under GHL with ceiling removed. Since 2003 Area 3A did not share in the rising abundance of the resource due to the GHL caps but now that stocks are declining we are told we did not do our part for conservation; we would like to remind the council that our harvest of the resource has declined and we are indeed contributing to the conservation of the resource. Since 2008 Area 3C catch has dropped by approximately 21% thereby leaving at least 2.8 million pounds of fish in the water.

Tall Tales Charters



(907) 235-6271 • P.O. Box 545 Anchor Point, AK 99556 • www.talltalescharters.com

Page 2 of 2

- 3) Guided and unguided anglers should be treated equally. A plan that tightly regulates only the guided recreational sector will result in harvest movement to the unguided sector especially in 3A with the end result being a decrease in overall safety for recreational anglers and little or no reduction of recreational harvest. The one fish rule discriminates against the guided angler and creates a class system of allocation.
- 4) Steps towards true conservation which we feel should include:
 - A) Addressing by-catch by all fishermen.
 - 1) All commercially caught fish should be brought in, processed, and come off the allocation.
 - 2) Sports regulations should not encourage the catch and release of fish to obtain one of a larger size.
 - B) Crucifers should be outlawed on all vessels.
 - C) In times of low abundance charter vessels should be limited to one limit of fish per angler CHP per calendar day.

Respectfully,

Charles E Collins and Alice J Collins

Fax 907-271-2817

Nov 129/ 2011

Mr Eric Olson Chair
NPF Mgmt Council
605 West 4th Ave Ste 306
Anch. AK. 99501

Dear Mr. Olson

Re: Agenda Item C-6 Halibut Catch share Pla.
We understand NMFS has delayed publication
of Halibut catch sharing plan final rule to
obtain policy guidance from the council and
strengthen parts of the analysis

1. We urge you to give clear direction to IFMC
to hold the charter sector in both 2-C and 3A under
their GHL in 2012 using Management tools
considered in the catch sharing plan.
2. Address policy questions raised by NMFS from public
comment and publish the final catch sharing plan rule
by June 1st for implementation in 2013. Review
Tier I (low abundance) management measures and
propose a trawling amendment, if needed for
implementation in 2013
3. Publish an interim rule for 2012 to allow leasing of
guided angler fish and adopt an accurate method of
calculating the weight of GAF. This will allow guided
clients to access bigger fish if desired.

Fax 907-271-2817

Continuation of comments to:
Mr. Eric Olson Chair
North Pacific Fishery Management Council

My family has been dependent on halibut long lining for a significant part of our income and it is important to our community to resolve an allocation with the charter sector. The council acted correctly in Oct. 2008 and it is well past time to publish the final catch sharing rule. Any actions or decisions need to protect the resource first and then recognize who has been staying within set guidelines and allocations and who hasn't and enact rules accordingly.

CC
Halibut Coalition

Commissioner Cora Campbell
ADFG

Sincerely
Stanley D. Hjort
Stanley D. Hjort

P.O. Box 828
Pettersburg, AK 99833

November 28, 2011

Mr. Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave., Ste. 306
Anchorage, AK 99501

RE: Agenda Item C-6 Halibut Catch Sharing Plan

Dear Mr. Olson:

I am a 2C IFQ Halibut holder. I did not qualify for initial issued shares, but purchased shares because I believed the IFQ Program offered stability and sustainability to the halibut fisheries. For eighteen years I have watched the charter fleet erode my investment and exceed their GHL, with no concern for the resource which all user groups should be responsible to protect.

The lobbying effort the charter fleet used to convince NMFS to delay publication of the Halibut Catch Sharing Plan final rule is a continuation of the charter fleet's effort to stall any effort to make them responsible for protecting the halibut resource. They cry economic hardship. I fished halibut prior to the implementation of the IFQ system, but did not qualify for initial issue of quota. I purchased the quota I fish and have watched those shares decrease by 76%.

The Catch Share Plan is more than fair for the charter fleet and needs to be implemented as soon as possible. I urge you to:

* Give clear direction to IPHC to hold the charter sector in both 2C and 3A under their GHL in 2012 using management tools considered in the catch sharing plan.

* Address policy questions raised by NMFS from public comment and publish the final catch sharing rule by June 1, for implementation in 2013. Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013. The use of a trailing amendment is a long-standing procedure for the Council to modify.

-2-

***Publish an interim rule for 2012 allowing for leasing of guided angler fish and adopt an accurate method of calculating the weight of GAF. This will allow guide clients to access larger fish if desired.**

My family is dependent on halibut longlining for a significant portion of our income, and it is important to our community to resolve allocation with the charter sector. The Council acted correctly in October 2008, and it is well past time to publish the final catch sharing plan.

Sincerely,

**Jay M. Haun
4055 Sweetwater Road
Bow, WA 98232**

JH/bkh

November 28, 2011

Eric A. Olson, Chairman
North Pacific Fisheries Management Council
605 W. 4th Avenue, Suite 306
Anchorage, AK 99501-2252

I, my wife Gerri and our two sons, Ben and Ethan own North Country Halibut Charters in Homer. We have been in the halibut charter industry in Homer for 33 years.

The Catch Sharing Plan as written cannot work and allow me to stay in business. Several changes have taken place since the Plan was developed in 2008. We now have in place a working limited entry program for charter boats which may reduce the catch somewhat in 3A. The national economy has declined and this has forced some marginal operators out of business which may reduce the catch further.

The GHL has worked in 3A. Since its implementation the charter fleet has only been over its quota once by any noticeable amount and that was back in 2007. According to ADF&G, 3A was under the GHL by 950,000 lbs in 2010 and 840,000 lbs under in 2011. Those are substantial reductions. Together those 2 years represent a 25% reduction in the charter catch in 3A under the current GHL. Keep the current GHL but uncap it. It makes no sense that commercial catches can float upwards with abundance but we cannot.

I am not saying that the charters should not share in conserving the resource. The facts are that even though the charter GHL floats it doesn't float above 3.65m pounds. It is capped. When the TAC rises, only the commercials enjoy access to that greater abundance. If you start at the 3A commercial quota of 20m pounds in 95 and 96 and watch it exceed that amount by millions of pounds 12 years out of the last 15 and at the same time see the charters held to their fixed GHL then you can see how it is hard for me to see why we are being called out about not sharing in the pain of reduced catches. From the time the GHL went into effect in 2003 thru 2011 commercials in 3A had access to an average of 25 million pounds of halibut during the time that charters were excluded from that increase. Now that the CEY is being reduced they are crying foul that we are not doing our part to conserve the resource. I might feel responsible if I had been reaping the same benefits they were. But I was excluded not included. I don't like fingers pointed at me when regulations like Slow Up Fast Down resulted in overharvest.

What I see the CSP doing is reducing the amount of halibut available to charters and reallocating it to commercials then charters being forced to rent it back from commercials. I see that as just another way for long liners to get someone else to do their work for them. Just another way for them to stay at home. As much as I want 2 fish I resent giving up the fish then being forced to pay long liners to get them back. No matter how much I sharpen my pencil there is no way I can make renting fish turn a profit. Possibly if someday were found to have some fish allocated and some bought. But we all know there will never be enough quota to rent or own even if we could afford it.

Right now we are close to 1 million pounds under our GHL. If the CEY dropped under 2.65 million pounds for charters in 3A, rather than a one fish limit, I would like to see in the short term:

1. A partial closure in retention of crew fish or reduced bag limit for crews or partial closure such as no crew fish in June, July and August
2. A complete reduction to zero of crew fish
3. The minnow rule – one fish of any size and one fish of a maximum size
4. Revisit stakeholder committee recommendations

November 28, 2011

Eric A. Olson, Chairman
North Pacific Fisheries Management Council
605 W. 4th Avenue, Suite 306
Anchorage, AK 99501-2252

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What I see the CSP doing is reducing the amount of halibut available to charters and reallocating it to commercials then charters being forced to rent it back from commercials. I see that as just another way for long liners to get someone else to do their work for them. Just another way for them to stay at home. As much as I want 2 fish I resent giving up the fish then being forced to pay long liners to get them back. No matter how much I sharpen my pencil there is no way I can make renting fish turn a profit. Possibly if somehow were found to have some fish allocated and some bought. But we all know there will never be enough quota to rent or own even if we could afford it.

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1. A partial closure in retention of crew fish or reduced bag limit for crews or partial closure such as no crew fish in June, July and August
2. A complete reduction to zero of crew fish
3. The minnow rule – one fish of any size and one fish of a maximum size
4. Revisit stakeholder committee recommendations

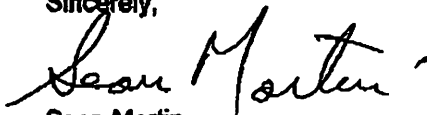
In the long term I would like to see:

1. Get control of the trawler bycatch. There should be 100% observer coverage on all trawlers that have halibut bycatch. The halibut charter fleets have 100% observer coverage every day. If charter captains are operating illegally irate clients don't seem to have any problem telling ADF&G. Why is the charter fleet in 3A facing a 50% reduction in catch but the trawl and hook and line fleet is facing only a possible 15% reduction in halibut bycatch? It wouldn't take very much of that bycatch to keep the charter catch at 2 fish per person, being as how the bycatch in the Gulf was 5 million pounds and the entire charter catch in 3A and 2C was only 3.2 million pounds in 2011. Personally I like the Canadian model, Individual Bycatch Quota for each vessel and 100% observer coverage. When each vessel reaches its Quota they stop fishing.
2. An analysis of stacking permits. An example: if we were reduced to one fish per angler then we could purchase another permit stack them and each angler could take 2 fish. Currently each 6 person permit can take 2 fish per angler. 12 fish if there are 6 people on the boat. In a one fish scenario it would take 2 - 6 person permits to equal 12 fish.
3. An analysis of splitting permits. If we were reduced to 1 fish per angler then a vessel with a 22 person permit could take 8 people fishing for 1 fish each and 7 people fishing for 2 fish each. We could price our trips accordingly. Or a 22 person permit could be fished 10 people fishing for 1 fish each on an inspected vessel and 6 people fishing for 2 fish per person on a 6 pac boat.
4. An analysis done on annual angler bag limits.

All halibut sport anglers should be regulated the same. I know the current way of splitting the guided and unguided angler in 2C is not proper for 3A. The vast majority of guided anglers who fish for halibut in 3A are from the population centers of Anchorage and Fairbanks who are looking to put fish in the freezer. The guided angler that fishes from a charter boat should not be discriminated against just because he does not have access to a private boat. I also know if they are discriminated against there will be an increase in illegal operators taking people out for 2 halibut without the proper licensing or safety equipment.

Finally I would like to see an analysis done on what percentage of the guided angler harvest is U32 fish. The IPHC currently manages removals of O32 exploitable biomass according to abundance while not managing U32 removals. Given that the average fish caught in area 3A is 15.2 lbs would indicate that a large portion of the catch is U32 and should not be managed under the O32 exploitable biomass restrictions. Although the exploitable biomass of halibut has declined by 50% since the late 1980s, the total biomass of halibut has continued to increase.

Sincerely,



Sean Martin
P.O. Box 889
Homer, Alaska 99603
907-235-5130
907-399-1556

FAXED TO
907-271-2817
TUES 11/22 5:20 PM

Gustavus, Alaska
Nov. 28, 2011

Eric Olson, Chair
North Pacific Fisheries Management Council
605 West 4th Ave, Suite 306
Anchorage, AK 99501

Re: Halibut Catch Sharing Plan

Dear Chairman Olson and Members of the NPFMC:

The IPHC and NPFMC seem willing to have areas of inshore abundance of halibut severely reduced or even decimated on the premise that such reductions are irrelevant for a "coastwide" Pacific halibut stock. Paraphrased from Council literature, the line is *'It's a migratory population and if an area is over-fished it will eventually fill in again with new fish. However, continued heavy exploitation can maintain a situation of local depletion. But IPHC research is not adequate to manage on the basis of smaller areas.'* So nothing need nor can be done!

I wish to speak for Icy Strait and nearby Cross Sound and Glacier Bay in northern Southeast Alaska, one of those abundant inshore areas undergoing heavy exploitation and a declining halibut stock. The decline is likely greater than shown by catch statistics, since fishermen, especially in the charter fleet, are using greatly improved fishing technology in the past decade. Among the improvements are more precise navigation equipment and ultra-thin, super-strength "superlines" that enable sport fishermen to use heavier weights and fish deeper than older technology allowed (some charter fishermen also use electric fishing reels.) Consequently many places that formerly constituted halibut refuges are now heavily fished. A result could be what is called "serial depletion," where fishing techniques mask the decline of a fish stock until the catch suddenly drops off a cliff.

Although various media have characterized my home community of Gustavus on the shore of Icy Strait as fearful of the economic consequences of stricter charter halibut regulation, this is far from true of most people who actually live here (as opposed to those who operate out of here in the summer and then return to homes in the south). Charter operators' unsuccessful attempt last summer to get the Gustavus City Council to pass a resolution opposing the restrictive Area 2C charter regulations exposed a deep well of local concern for the future of the halibut population, as opposed to concern for the immediate dollar revenue to be got from that fish. This is a concern that I have heard very many people express over the years. And, despite those operators' predictions, our community has had a notably prosperous and economically active year.

A real concern here, though, is the movement of more charter operators into the "self-guided" or "bare-boat charter" mode to avoid the restrictive charter regulations. Two such lodges were already operating out of Excursion Inlet (one with 60 clients a week). Now several Gustavus operators have added that mode to their business (one simply lowers a small skiff off the side of his charter boat for clients to fish "self-guided." An

Elfin Cove lodge switched to "self-guided," and Eagle Charters there had a set of "self-guided" boats this year in addition to its charter boats. Amazing numbers of fish boxes were shipped from Elfin Cove this summer, and the same is likely true as usual of Excursion Inlet.

In our local area (Icy Strait, Glacier Bay, Cross Sound) as of 2009 the commercial longline fishery accounted for only about half of the total catch. The other half was divided almost evenly between charter and non-charter sport fishing. In terms of pounds the 2009 non-charter sport catch in our sub-area was larger than any of the other 2C sub-areas, even though the population of nearby communities totals only about 1,500. This can probably be explained by the large "self-guided" component within non-charter sport, a component that doubtless grew much larger in 2011. Unfortunately we do not have statistics that separate out the "self-guided" component.

One suggestion floated in the Charter Management Implementation Committee was to extend the CSP actions restricting charter catch to the non-guided sector. That would mean a 1-fish daily bag limit, and likely a size limit, applied to both charter and private sport-fishers, including the "self-guided" sector. I and some other Gustavus residents would consider that appropriate under the present low stock conditions, but I realize that others here would not find that acceptable.

I was pleased to see that the Charter Management Implementation Committee suggested sub-area management for 2C, and that the IPHC staff noted precedence in the Pacific Council's CSP, which divided Area 2A into sub-areas. By all means, do consider that. It could make it possible to develop regulations that protect local areas from decimation.

Speaking of local area decimation, I hope the announced reconsideration of methods of converting leased commercial IFQ poundage into numbers of Guided Angler Fish will deal with the fact that within Area 2C there are sub-areas with extremely different average sizes of charter-caught halibut. The "Final 2010 Sport Halibut Harvest Estimates" published by ADP&G showed the following average weights of charter-caught halibut:

2C:	26.4 lbs
"Glacier Bay"	47.4 lbs ("Glacier Bay" is Glacier Bay, Icy Strait & Cross Sound)

If the 2C average weight is used to convert commercial IFQ pounds to numbers of Guided Angler Fish, a great migration of leased IFQ catch to the "Glacier Bay" area is inevitable. Also inevitable: a substantial and uncounted over-harvest in pounds.

The larger than average halibut in our Glacier Bay/ Icy Strait/ Cross Sound area is a value that we who live here believe should be maintained. By the way, this summer a 482.5 lb. halibut was caught in the mouth of Glacier Bay by a "self-guided" fisherman using a boat that charter fishes out of Gustavus. You can view it aboard a boat at the Gustavus dock at <http://www.bdoutdoors.com/forums/alaska-british-columbia-fishing/360034-482.5-lb-95-inches.html> (accessed October 20, 2011). The current IPHC/NPI/MC management strategy would allow over-exploitation to largely wipe out this population of large

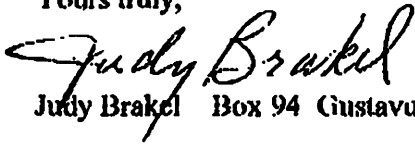
from Judy Braker
Gustavus AK

halibut. Then, according to the IPHC/NPFMC philosophy paraphrased in my first paragraph, this area would be in-filled (at least briefly) by smaller fish, which would also soon be caught.

What if that management philosophy is wrong? What if it is bad not only for the communities in these areas, but also for the "coastwide" halibut population?

A final point, a study should be made of release mortality in the charter and non-charter sport fisheries, and an estimate of release mortality in those fisheries added to the catch statistics, as is the practice with the commercial fishery. This is particularly important because the number of halibut released is now similar to the number kept.

Yours truly,



Judy Brakel Box 94 Gustavus, Alaska (907) 697-2287 judybrakel@gmail.com

PAGE 3 of 3

Homer Charter Association

P.O. Box 148 Homer, Ak. 99603

President: Gary Ault, Vice president: Donna Bondioli, Secretary/Treasury: Geri Martin,
Board Members: David Bayes, Phil Warren, Alternates: Scott Glosser, Joe Svymberski

North Pacific Fisheries Management Council

Eric A. Olson, Chairman
605 W. 4th Avenue, Suite 306
Anchorage, AK 99501-2252

November 23, 2011

The Homer Charter Association (HCA) is an organization representing eighteen charter companies and associated businesses from the Homer area. Its mission is to preserve and protect the fishing rights and resources necessary for the Homer charter fleet to best serve the recreational fishery. The Homer Charter Association submits the following comments on the proposed Catch Sharing Plan for Guided Sport and Commercial Fisheries for Pacific Halibut.

The overriding concern for HCA is maintaining the two fish bag limit and for the North Council to analyze possible alternatives to maintain a two fish limit if restrictions become necessary to stay within allocation in times of low abundance.

HCA does not support the CSP and does not support the GAF leasing.

The HCA notes that the CSP final rule that reallocates up to 30% of the guided allocation to the commercial sector and then forces the guided sector to rent it back the every next year. 30% will be taken from all guided recreational fishermen and is offered to only those guided recreational fishermen who can afford to buy a higher bag limit. The CSP sets up a class system of allocation. Only those fishermen who can afford it can buy their second fish.

Leasing GAF is unworkable, Leasing GAF will not stop overharvest and will encourage catch and release until a larger fish is caught thereby increasing possible wastage. Accounting for that GAF could be a logistical nightmare. Obtaining the fish by the charters will be a challenge and enforcing the law would seem to be a manpower intensive endeavor:

HCA Does Support:

1. **Area 3A should be regulated separately from area 2C.** The halibut fisheries are vastly different in fleet size and business makeup and should be regulated accordingly.
2. **Status Quo under the GHL with the ceiling removed.**
Since 2003, Area 3A did not share in the rising abundance of the resource due to the GHL caps and we wish to remind the council that now that stocks are declining we are told that we have not done our part for conservation. Our harvest of the resource has declined and we are indeed contributing to the conservation of the resource. Since 2008 the area 3A catch has dropped by roughly 21% thereby leaving at least 2.8 million lbs of fish in the water.
3. **Guided and unguided anglers should be treated equally.** A plan that tightly regulates only the guided recreational sector will result in harvest movement to the unguided recreational sector especially in 3A, with the end result being a decrease in overall safety for recreational anglers and little or no reduction of recreational harvest. The one fish rule discriminates against the guided angler and creates a class system of allocation.
4. **Preferred method of handling the allocation decisions is to use the council process.**

Tools to reduce catch and retain the two fish limit.

- **Timely reporting of harvest data.** Electronic, internet logbooks etc.
- **Limited closure** (June, July, August) of annual bag limit on skipper and crew fish.
- **One fish of any size and second fish of a maximum size** (minnow rule).
- **Institute a pool plan buyback program.**
- **Analyze an annual bag limit for fishermen.**

- **For long term analysis,**

Permit splitting or stacking: The LEP program is in place and could be used as a catch regulating tool as well as addressing the "latent capacity" of the charters.

If guided anglers are reduced to a one fish limit:

Splitting permits: A twelve angler permit could be used as a two fish limit for six anglers or a 20 angler permit could be used as a two fish limit for ten anglers. a 22 person permit could take 8 people fishing for 1 fish each and 7 people fishing for 2 fish each. We could price our trips accordingly.

Stacking permits:

Each permit would be worth one fish per angler – 6 pack permit = 6 fish
two 6 pack permits would be worth 12 fish – one trip / 2 permits = 12 fish for 6 anglers.

Analyze stakeholder committee recommendations post LEP.

5. **There is no analysis of the possible ramifications of program.**
 - **Do an economic analysis.**

- The outdated economic analysis used in the CSP contains major flaws that misrepresent the extent of reallocation from the guided recreational to the commercial sector.

U32"

- With the average fish caught in area 3A at 15.2 lbs one would tend to assume that a high percentage of the fish landed would be U32. The HCA would like to see the results of an analysis of just what percentage of the guided angler harvest is U32. The IPHC currently manages removals of O32 exploitable biomass according to abundance while not managing U32 removals. Our contention is that a large part of the catch of 3A charters is U32 and should not be managed under the O32 exploitable biomass restrictions. Although the exploitable biomass of halibut has declined by 50% since the late 1990s, the total biomass of halibut has continued to increase.

Bycatch

- Bycatch needs to be reduced. The HCA notes that bycatch limits of pacific halibut in Alaskan waters totaled 10.55 million pounds in 2010 and that with less than 100% observer coverage. Unlike the GHF, the proposed CSP allocation or the directed commercial fishery allocations of halibut, bycatch allowances do not float with abundance. In 2010, guided recreational anglers in Areas 2C and 3A harvested approximately 4.27 million pounds while bycatch exceeded the guided recreational catch by nearly a factor of three. We would also like to see each directed fishery held accountable for their own bycatch.

Sincerely, Gary Ault,
President. Homer Charter Association.



Alaska Longline FISHERMEN'S ASSOCIATION

Post Office Box 1229 / Sitka, Alaska 99835 907.747.3400 / FAX 907.747.3462

November 29, 2011

Mr. Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

RECEIVED
NOV 29 2011

Re: Agenda Item C-6 Halibut Catch Sharing Plan

Dear Mr. Olson and Members of the Council,

I am submitting these comments on behalf of the Alaska Longline Fishermen's Association (ALFA). ALFA members hold both Area 3A and Area 2C quota share. Although more of our members hold QS in Area 2C, our membership currently holds more QS in Area 3A in terms of IFQ pounds. I relate these facts to ensure you understand that your actions in both areas have a significant impact on ALFA's membership.

In December the Council will once again consider halibut management and allocation issues. Although not all of you have been engaged in this issue since it was first introduced to the Council in 1993, you should all be aware of the history. Since 1993, commercial halibut fishermen have asked the Council to take one definitive action: stop the reallocation of halibut from the commercial to the charter sector. In response, the Council has taken four final actions that NMFS has failed to implement. The CSP is now threatening to be the fifth.

When the Council adopted the CSP, you included four important elements to correct identified shortcomings in the GHF:

- A percentage-based allocation that ties both charter and commercial sectors to the same index of abundance;
- The pre-season specification of the CSP restrictions to **prevent** allocation overages;
- A range around the charter allocation that allows charter harvest to fluctuate without triggering changes in charter management measures;
- A market-based mechanism for transfer between sectors.

The GHF failed for seven straight years to prevent charter overharvest in Area 2C, and has not stopped the reallocation of halibut from the commercial to the charter sector in either area.

When the GHGs were set in 2003, the Area 2C and 3A percentage allocations translated to 13.05% and 14.11 %, respectively, of the combined charter and commercial catch limit.¹ In 2011 the charter allocation in Area 2C equated to 25% of the combined charter and commercial catch limit; in Area 3A, it equated to 20%. Because the charter and commercial allocations are not tied to the same index of abundance, the reallocation is ongoing, as are the impacts to the resource and historic harvesters. Again, the CSP addresses the long-standing reallocation issue and establishes an effective management system for the halibut fishery. On behalf of ALFA's membership, I urge you to move ahead with timely implementation.

2012 Management Actions

Although details of the CSP issues NOAA believes need additional Council review are not yet available, our assessment is that some CSP provisions can be implemented in 2012. These include the Guided Angler Fish (GAF) provision, which allows charter operators to lease commercial quota share, and may also include full CSP implementation in Area 2C. Accurate accounting for GAF requires that GAF be measured and the length reported—the Council needs to clarify this to the managing agencies. CSP implementation in Area 2C seems to demand only the will to complete the CSP rule making process. Tier 1 management measures, which address charter harvest restrictions at low levels of abundance, can be revised with a trailing amendment. The real source of concern relative to the CSP seems to be the 3A management matrix. ALFA supports addressing the as yet unspecified concerns through a trailing amendment as well, but if that is not the Council's will, the entire CSP should not be held hostage to the Area 3A management matrix.

Because full CSP implementation in 2012 is no longer possible, ALFA urges the Council to recommend charter management measures to the International Pacific Halibut Commission (IPHC) that **prevent** charter harvest overages in 2012. As the Council is aware, commercial catch limits in Area 2C have been reduced by 76% over the past six years and Area 3A commercial catch limits have been reduced by 44%. Charter GHG reductions should be comparable, or at minimum re-establish the 2003 GHG percentages. ALFA supports Council and IPHC recommendations that restrict charter harvest to limits that reflect the resource declines and the commercial catch limit reductions in each area.

In closing, ALFA requests that the Council urge NOAA to: 1) implement in 2012 the GAF provision and, if possible, the full CSP in Area 2C; 2) resolve any outstanding CSP issues through

¹ *The GHGs equal 1,432,000 lb (649.5 mt) net weight in area 2C, and 3,650,000 lb (1,655.6 mt) net weight in area 3A. These amounts equate to 13.05 percent, and 14.11 percent, respectively, of the combined guided recreational and commercial allowable harvest. As specified, the GHG then stairsteps down from this initial level.*

(68 Federal Register (Friday, August 8, 2003) 47258)

the trailing amendment process; and, 3) work with the IPHC to restrict 2012 charter harvest to limits commensurate with resource and commercial catch limit reductions.

Thank you for your attention.

Sincerely,



Linda Behnken
(Executive Director, ALFA)

cc:

Commissioner Campbell

Governor Parnell

Senator Begich

Senator Murkowski

Representative Young

Mr. John Fields, Senior Foreign Affairs Officer, Office of Marine Conservation, Department of State

Petersburg Vessel Owners Association

PO Box 232

Petersburg, AK 99833

Phone & Fax: 907.772.9323

pvoa@gci.net • www.pvoaonline.org

November 29th, 2011

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste #306
Anchorage, AK 99501
VIA Fax: 907.271.2817

RE: AGENDA ITEM C-6 HLAIBUT CATCH SHARING PLAN

Dear Chairman Olson and Members of the Council,

Petersburg Vessel Owners Association (PVOA) appreciates the opportunity to comment on agenda item C-6, Halibut Catch Sharing Plan. PVOA is a diverse group of over 100 commercial fishermen and businesses that participate in a variety of fisheries statewide with our foremost interest being the commercial longline fisheries managed by the North Pacific Fishery Management Council. Members provide millions of meals to the public annually by participating in a variety of fisheries statewide including salmon, herring, halibut, cod, crab, blackcod, shrimp, and dive fisheries. Many PVOA members are also active sport, personal use, and subsistence fishermen who depend on sustainable and conservative management of Alaska's fishing resources to ensure healthy fisheries for the future.

PVOA understands that NMFS has delayed implementation of the halibut Catch Sharing Plan (CSP) to obtain further guidance from the Council. Given the uncertainty regarding what guidance is needed, providing comprehensive comments at this time is difficult. **We offer the following recommendations that echo the comments provided by the Halibut Coalition in order to end the 18-year charter halibut battle we urge the Council and NMFS to:**

- Provide clear direction to IPHC to hold the charter sector in both 2C and 3A under their GHL in 2012 using management tools considered in the CSP.
- Expediently address policy questions raised by NMFS from public comments and **publish the final CSP rule by June 1 for implementation in 2013.**

- **Ensure the full expertise of Council staff is used to address public concerns with the EA/RIR/IRFA accompanying the CSP proposed rule.**
- **Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013. The use of a trailing amendment is a long standing procedure for the Council to modify previous actions based on new information or refined analysis.**
- **Publish an interim rule for 2012 allowing charter operators to lease commercial quota share (as described in the guided angler fish (GAF) section of the CSP proposed rule) that includes an accurate method of calculating GAF weight. This will provide charter clients with additional harvesting opportunity and minimize future allocation conflicts and will provide a relief valve for charter clients in this time of low halibut abundance.**

Although living with limits is difficult and unfamiliar to the charter sector in Alaska, it is imperative to the health of the halibut resource and the State's reputation of sustainability that effective management measures are put in place for charter clients. As the major removers of the resource, both commercial and charter harvesters have a vested responsibility to protect halibut abundance for current and future users. Concerns over financial devastation due to halibut regulations for the charter halibut sector in Southeast have proven to be baseless. Southeast charter halibut anglers have been regulated to less than two halibut per day per charter client since 2009 and recent ADF&G data indicates that angler demand has been stable since that time.

Both the charter halibut and the directed commercial halibut sectors are facing difficult times. With a downturn in the economy, the entire tourism sector in Alaska is feeling economic strain. Directed commercial halibut fishermen are also struggling to make payments on quota that has been severely reduced (78% in Southeast and 44% in Southcentral since 2006) due to the charter fleet being allowed to exceed their allocation and reductions in overall harvestable biomass. Implementation of the CSP in 2013 would tie both the directed commercial and charter halibut sectors to abundance and would create an environment that holds both sectors accountable for the health of the resource.

Although any comprehensive management plan can be challenging to accept, especially when that management plan implements management measures when a sector has not been faced with management measures before, one of the cornerstones of successful fisheries management in Alaska is adaptive management. Each program implemented in the North Pacific is subject to review and amending as problems are fixed and fisheries evolve. It is with this in mind that the CSP should be implemented as soon as possible.

As we have no document to comment on regarding the CSP, we have attached our comments to NMFS regarding implementation of the CSP. We have also attached a letter from one of our younger members detailing out the impacts of quota reductions on young fishermen. Thank you for your time and attention to this important matter. If we can provide further information or answer any questions as you make this important decision, please feel free to contact us.

Sincerely,



Julianne Curry
Director

Attachments:

- 1.) Charter Halibut CSP Proposed Rule Comments PVOA 2011
- 2.) Ryan Littleton CSP Letter

Petersburg Vessel Owners Association

PO Box 232

Petersburg, AK 99833

Phone & Fax: 907.772.9323

pvoa@gci.net • www.pvoaonline.org

September 21, 2011

Mr. Glenn Merrill

Assistant Regional Administrator, Sustainable Fisheries Division

Alaska Region, NMFS

P.O. Box 21668

Juneau, AK 99802-1668

Attn: Ellen Sebastian

Via E-Submission- http://www.regulations.gov#!?documentDetail=D_NOAA-NMFS_2011_0180-0001

RE: 0648-BA37 CATCH SHARING PLAN

Dear Mr. Merrill,

The Petersburg Vessel Owners Association (PVOA) is a diverse group of 100 commercial fishermen and businesses based in Alaska. Our members provide millions of meals to the public annually by participating in a variety of fisheries statewide with our foremost interest being the commercial setline fisheries managed by the North Pacific Fishery Management Council. Many PVOA members are also active sport, personal use, and subsistence fishermen who depend on sustainable and conservative management of Alaska's fishing resources to ensure healthy fisheries for the future. PVOA appreciates the opportunity to comment on the proposed rule for the commercial/charter halibut Catch Sharing Plan (CSP).

As a community, Petersburg is fully dependent on commercial fishing. Petersburg was first established in the 1890's when Norwegian immigrant Peter Buschmann built a cannery on Mitkof Island. That cannery is still in operation today, and Petersburg has grown and thrived in the commercial fishing industry. Petersburg fishermen have fished halibut in Alaska for over 100 years, and been involved in the management process from the International Pacific Halibut Commission (IPHC) to the North Pacific Fishery Management Council (NPFMC).

Petersburg fishermen helped develop the halibut fishery. They harvested halibut with the foreign fleet on the horizon, watched as their season was reduced to one or two 24 hour openings in a year, and helped pass the current Individual Fishing Quota (IFQ) program. Petersburg fishermen have also worked alongside members of the charter halibut industry for 18 years to develop a program that will tie both sectors to abundance to hold both sectors accountable for the health of the resource.

With commercial fishing as the main employer, it comes as no surprise that Petersburg consistently leads national rankings in landings and dollar value of landings. In 2010, Petersburg ranked number 21 in the nation for pounds landed with almost 50 million pounds coming across the docks¹. The 50 million pounds were valued at over \$36 million ranking Petersburg number 24 in the nation for dollar value².

Petersburg is also a leader in halibut landings and IFQ holdings. Petersburg ranked 8th in halibut landings with over 1.5 million pounds in 2010.³ Using average ex-vessel pricing for halibut sold in Petersburg in 2010, the 1.5 million pounds of halibut landed in Petersburg totaled over \$7.7 million in ex-vessel value.⁴

Petersburg fishermen hold over 26% of the Southeast (area 2C) quota share (QS) for halibut according to the 2010 permit holder database.⁵ These holdings equal well over 1 million pounds of halibut worth nearly \$6 million in ex-vessel value if sold across the dock in Petersburg. The 1,176,138 million pounds of halibut QS held by Petersburg residents in 2010 would be worth well over \$37 million based on the present market value for 2C QS of \$32 per pound.⁶

However, Petersburg residents also hold 7% of the total Central Gulf quota (area 3A). In 2010, Petersburg QS holders held more 3A quota than 2C quota, with 3A holdings totaling almost 1.4 million pounds and a dockside value of over \$7 million if sold in Petersburg. The 1,394,956 million pounds of 3A QS holdings by Petersburg residents has a present market value of almost \$49 million based on the present market value for 3A QS of \$35 per pound.

Total QS holdings for all regulatory areas totaled 2,750,942 million pounds for Petersburg fishermen in 2010. According to the Commercial Fisheries Entry Commission that halibut had a total ex-vessel value of \$13.4 million.⁷

For 2010, area 2C QS holders held 4.4 million pounds worth an estimated \$22.3 million in ex-vessel revenue and area 3A QS holders held 19.99 million pounds worth an estimated \$101 million in ex-vessel revenue. In area 2C there were 1,162 individual QS holders, 950 of which are listed as Alaskan residents (82%).⁸ In area 3A there were 1,461 individual QS holders, 1,102 of which are listed as Alaskan residents (75%).

The majority of QS holders in area 2C hold very small blocks of quota. For 2010, in area 2C the number of QS holders with 3,000 pounds or less was 653 individuals. 403 individuals held between 3,000 pounds and 10,000 pounds, 99 individuals held between 10,000 pounds and 25,000 pounds, and only 7 individuals held more than 25,000

¹ http://www.st.nmfs.noaa.gov/st1/commercial/landings/lport_yearp.html

² http://www.st.nmfs.noaa.gov/st1/commercial/landings/lport_yeard.html

³ <http://www.fakr.noaa.gov/ram/10ifqport.htm>

⁴ <http://edocket.access.gpo.gov/2010/2010-31123.htm> = \$5.06 per pound ave. ex-vessel price for halibut

⁵ <http://www.fakr.noaa.gov/ram/ifqreports.htm#participants>

⁶ http://www.alaskahalibut.com/holding_haliquota.html#quota_types

⁷ <http://www.cfec.state.ak.us/gphyccn/2010/280592.htm>

⁸ <http://www.fakr.noaa.gov/ram/rf10.pdf> page 56

pounds.⁹ Although the 2011 report to the fleet is not yet available, given the 47% reduction in 2C quota between 2010 and 2011 those numbers can be expected to be much smaller.

The numbers in 3A were surprisingly similar to those in 2C for quota share holdings. For 2010, in area 3A the number of QS holders with 3,000 pounds or less was 494 individuals. 424 individuals held between 3,000 pounds and 10,000 pounds, 316 individuals held between 10,000 pounds and 25,000 pounds, and 228 individuals held more than 25,000 pounds.¹⁰ Although the 2011 report to the fleet is not yet available, given the 28% reduction in 3A quota between 2010 and 2011 those numbers can be expected to be smaller.

Since 1995 when IFQs were first issued, halibut crewmembers have begun to acquire quota. In area 2C, the QS holdings by crewmembers in 2010 totaled 1.66 million pounds which equaled almost 38% of total holdings in the area. The 1,660,870 million pounds of 2C quota held by crewmembers had an ex-vessel value of over \$8.4 million if sold at the dock in Petersburg. Those pounds of QS would be worth \$53 million dollars based on a present market value of \$32 a pound for quota.

In area 3A, the QS holdings by crewmembers in 2010 totaled 5.4 million pounds which equaled almost 27% of total holdings in the area. The 5,400,631 million pounds of 3A quota held by crewmembers had an ex-vessel value of over \$27 million if sold at the dock in Petersburg. Those pounds of QS would be worth almost \$190 million dollars based on a present market value of \$35 a pound for quota.¹¹

Although quantifying the ex-vessel value of halibut and the value of QS is a simple task, it is difficult to enumerate the impacts of those dollars on a community. Commercial fishing is the mainstay of the local and regional economy in southeast. There are 12 communities with halibut landings in 2C; Sitka, Juneau, Petersburg, Wrangell, Hoonah, Ketchikan, Craig, Haines, Port Alexander, Port Protection, Hyder, and Excursion Inlet. Every single community in southeast has quota share associated with it.

Communities with 2C Quota Share Holdings

1 ANCHORAGE	10 FRITZ CREEK	19 KETCHIKAN	28 PORT ALEXANDER
2 ANGOON	11 GUSTAVUS	20 KLAWOCK	29 SEWARD
3 AUKE BAY	12 HAINES	21 KODIAK	30 SKAGWAY
4 CORDOVA	13 HOMER	22 METLAKATLA	31 THORNE BAY
5 CRAIG	14 HOONAH	23 MEYERS CHUCK	32 WARD COVE
6 DOUGLAS	15 HYDABURG	24 NOME	33 WASILLA
7 EDNA BAY	16 JUNEAU	25 PALMER	34 WRANGELL
8 ELFIN COVE	17 KAKE	26 PELICAN	
9 FAIRBANKS	18 KENAI	27 POINT BAKER	

⁹ <http://www.fakr.noaa.gov/ram/rtf10.pdf> page 61

¹⁰ <http://www.fakr.noaa.gov/ram/rtf10.pdf> page 61

¹¹ <http://www.fakr.noaa.gov/ram/rtf10.pdf> page 58

In area 3A, coastal communities are dependent on commercial halibut fishermen as well. There are nine communities with halibut landings in 3A; Homer, Kodiak, Seward, Yakutat, Cordova, Valdez, Whittier, Kenai, and Ninilchik.¹² 3A QS holders live in 70 different communities throughout the state.

Communities with 3A Quota Share Holdings

1 ANCHOR POINT	25 HOMER	48 PORT ALEXANDER
2 ANCHORAGE	26 HOONAH	49 PORT GRAHAM
3 AUKE BAY	27 INDIAN	50 PORT LIONS
4 CENTRAL	28 JUNEAU	51 SAINT GEORGE ISLAND
5 CHENEGA BAY	29 KASILOF	52 SAINT PAUL ISLAND
6 CHIGNIK LAGOON	30 KENAI	53 SALCHA
7 CHINIYAK	31 KETCHIKAN	54 SAND POINT
8 CLAM GULCH	32 KLAWOCK	55 SELDOVIA
9 COPPER CENTER	33 KODIAK	56 SEWARD
10 CORDOVA	34 MANOKOTAK	57 SITKA
11 DELTA JUNCTION	35 MEKORYUK	58 SOLDOTNA
12 DENALI PARK	36 MOOSE PASS	59 SOUTH NAKNEK
13 DILLINGHAM	37 NAKNEK	60 STERLING
14 DOUGLAS	38 NIKISKI	61 TENAKEE SPRINGS
15 DUTCH HARBOR	39 NIKOLAEVSK	62 TOGIYAK
16 EAGLE RIVER	40 NINILCHIK	63 TWIN HILLS
17 ELFIN COVE	41 NOME	64 UNALASKA
18 ELMENDORF AFB	42 NORTH POLE	65 VALDEZ
19 FAIRBANKS	43 OLD HARBOR	66 WASILLA
20 FRITZ CREEK	44 OUZINKIE	67 WHITTIER
21 GIRDWOOD	45 PALMER	68 WILLOW
22 GUSTAVUS	46 PELICAN	69 WRANGELL
23 HAINES	47 PETERSBURG	70 YAKUTAT
24 HALIBUT COVE		

The economic importance of the halibut industry to Alaska is immeasurable. The ex-vessel values and quota share values of halibut only produce a portion of the economic impacts to Alaska and coastal communities. Halibut vessels also contribute to the economy with their fuel purchases, groceries, moorage, sales tax, raw fish tax, and much more. With 950 2C QS holders listed as Alaskan residents and 1,102 3A QS holders listed as Alaska residents that means 2,052 individual quota share holders are contributing year round to local economies throughout Alaska. That doesn't take into account the thousands of crew jobs created by the halibut fishery, and the families that vessel owners, QS holders, and crew members support.

Although the commercial and charter halibut fleets have differences, they both provide the public with access to the halibut resource. The charter fleet brings the people to the halibut; the commercial fleet brings the halibut to the people. Each sector provides an important role in supplying the nation with halibut. Therefore, it is imperative that both sectors (as the major removers of the resource) be held accountable

¹² <http://www.fakr.noaa.gov/ranz/10ifqport.htm>

for the health of the resource to ensure that all future generations receive the benefit of a sustainable supply of halibut.

Although the Council first recognized the need to manage charter harvest in 1993, attempts to effectively control the charter sector to an allocation have not been successful. The CSP currently undergoing public comment was developed over years, through stakeholder committees, reading hundreds of letters, and after reviewing days of public testimony. Although the CSP may not always appear to be fair and equitable to the commercial halibut fleet who provides the public with around 90 million meals of halibut a year, the CSP provides the best alternative to the status quo GHL management.

The CSP effectively addresses the allocation and conservation issues that have afflicted Alaska's sustainable halibut fisheries, both charter and commercial. The CSP contains four essential components to address conservation and economic needs. First, the CSP establishes clear sector allocations between the charter and commercial sectors. A percentage allocation that will allow harvests to rise and fall with the abundance of the halibut resource has been built in to the CSP. Second, the CSP incorporates a proactive method for timely implementation of management measures to ensure that both sectors, not just one sector, are held to their allocation. Third, the CSP provides an unprecedented measure of management stability to the charter sector by ensuring an uninterrupted season of historic length, restricting charter management measures to bag and size limits, holding charter management measures stable throughout the annual fishing season, and allowing charter harvest to fluctuate within an allocation range without a change in harvest restrictions. Fourth, the CSP allows charter operators to lease QS from commercial fishermen to provide charter clients with the ability to harvest halibut above the specified charter limits in a given year. This is the market-based mechanism for inter-sector trading that provides the charter fleet with an additional level of protection in times of low halibut abundance.

When the GHL was established in 2004, it was set at 125% of the highest level of charter harvest. This gave the charter fleet 100% of their historic participation and provided an extra 25% for expansion. That was 13.1% of the combined commercial/charter harvest in Area 2C and 14.0% in Area 3A. In the CSP, the Council granted the Area 2C charter fleet 15.1% to 17.3% of the combined commercial and charter quota. The higher percentage will be granted at times of low halibut abundance. In Area 3A, the CSP charter allocation is 14% to 15.4% of the combined quota. The higher percentage will be granted at times of low halibut abundance. In other words, the CSP allocation is at least equal to, and at times of low abundance, greater than the GHL allocation. Adoption of the CSP manages to blend both the historic dependence of the commercial fleet with the recent participation of the charter fleet. Although many commercial halibut fishermen feel that the allocation percentages for the charter sector are too high under CSP management, they are willing to sacrifice in order to have the CSP be adopted and finally hold both sectors responsible for the conservation, health, and sustainability of the halibut resource.

Although both the 2C and 3A quotas are dropping to extremely low levels and under CSP management the charter sector in area 3A will be looking at management restrictions they have not yet faced, the recent drops in 3A quota have severely limited the ability of commercial halibut fishermen to provide the public with access to halibut. Since the IPHC began managing halibut, 3A quotas have dropped below 15 million pounds 12 times. The amount of harvestable halibut across the state is in a period of steep decline. When the halibut stocks are declining at the current rate, it is important for all major sectors to reduce their efforts to ease pressure on the biomass. Although reductions to the commercial and charter fleet reduces the amount of fish available to the public, both sectors must share in the pain and the gain of resource fluctuations to ensure a sustainable halibut fishery for the future.

The leasing provisions built into the CSP will help ease the pain that will be felt by the charter fleet when faced with conservation reductions. PVOA members fish most of their halibut before June and rather than exceed their allocation, many commercial fishermen leave a margin of their quota unharvested on their last trip because commercial operators are allowed to carry over to the next year 10% of their annual allocation. That margin could be leased with the understanding that charter operators return any unused portion to the commercial quota holder at the end of the charter season, and only pay for quota that is actually used by charter clients. Given most PVOA members harvest their halibut before the majority of charter halibut is caught, it is likely that both sectors will benefit from the leasing provisions. With 653 2C QS holders and 494 3A QS holding less than 3,000 lbs of 2010 quota (less in 2011) it is difficult for many QS holders to justify fishing their quota with the rising cost of fuel and other expenses. PVOA members with small QS holdings have expressed genuine interest in the ability to lease that quota to their neighbors in the charter fleet. The ability to lease quota between the sectors will also put an end to the allocation feuds between commercial and charter operators that have damaged coastal Alaska for almost two decades.

Although both the commercial and charter sectors could argue the benefit of additional economic analysis be conducted when commenting on a proposed rule, we are limited by information available and relevance. When the charter sector filed suit to overturn a one fish bag limit in southeast, the Court concurred with the Secretary's findings; "[t]he Secretary gave little weight to quantitative estimates of the economic impact of the Rule because it is not appropriate to compare the economic impact to the commercial sector with the economic impact to the charter sector when their products are so very different." *Van Valin v. Lock*, 671 F.Supp.2d at 16.

Delaying implementation of the CSP to conduct additional economic analysis will, in turn, create additional economic hardship to both sectors. By continuing with the status quo GHM management, charter overages in area 2C will continue to be deducted from the commercial quota not only causing economic harm to QS holders, crewmembers, and communities dependent on the commercial halibut fleet, but will also reduce the amount of halibut available to consumers in the market place which takes away from the ability of the American public to access the resource. Uncertainty in regulations has been a claim in reductions in charter bookings in a given year. By implementing the CSP, the

charter sector will experience the benefit of adequate notice of future bag limits. With the status quo GHL, the charter sector will continue to face uncertainty regarding bag limits and possibly suffer economically until an alternative to the GHL is adopted.

Specific to the proposed rule and the EA/RIR/IRFA, PVOA supports the detailed comments submitted by the Halibut Coalition beginning on pages 54 and 58. We have provided a brief summary of our suggested changes to the proposed rule below.

- 1.) Clarify in any regulations that either the GHL or CSP allocations are a "benchmark".
- 2.) In conversion of GAF fish, move to an average weight that is more representative of what a client going for a second fish would catch. PVOA fully supports GAF holders be required to allow ADF&G and IPHC scientific personnel being allowed access to private property owned by GAF permit holders in order to monitor GAF and collect scientific data.
- 3.) Clarify the regulatory language at proposed section 300.65(c)(6)(iv) titled "GAF Use Restriction" that states QS holders may only convert to GAF commercial quota they held as of January 1 as one interpretation of this language is that a QS holder would be eligible to lease IFQ as GAF only if that person held QS when IFQ permits were initially issued for that year. To avoid any misunderstandings on the part of charter or commercial fishermen, this section should be clarified.
- 4.) At 76 Fed Reg. 44173, the Proposed Rule requests comments on the use of proposed Methods A, B, C, or other potential methods to establish maximum lengths under the CSP. We support Method B. This is the most biologically conservative method proposed under the CSP and will provide the most benefit to the resource. As catch accounting in the charter fishery improves and regulators gain experience with size limit management in the halibut charter fishery, it may be appropriate to revisit the algorithm and adjust the methodology.
- 5.) With the issue of catch accounting, PVOA supports the requirement that charter operators be required to retain the halibut carcass when a maximum size limit is in place, and not disfigure or mutilate a halibut such that the size and number of halibut harvested is difficult to ascertain under any bag or size limit.
- 6.) PVOA supports the prohibition on charter operator, guide and crew retention of halibut while engaged in guiding efforts in both Areas 2C and 3A. This prohibition will reduce charter harvest by approximately 4.5% in Area 2C and 10.4 percent in Area 3A. These reductions are consistent with CSP objectives and will ensure guided clients are provided maximum opportunity to harvest halibut while still restraining the sector's catch to its allocations.
- 7.) In managing and accounting for charter harvest, it is essential that management remained firmly focused on the charter allocation as the management target. The management range of 3.5% above and below the allocation is intended to minimize changes to charter bag and size limits while still preventing resource overharvest.

Thank you for your time and attention to this important matter. We urge for a timely implementation of the CSP to provide stability for the commercial and charter sectors in time for the 2012 season. Both sectors provide the public with access to the halibut

resource and we both deserve the benefit of effective abundance-based management. If we can provide further information or answer any questions as you move the CSP forward, please feel free to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julianne Curry', written in a cursive style.

Julianne Curry
Executive Director

Ryan Littleton
F/V Angjel
PO Box 2143
Petersburg, AK 99833
rvanlittleton@hotmail.com

September 5, 2011

Mr. Glenn Merrill
Assistant Regional Administrator, Sustainable Fisheries Division
Alaska Region, NMFS
P.O. Box 21668
Juneau, AK 99802-1668
Attn: Ellen Sebastian
E-Submission- <http://www.regulations.gov/#/documentDetail;D..NOAA-NMFS-2011-0180-0001>

Re: 0648-BA37 Catch Sharing Plan

Dear Mr. Merrill,

I SUPPORT the catch sharing plan and detailed comments submitted by the Halibut Coalition.

My name is Ryan Littleton, and I began commercial fishing around the age of five in 1980 with my father on his boat. Over the years, I have built a commercial fishing business on the back of hard work, time, and lots of money. As a commercial halibut fisherman who was born and raised in Petersburg, Alaska I have been taught the value of a hard day's work, and I choose to live in a community where commercial fishing is the mainstay of our local economy. As a lifelong commercial fisherman, I also make every effort to bring all my fish back to Petersburg to ensure that the community receives the benefit of the landings dollars in the raw fish tax that returns to town to support our harbors, schools, and local infrastructure. Given I live in Petersburg year round, the community benefits from my fishing revenue with the money I spend on taxes, groceries, fuel, goods and services.

Now at the age of 36, I am running the family boat where my crew and I fish our halibut quota. My ability to run a profitable commercial fishing business has been severely impacted by my loss of halibut quota. I purchased my first two blocks of halibut IFQs in 2008, and two more blocks in 2010 as detailed in the chart below. I took out loans to pay for each of my blocks of quota, and have watched as my initial investment of \$421,701 for 16,759 pounds of halibut quota has been diminished to a value of \$224,841 for 7,026 pounds. Even if I were to keep 100% of the profits from the sale of my fish, I wouldn't come close to covering my loan payment in 2011. If I sold my IFQs, I would not cover my initial investment. The loss of quota has forced me to participate in more fisheries in an attempt to make up for the loss of revenue I am experiencing with halibut. I am now fishing year-round with very few breaks to do basic vessel maintenance or to recover from the intense physical labor associated with commercial fishing.

My Investment in the halibut fishery:

Year Purchased	Units	Pounds Purchased	Purchase Price/ Initial Investment
2008	23,621	2,463	\$56,863
2008	91,252	9,515	\$247,488
2010	20,877	1,542	\$38,000
2010	43,833	3,239	\$79,350
Total	179,583	16,759	\$421,701

2011 Information

Total Pounds Left in 2011	7,026
Current Value of Pounds 2011	\$224,841
My Average ExVessel Price	
2011	\$6.40 /lb.
IFQ Loan Payment 2011	\$53,000
My IFQ Revenue 2011	\$44,968

The allocation percentages adopted by the Council in October 2008 are fair and equitable because they protect historic consumer access, the setline fishery, coastal communities, and provide a reasonable level of access for guided anglers at all levels of halibut abundance. It is important for all sectors to share in conservation of halibut, equally, at all abundance levels.

Under the CSP, the IPHC is not setting the allocation, this process develops the allocation and appropriate actions that will be annually set through the IPHC process. This is the most effective and timely way to make these decisions within Council guidelines.

The CSP promotes conservation by providing a pre-season effective means (bag and size limits) to control charter harvest and keep the conservation targets. This will correct previous problems with the charter sector frequently exceeding their allocation under the status quo GHL.

Method B (maximum size selection) is the method most likely to result in the charter sector staying within allocation and promoting conservation of the resource. Managers must carefully monitor charter catches (e.g. size) and select the necessary tools to keep the charter sector within their allocation each year.

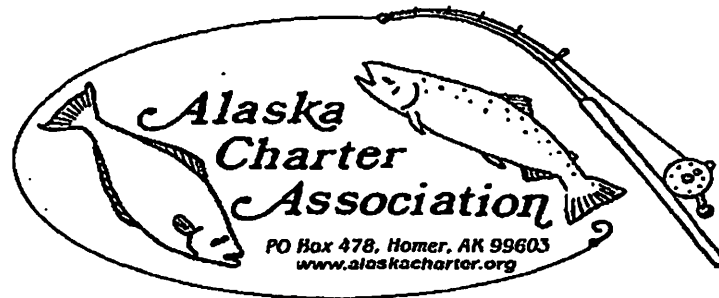
The opportunity for individual charter operators to annually lease "Guided Angler Fish" (GAF) from individual QS holders at a market based price is an important tool for guides. It allows an opportunity for a larger size fish if their clients so desire.

My family, my crew, and my fishing business are all dependent on income from the halibut setline fishery and uncompensated reallocation to the charter sector hurts both my family and the community of Petersburg where I choose to live and work. Thank you for the opportunity to

comment on this important issue, I look forward to the CSP passing in a timely manner for implementation as soon as possible.

Sincerely,

Ryan Littleton
F/V Angjel
PO Box 2143
Petersburg, AK 99833
ryanlittleton@hotmail.com



"To Preserve and Protect the Rights and Resources of Alaska's Sport Fishermen"

November 29, 2011

Mr. Eric Olson, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Ak. 99501-2252

Re: C-6/Halibut Catch Sharing Plan

Dear Mr. Olson,

The Alaska Charter Association (ACA) is a statewide organization representing over 170 charter and associated businesses. Our mission is to preserve and protect the fishing rights and resources necessary for the Alaskan charter fleet to best serve the recreational angling public.

The ACA is very concerned about the Halibut Catch Sharing Plan (CSP) and its implications to the future of the sport halibut fishery. As you may recall, we previously highlighted general concerns about the CSP to the North Pacific Fishery Management Council (Council) during its April and October 2010 meetings. When the proposed CSP was published in the Federal Register, we responded with detailed comments in a letter addressed to Mr. Glenn Merrill of the National Marine Fisheries Service (NMFS), dated, September 15, 2011. The letter is attached, and should be reviewed along with the forthcoming NMFS report on CSP deficiencies so concerns can be remedied and long-term solutions created.

A brief summary of the ACA's major concerns with the proposed CSP follows:

- 1) The proposed CSP relied on outdated data and assumptions and lacked a comprehensive social-economic study.
- 2) A CSP should mirror the GHL allocation. The GHL was endorsed by the Secretary of Commerce and re-affirmed by a federal court as "fair and equitable." The proposed CSP is not consistent with Executive Orders 12962 and 13474. Re-allocating fish from the guided sector to the commercial sector, even lacking analysis, will exacerbate leakage issues between the guided and non-guided recreational fisheries.
- 3) A CSP matrix of harvest measures should not include "frame-working." And it should not rely on the International Pacific Halibut Commission (IPHC) to make domestic harvest decisions. It

should incorporate a greater range of harvest measures and allow annual bag limits by skipper and crew based on abundance.

- 4) The proposed CSP's Guided Angler Fish (GAF) will increase, rather than reduce conservation concerns based on average size assumptions. It conflicts with the established International Pacific Halibut Commission (IPHC), state and federal regulations on the "sale" of fish by the recreational sector. Leasing limitations results in an arbitrary range of 25 to 86 fish per angler endorsement depending on whether the Charter Halibut Permit contained 6 to 24 endorsements. The GAF provision should be replaced with a well vetted "Pool Plan."

The ACA appreciates this opportunity to express our concerns to the Council and appreciates its foresight by creating the Charter Halibut Management Implementation Committee to develop short and long term solutions. For short-term Tier 1 recommendations, the ACA suggests the following to be analyzed for potential implementation in 2012:

Area 2C

- 1) A reverse slot limit range that would achieve harvest goals.
- 2) A maximum size limit that would achieve harvest goals as well as a maximum size limit that would likely achieve 90% of the allocation.
- 3) Two fish under 32" or one fish above 60".

Area 3A (If restrictions are warranted)

- 1) Annual bag limits for skipper and crew fish; or removal of skipper and crew fish for either a portion or all of the season.
- 2) One fish of any size and a second fish to achieve harvest goals.

For the long term, the ACA suggests the following items be considered and analyzed:

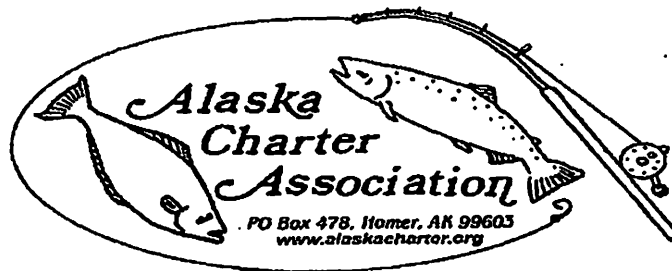
- 1) Incorporate the findings of the proposed social-economic study.
- 2) Under 32" fish (U32): What portion of the GHJ harvest includes U32s for each area?
- 3) Enhance methods of timely data reporting via phone or internet including the measuring harvested fish.
- 4) Bag limit of one fish per day with an annual limit of one fish of any size.
- 5) Bag limit of two fish a day of a maximum size limit.

The ACA notes that the debate about charter issues started many years ago. We know some want to hurry-up the process. We also know this can lead to mistakes. Meaningful solutions take time with adequate consideration for all parties involved. The ACA appreciates this opportunity and the Council for taking the time to develop workable solutions. Thank you for your consideration.

Sincerely yours,


Gregory M. Sutter
President

Attachment



"To Preserve and Protect the Rights and Resources of Alaska's Sport Fishermen"

September 15, 2011

Glenn Merrill
Assistant Regional Administrator
Sustainable Fisheries Division
NMFS Alaska Region
PO Box 21668
Juneau, AK 99802-1668
Attn: Ellen Sebastian

Re: RIN 0648-BA37

Dear Mr. Merrill,

The Alaska Charter Association (ACA) is a statewide organization representing over 170 charter and associated businesses. Its mission is to preserve and protect the fishing rights and resources necessary for the Alaska charter fleet to best serve the recreational fishery. The ACA submits the following comments on the proposed Catch Sharing Plan for Guided Sport and Commercial Fisheries for Pacific Halibut that was published in the Federal Register on July 22, 2011.

In October, 2008, the NPFMC passed a Halibut Catch Sharing Plan (CSP) for the guided recreational and commercial halibut fishery in IPHC Areas 2C and 3A in Alaska. The plan includes a revised recreational allocation, a frame-worked set of non-discretionary harvest rules for the guided sector, and a provision allowing the leasing by charter halibut permit holders of commercial individual fishing quota (IFQ) converted to Guided Angler Fish (GAF) for resale to guided anglers. Each feature has serious flaws that require resolution. Conservation is not served by the proposed rule, as multiple elements combine to degrade accountability of both the guided recreational and commercial harvests relative to the status quo. At all but the very highest abundance levels, the guided allocations under the CSP in Areas 2C and 3A are up to 30% less than the corresponding allocations under the GHL which have recently been affirmed by the Court to be fair and equitable. The analysis contains out of date and miscalculated projections, non-factual statements and incomplete economic data, resulting in analytical conclusions that do not reflect reality. The ACA asks the Secretary to reject the proposed rule as arbitrary and capricious.

1.0 Conservation: Harvest Accountability

Harvest accountability is severely compromised by several elements of the proposed rule. Harvest projections have been deemed inadequate by the North Council SSC for management within guided allocation. The CSP matrix contains logic flaws that leave the door wide open to overharvest of the guided allocation. GAF fish size determination is based on seriously flawed logic, compromising commercial harvest accountability. All combine into a plan that compromises accountability relative to the status quo, raising serious conservation concerns.

1.1 Conservation: Accountability and Harvest Projections:

The Alaska Department of Fish and Game (ADF&G) has expressed concern about being able to accurately project charter harvests under the default rules¹. The International Pacific Halibut Commission (IPHC) has echoed these concerns.² It is difficult if not impossible to predict the effects of harvest restrictions on angler effort, especially under uncertain economic conditions. This could result in actual harvests exceeding allowable harvest range, which would represent a greater than 3.5% overharvest of the combined catch limit.

In cases where a change in harvest rule results in an expected change in average fish size³, ADF&G will not be able to use the prior year's average fish size in its projected harvest calculations and will instead be forced to project average fish size as well as projected angler effort. This adds another layer of uncertainty to the harvest projections.

NMFS states in the proposed rule:

“NMFS recognizes that guided sport halibut removals may exceed the guided sport catch limit in some years, and removals may be under the catch limit in other years, similar to variations in guided sport harvest under the GHL program. However, the Council anticipated, and NMFS agrees, that over time, halibut harvests in the guided sport sector under the CSP would balance out around the guided sport catch limits to ensure that conservation and management objectives are achieved. Conservation of the halibut resource would be ensured because the IPHC would continue to account for all removals when determining the annual combined catch limit under the CSP. IPHC stock assessments would continue to account for guided sport harvests that exceed the sector's catch limit. Operationally, overages would result in a corresponding decrease in the combined guided sport and commercial catch limit in the following year.”⁴

The ACA observes that the term accountability implies management *within* allocation. *There is no guarantee that guided over-harvests will balance out with under-harvests over time, especially if annual harvest rule decisions are non-discretionary. Further, NMFS assertion of ensured conservation of the resource is incorrect because the IPHC is most certainly not accounting for all removals when determining the combined catch limits as claimed by NMFS.* In fact, assuming assessments are perfect, at a 20% harvest rate, only 1/5 of the prior year's overage would manifest itself

¹ <http://www.fakr.noaa.gov/npfmc/PDFdocuments/halibut/HarvestProjectionsDisc709.pdf>
<http://www.fakr.noaa.gov/npfmc/PDFdocuments/halibut/HalibutCSPdisc709.pdf>

² Letter from IPHC to NPFMC dated September 30, 2010 (attached)

³ For example, a rule restricting the maximum retained size to 35 inches or conversely, a rule lifting a maximum size restriction, will not have recent average size history on which to project average sizes for that rule.

⁴ Federal Register Vol. 76, No. 141, Friday, July 22, 2011, p 44163

as reduced combined catch limits in the following year. The remainder would manifest itself in following years. *An important implication is if guided harvests exceed allocation for several years running, it will result in realized harvest rates consistently exceeding the target harvest rate, creating a conservation concern.* The ACA points out that this is precisely what has happened with GHL overages since 2007⁵ and 5 years of "Fast Down" commercial TAC adjustments in Area 2C⁶, with very undesirable results. The ACA strongly suggests that NMFS consult with the IPHC on the wisdom of continually exceeding target harvest rates⁷. *Plain and simple, responsible management of domestic harvest requires that all user groups be managed to their respective allocations at all times.*

ADF&G brought the issues with projections to the North Council Scientific and Statistical Committee (SSC) in February 2009. The SSC commented "that the magnitude and range of uncertainties will prevent the forecast accuracy to be anywhere near the plus or minus 3.5% allowed in the charter range allocation of the preferred alternative⁸." (Emphasis was added by the SSC.) The revised analysis includes this quotation but makes no conclusions. The very first sentence of the North Council's CSP motion lists sector accountability as one of its main goals:

"The purpose of the proposed action is to create a catch sharing plan that establishes a clear allocation, with sector accountability, between charter and setline sectors in Areas 2C and 3A."⁹

The SSC's observation that harvest projections will lack the accuracy to ensure sector accountability is proof positive that one of the Council's two stated goals will not be achieved by the preferred alternative. The ACA suggests that NMFS consider why it would move forward with publishing a proposed rule, knowing full well that the North Council's SSC, the acknowledged subject matter experts in this area, have concluded that accountability is not served by the preferred alternative.

1.2 Conservation: Accountability under the CSP Matrix

At the two highest abundance levels for Areas 2C and 3A, if projected harvest exceeds allowable limits, a more restrictive rule is automatically chosen. For instance in tier 4, the default harvest rule would be 2 fish of any size. If guided harvest under this rule is projected to exceed the allocation range, the "minnow" rule (one fish any size, plus one fish less than 32 inches in length) is the non-discretionary rule chosen. However there is no check to make sure that projected harvest is within allocation limits under this non-discretionary but more restrictive rule. The result is the loss of accountability under the more restrictive rules at the two highest levels of abundance. History has shown that changing the harvest rule from two fish any size to the minnow rule did not result in harvest within allocation. The same happened when the harvest rule was changed from the minnow rule to one fish in Area 2C. At the right abundance levels, it is conceivable that this condition could persist for several years in a row because the selection of harvest rules is non-discretionary.

⁵ The IPHC has substituted the GHL for the best scientific estimates of guided removals since 2007. Prior to 2007, the IPHC used the best scientific estimates for guided removals in its yearly calculations, meaning that overages were accounted for in the yearly calculations.

⁶ "Fast Down" and non-scientific "other considerations" resulted in Area 2C commercial TACs that exceeded the fishery CEY by 7.67 million pounds between 2006 and 2010.

⁷ See page 151 of the 2011 IPHC Blue book for a brief discussion of FD, other considerations and their effect on a declining biomass.

⁸ February 2009 NPFMC SSC Minutes, <http://www.fakr.noaa.gov/npfmc/PDFdocuments/minutes/SSC209.pdf> and quoted without further comment in the EA/RIR/IRFA on page 146.

⁹ <http://www.fakr.noaa.gov/npfmc/PDFdocuments/halibut/HalibutCSPmotion1008.pdf> p 1.

Once again, the ACA asserts that one of the Council's two stated goals, sector accountability, is not achieved due to this flaw.

1.3 Conservation: Allowable Harvest Range

The proposed rule specifies an allowable range for guided harvest of the guided allocation plus or minus 3.5% of the combined catch limits adopted by the IPHC. By treaty between the United States and Canada, the International Pacific Halibut Commission is authorized to develop the stocks of halibut in the Convention waters to those levels which will permit the optimum yield from the fishery and to maintain the stocks at those levels¹⁰. Neither nation is prohibited from establishing additional regulations, applicable to its own nationals and fishing vessels, and to fishing vessels licensed by that nation, governing the taking of halibut which are more restrictive than those adopted by the International Pacific Halibut Commission.¹¹ *By inference it should be obvious to the Secretary that neither nation is allowed to develop domestic regulations that are less restrictive than those adopted by the IPHC.* Yet, the CSP suggests an allowable charter allocation range of charter allocation plus or minus 3.5% of the combined catch limits established by IPHC. This means that under the CSP, combined commercial and charter harvest could be as much as 103.5% of the total allowable catch and would likely be higher than 103.5% as the North Council's SSC has observed¹². *From the standpoint of sustainability as well as international law, IPHC catch limits must be adhered to. The CSP fails this test miserably. The ACA suggests that the Secretary has no option other than to reject a proposed rule that fails such obvious tests.*

1.4 Conservation: Guided Angler Fish (GAF) Average Fish Size

Accountability is seriously compromised by the algorithm used to determine GAF conversion. The GAF conversion factor is proposed to be calculated using the previous year's average fish size for all charter caught fish¹³. This is problematic for several reasons:

- This conversion factor fails to consider the fact that GAF may be used in conjunction with harvest rules specifying a maximum size fish. For instance, in Area 2C in 2011, the harvest rule in place is one fish under 37 inches, and the average fish size through the end of June is 9.9 pounds¹⁴. It is easy to see that issuing GAF at a conversion of 9.9 pounds/GAF would result in overharvest of the IFQ converted to GAF, since the sole reason for buying a GAF is to increase the bag limit to something over 37 inches, and preferably something BIG.
- There is no guarantee that the area-wide harvest distribution of GAF fish will match the distribution of non-GAF guided recreational fish, and there is good reason to believe it will not. For instance, in Area 2C for 2008, the average fish size was 19.4 pounds, but sub-area averages ranged from 9.2 pounds in Prince of Wales Island to 45.3 pounds in Glacier Bay. As a result, all GAF in Area 2C would be sold as though they were a 19.4 pound fish, but charter operators on Prince of Wales Island may balk at buying GAF because on average they are paying twice as

¹⁰ Protocol amending the Convention between Canada and the United States of America for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, available at http://www.lexum.com/ca_us/en/cts.1980.44.en.html

¹¹ Ibid.

¹² February 2009 NPFMC SSC Minutes, <http://www.fakr.noaa.gov/npfmc/PDFdocuments/minutes/SSC209.pdf> and quoted without further comment in the EA/RIR/IRFA on page 146.

¹³ Federal Register, Vol. 76, No. 141, Friday, July 22, 2011, p 44186.

¹⁴ ADF&G Comparison of Area 2C, 3A Charter Harvests Through June, 2006-2011 (attached)

much for half the weight, while others in Glacier Bay may use GAF because on average they are getting twice as much at half price. If GAF harvest distribution is skewed North in Area 2C, the result will be an overharvest in pounds of IFQ converted to GAF.

- In addition, GAF are presumably to be included in the average fish size sampling used in the following year for the entire charter allocation. GAF would be used to increase charter limits up to two of any size per day. If an area is managed under a size restriction rule, the addition of GAF to the collected average size data will *increase* the average fish sizes for next year, conceivably above the average fish size that was capped by the size limit. *Since average fish size is a key element in projecting guided harvest, an artificially high average fish size could result in inequitably restrictive harvest regulations in the following year.*

The ACA suggests that the Council should have more carefully analyzed how a charter operator might utilize GAF. GAF is much more likely to be used as the opportunity presents itself and not as a pre-planned event. Using IPHC Regulatory Area 2C as an example, an operator holding GAF for sale is likely to announce the ability for his clients to harvest a larger fish for a price, but the client is not likely to harvest a small fish with a GAF. More likely, if and when a large fish is brought to the surface, the client will be given the option to harvest that fish as a GAF. Large halibut are usually quite docile if left in the water, allowing plenty of time for the angler to make the decision to purchase a GAF.

GAF based on average charter caught fish sizes results in inequitable pricing. Using the Glacier Bay/Prince of Wales Island example, an angler buying a GAF will pay for a 19.4 pounder, but on average will take a 9.2 pounder on Prince of Wales Island and a 45.3 pounder in Glacier Bay. From the perspective of a charter operator, Prince of Wales Charter Operators will be paying twice as much per landed pound on average while Glacier Bay Operators will be paying half as much per landed pound.

Average weights calculated by ADF&G have been wrong by large amounts in the past. In 1998 the average weight in Area 2C was off by almost 50%¹⁵. If an error of this magnitude occurs again with GAF or the guided recreational harvest tabulation, the entire fishery as well as guided fishing opportunities will suffer. Finally, enforcement of GAF program is impossible because GAF are not distinguishable from non-GAF on the water.

Plain and simple, GAF average fish sizes must be calculated using fish harvested as GAF, and charter average fish sizes must exclude GAF. A decision to do otherwise will compromise accountability of both charter and commercial harvests and is therefore contrary to one of the Council's stated goals.

1.5 Conservation Conclusions

The ACA observes that the Halibut Act mandates that allocations be reasonably calculated to promote conservation.¹⁶ From the four preceding sections, it is abundantly clear that the Catch Sharing Plan fails to satisfy this requirement. *The Secretary must therefore reject the proposed rule on the grounds that it violates the Halibut Act.*

¹⁵ ADF&G Harvest Estimates available at

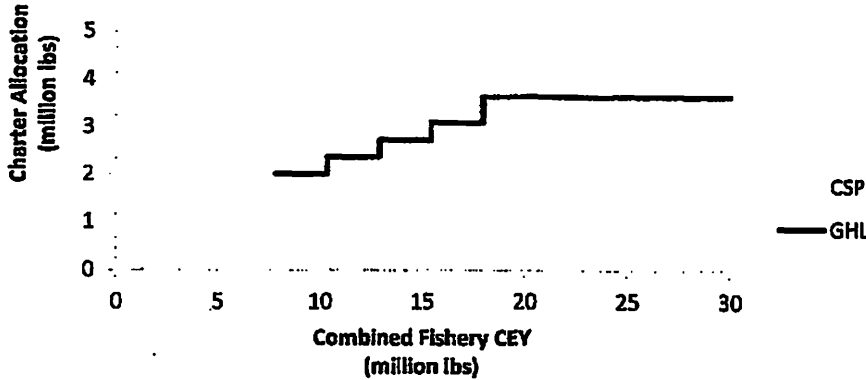
http://www.fakr.noaa.gov/npfmc/PDFdocuments/halibut/Area2C3A_Final2009ADFGdata.pdf

¹⁶ Halibut Act, 16 USC § 773c

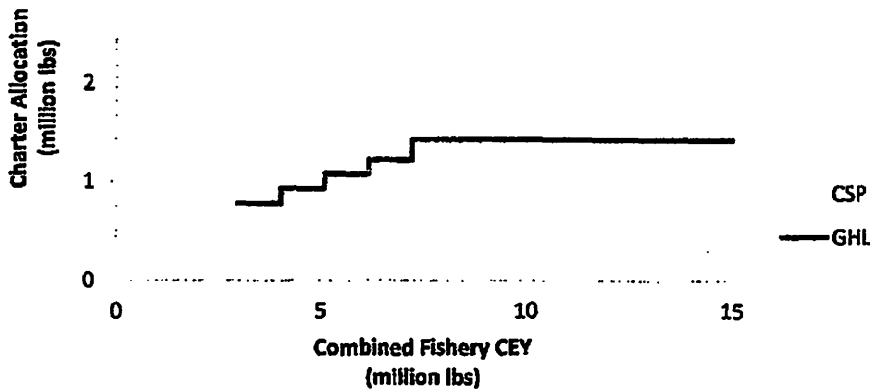
2.0 Allocation

Included below are graphical comparisons of charter halibut allocations under the status quo Guideline Harvest Level (GHL) and the CSP for Areas 3A and 2C¹⁷. The GHL is the upper, stair-stepped line in both graphs. The CSP allocations are the lines below the GHL and beginning at the origin.

Area 3A: Comparison of Allocations under CSP and GHL



Area 2C: Comparison of Allocations under CSP and GHL



The x axis represents a combined fishery constant exploitation yield (fCEY) that will be the basis for combined catch limits (CCL) chosen by the IPHC for guided recreational and commercial fisheries under the CSP. A vertical line drawn at any selected fCEY will intersect the GHL at its status quo value and the CSP Allocation at the fCEY. Due to the application of IPHC policy, the actual charter allocation under

¹⁷ NMFS is encouraged to consult with the ADF&G Statewide Bottomfish Coordinator to validate these comparisons.

the CSP could be more or less than its value at the fCEY¹⁸. *Regardless of where the CSP allocation falls relative to the fCEY, reviewing the graphs, the obvious conclusion is at all but the very highest abundance levels, the guided allocation under the CSP is up to 30% less than the guided allocation under the status quo GHL. It should be noted that the difference between the GHL line and the CSP line represents guided allocation that will be reallocated to the commercial fishery. The ACA observes that NMFS has failed to admit in the analysis and the proposed rule the full extent of this massive reallocation of resources and its impact to coastal economies and guided anglers.*

The abstract to the analysis states the following:

"The allocations for the lowest tier of combined catch limits used the same formula selected by the Council to set the GHLs. (emphasis added) These percentages were the highest charter percentage allocation options that were considered by the Council and would yield the largest projected gross revenue for the charter sector each year. The allocations at higher combined catch limits are the second highest percentage allocation options for each area considered by the Council. The analysis found that these allocations would exceed projected future harvests and that more restrictive management measures would not be required¹⁹." (emphasis added)

The ACA notes the obvious discrepancy between the graphical comparisons on page 5 and the first italicized statement in the preceding paragraph. Reviewing the graph, it is clear that the CSP allocation is well below the lowest levels in the corresponding GHL calculations. *For example, in 2011 the GHL in Area 2C is 788,000 pounds and is at its lowest level. The corresponding CSP allocation is 539,000 pounds, over 30% less than the GHL. This hard fact renders the first italicized statement patently false.*

The ACA very strongly suggests that NMFS recheck its math and analytical conclusions for correctness and advises close coordination with ADF&G's Statewide Bottomfish Coordinator.

Included below are direct comparisons of the GHL and CSP allocations that would be in place using actual abundance levels from 2008 through 2011²⁰. Reviewing them, it is readily apparent that the second italicized statement in the quoted statement is also false. Later in the analysis on pages 134 and 135, the analysis states that the CSP allocations would be much less than claimed in the abstract, and more restrictive management measures would indeed be required²¹.

¹⁸ IPHC implemented "Slow Up-Full Down" at the 2011 IPHC annual meeting, eliminating the gifting of millions of pounds well in excess of target removal levels to commercial fishermen in areas 2C and 3A. However, IPHC has in the past set TACs higher and lower than the fishery CEY for non-scientific (political or economic) reasons, and could do this again.

¹⁹ CSP EA/RIR/IFRA June 23, 2011. Available at:

<http://www.fakr.noaa.gov/sustainablefisheries/halibut/analyses/cspea062011.pdf> P i.

²⁰ Methods: 1. Subtract the GHL from "other removals" used by IPHC in its annual catch limits calculations. 2. Subtract this result from the total CEY to arrive at a combined fishery CEY. 3. Refer to CSP matrix to determine charter allocation percentage for the combined fishery CEY. 4. Multiply combined fishery CEY to determine charter allocation in millions of pounds. NMFS is encouraged to consult with ADF&G Statewide Bottomfish Coordinator on the validity of these calculations.

²¹ Ibid. p 145-6.

Area 3A: Comparison of GHL and CSP Allocation

Year	GHL	CSP Allocation	CSP vs GHL
2008	3.650	3.626	-0.66%
2009	3.650	3.4286	-6.07%
2010	3.650	3.0702	-15.88%
2011	3.650	2.5214	-30.92%

Area 2C: Comparison of GHL and CSP Allocation

Year	GHL	CSP Allocation	CSP vs GHL
2008	0.931	0.837493	-10.04%
2009	0.788	0.631104	-19.91%
2010	0.788	0.549794	-30.23%
2011	0.788	0.539414	-31.55%

The ACA notes that the projections cited in the analysis for expected Area 3A harvest levels are out of date²². Table 71 on page 131 states that Area 3A projected charter allocations would range from 4.24 million pounds in 2010 to 5.89 million pounds in 2015 and that expected harvest restrictions would be 2 fish of any size. Using actual 2011 data, the Area 3A tier would be 2, the allocation would have been 2.52 million pounds, and the harvest rule would have been 1 fish. It should also be noted that the biomass trend in Area 3A through 2011 is down. The ACA notes that projections for Area 2C are likewise out of date, with projections for 2011 suggesting a charter catch limit of 1.02 million pounds, when in actuality the allocation would have been half that amount. The IPHC has informed the ACA that the projections were made 3½ years ago in 2008. Since then, among other things, the IPHC has suspended its Slow Up-Fast Down (SUFDD) policy and of course it now has the knowledge and experience of what the stock has done from 2008 through 2010.

The ACA asked the IPHC if up to date area projections for Areas 2C and 3A were available and the answer was negative. Quantitative Scientist Dr. Steven Hare of the IPHC commented:

“We have only made coastwide (not individual regulatory area) CEY projections, and even those we often are backing away from as soon as we show them. I have just not found it to be a useful exercise. The coastwide projections are illustrated in the RARA stock assessment document if you really want to have a look. At the annual meeting this year, we had a cautionary set of alternate projections prepared and presented by Juan Valero – they were much less optimistic than the “naïve” projections that I typically run²³.”

Since Dr. Hare candidly admits little if any utility to be gained from projecting area CEYs and since tables 70 and 71 so incorrectly reflect the reality of what has come to pass, and finally, since NMFS uses these tables to incorrectly predict a minimal impact to guided recreational allocation and harvest restrictions, the ACA very strongly suggests that the Secretary must reject the proposed rule.

²² CSP EA/RIR/IFRA June 23, 2011. Available at:

<http://www.fakr.noaa.gov/sustainablefisheries/halibut/analyses/cspea062011.pdf> P 131.

²³ Email from Steven Hare to Rex Murphy dated 8/25/11 (attached)

The ACA observes that the analysis admits in several places that the projections used in the initial analysis are out of date. Table 18 on page 60 compares projected and actual CEYs and page 155 also has a note on the projections used in the analysis, referring the reader to a "New Information" section. The ACA suggests that mixing old and new information is deceitful and observes that NMFS would have been wise to update the analysis by replacing out of date information with the latest scientific information prior publishing the proposed rule.

The ACA reminds NMFS that the public and the Courts rely on it to provide factual data in its analyses and in general the Courts give NMFS the benefit of the doubt. To claim something as factual in the abstract and main body of the analysis, only to quietly refute it in another location is a dishonest and totally unacceptable practice for an agency that exists to serve the American public. The ACA is surprised that NMFS has deliberately chosen to leave false statements and out of date and useless projections in the analysis. The ACA strongly suggests that the entire analysis should have been formally peer reviewed for correctness by subject matter experts outside of NMFS, prior to publication of the proposed rule.

The ACA also notes that neither the proposed rule nor the accompanying analysis make any attempt to compare the status quo GHL and the proposed CSP allocation in a meaningful manner that graphically portrays the allocations. ***Given the fact that the allocation differences have been well known within NMFS at least since January of 2010, the ACA asserts that NMFS has less than been forthcoming in admitting the true extent of the resource reallocation in the proposed rule and its analysis.***

The Halibut Act requires that allocations be fair and equitable. ***The ACA suggests that a guided allocation that is up to 30% less than the GHL allocation at all but the very highest abundance levels fails to satisfy this requirement, and notes there is absolutely no justification in the proposed rule or analysis for this allocation decrease and resultant reallocation to the commercial sector.***

In the proposed rule, NMFS states that the commercial allocation has decreased over the last four years and therefore guided allocations must also decrease. Reviewing the provided graphs, the GHL and the CSP allocations both decrease with decreasing abundance, the difference being that the GHL does so in stepwise increments. History shows that the GHL in Area 2C has stepped down multiple times in the recent past²⁴. The ACA reminds NMFS that the North Council and NMFS set the GHL with a ceiling in order that commercial fishermen could harvest the excess that neither Area 3A nor 2C guided anglers were expected to harvest in times of high abundance. To date, Area 3A guided anglers have been limited to a GHL of 3.65 million pounds and Area 3A commercial fishermen have harvested the excess because of this cap. However, if the downward trend in Area 3A continues, it is likely the GHL will drop next year. ***The ACA reminds the Secretary that the downward trend of biomass in Areas 3A and 2C does not justify the reallocation of up to 30% of the guided allocation to the commercial sector in either regulatory area.***

In 2003, NMFS established the GHL as a pre-season estimate of acceptable annual harvests for the guided recreational halibut fishery in Areas 2C and 3A. To accommodate limited growth of the guided recreational harvest, the GHL for each area was capped at 125% of the average of 1995–1999 guided recreational harvest estimates as reported by the ADF&G Harvest Survey. At the time, these amounts represented 13.05% and 14.11% respectively of the Area 2C and 3A combined guided recreational and

²⁴ The Area 2C GHL decreased from 1.432 million pounds in 2007 to 0.931 million pounds in 2008. In 2009, the 2C GHL decreased to 788 thousand pounds.

commercial allowable harvests²⁵. *It is important to note that the guided allocation caps under the GHL were derived from 125% the 1995-1999 average guided recreational harvests and not from a ratio of guided to commercial harvests during this time period²⁶.*

In 2009, NMFS published a final rule establishing a one fish rule for Area 2C guided recreational anglers. The rule also established the GHL as “the level of allowable halibut harvest by the charter vessel fishery²⁷”(emphasis added), replacing the definition of the GHL as “a level of allowable halibut harvest by the charter vessel fishery²⁸”(emphasis added). This subtle change transformed the GHL from a harvest guideline into a true allocation. In June 2009, Scott Van Valin and others sued Secretary of Commerce Gary Locke, arguing among other things that the GHL had never been determined to be fair and equitable. In November of 2009, Federal District Court Judge Rosemary Collyer ruled against Van Valin, affirming NMFS determination that the GHL is fair and equitable²⁹. *Given the indisputable facts that the GHL was judged to be fair and equitable by the Court and the CSP allocations are up to 30% less than the GHL at all but the very highest abundance levels, it is reasonable to assert that the CSP allocations are less than fair and equitable. The ACA suggests that the Secretary might consider why he or she would replace an allocation that less than 2 years ago was ruled by the Courts to be fair and equitable with another allocation that is so much less than the status quo at all but the very highest abundance levels.*

Executive Order 12962 as amended by Executive Order 13474, dated September 26, 2008, states:

Section I. Federal Agency Duties. Federal agencies shall, to the extent permitted by law and where practicable, and in cooperation with States and Tribes, improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities by:

[... omitted for clarity ...]

(e) providing access to and promoting awareness of opportunities for public participation and enjoyment of U.S. recreational fishery resources;

[... omitted for clarity ...]

The ACA suggests that the Secretary should consider how a proposed rule that reallocates up to 30% of the status quo guided recreational allocation to the commercial sector satisfies this element of Executive Order 12962.

2.1 CSP Allocation “Jink”

As indicated in the allocation comparison pictures, in both Areas 2C and 3A, there is a “jink” in the CSP allocation where the guided allocation percentages change at 5 million and 10 million pounds respectively. This jink results in a change in allocation of 110,000 pounds in Area 2C and 140,000 pounds in Area 3A as it is crossed. As combined catch limits (CCL) increase, crossing the jink results in a decrease in guided allocation; the opposite is true as CCLs decrease. This is counterintuitive in an allocation scheme where the allocation is supposed to float up and down with increasing and decreasing abundance and where more restrictive harvest rules are linked to lower abundance levels and vice versa.

²⁵ GHL Final Rule, Federal Register, Vol. 68, No. 153, Friday, August 8, 2003 p 47258

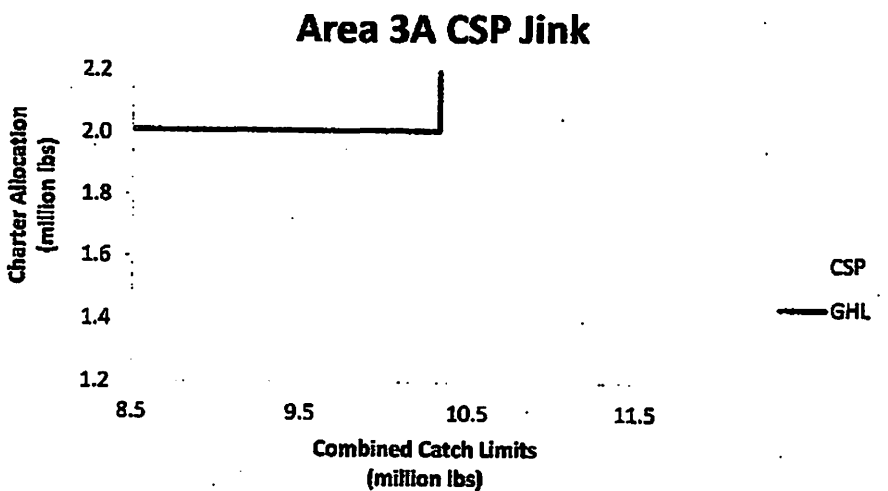
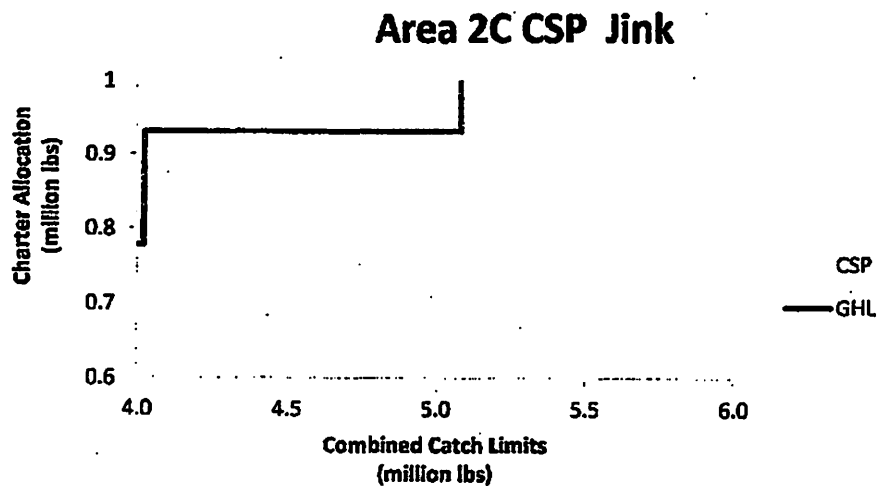
²⁶ Ibid.

²⁷ Area 2C 1 Fish Final Rule, Federal Register, Vol 74, No. 86, May 6, 2009, page 21227

²⁸ GHL Final Rule, Federal Register, Vol 68, No 153, Aug 8, 2003 p. 47264

²⁹ US District Court for the District of Columbia, Case 1:09-cv-00961-RMC, Document 40, Filed 11/23/09

110 to 140 thousand pounds may seem like an insignificant amount, but to the charter fleet it is a large amount, up to a 12.7% decrease in Area 2C allocation and up to 9% decrease in Area 3A allocation as the jink is crossed with increasing CCLs. Leasing 140 thousand pounds of GAF to make up for the jink at \$6/pound would cost \$840,000 a year. Predictability is the foundation of the guided fleet business model. The allocation jink represents an uncertainty that is illogical, unnecessary and very easily fixed.



3.0 Fairness and Equity: Guided vs. Non-Guided Access

The ACA notes that to date NMFS has considered fairness and equity only in terms of the guided recreational and commercial allocations. The ACA observes that the proposed rule says little if anything about non-guided anglers. If the rule is published as proposed, all guided halibut anglers will have bag limits imposed that are much more restrictive than those imposed upon non-guided anglers. The Halibut Act requires that "if it becomes necessary to allocate or assign halibut fishing privileges among various

United States fishermen, such allocation shall be fair and equitable to all such fishermen ...³⁰ (emphasis added). *The ACA notes that in the case of the halibut fishery, guided and unguided recreational anglers are fishermen referenced in the Halibut Act, as are commercial fishermen and charter operators. The ACA asserts that the Secretary must consider the fairness and equity of a management plan that discriminates between those recreational anglers who have access to private boats, and recreational anglers who for safety, health, financial or other practical reasons choose to access their fair and equitable share of the resource via a charter boat. The ACA does not accept NMFS boiler plate excuse that non-guided anglers are beyond the scope of this rule: the issue in question in this paragraph is the fair and equitable treatment of guided recreational anglers relative to non-guided recreational anglers.*

4.0 Leasing – Guided Angler Fish (GAF)

The ACA notes that a final rule that reallocates up to 30% of the guided allocation to the commercial sector and then forces the guided sector to rent it back every following year just to make up for the reallocation is hardly a shining example of a Catch Sharing Plan.

Leasing is not a permanent allocation shift mechanism. Leasing is analogous to buying a glass of milk rather than buying the cow. Leasing places the charter industry in an annual position of dependency on the commercial sector to temporarily increase guided harvest bag limits for *selected* guided anglers. The charter industry's preferred alternative to leasing is quota share (QS) transfer from the commercial to guided recreational sector via a "pool plan" where commercial QS are purchased and held in trust by a regional holding entity and used to supplement to the baseline guided allocation for *all* guided anglers.

4.1 Fairness and Equity: Guided Angler Fish

The ACA notes that the CSP reallocates up to 30% of the guided allocation to the commercial sector, then allows fishermen with the wherewithal to purchase a GAF in order to increase their personal bag limits. *The ACA observes that the reallocated 30% was taken from all guided recreational fishermen and is now offered to only those guided recreational fishermen who can afford to buy a higher bag limit.* The ACA notes that many guided clients are on a once in a lifetime trip that they can barely afford, while others have the financial means to make yearly trips to Alaska. The ACA notes that the EA/RIR fails to even consider this point. The ACA suggests once again that the fairness and equity of the GAF plan is very much in doubt when coupled with the reallocation of a good portion of the guided allocation to the commercial sector.

4.2 Guided Angler Fish: Commercial or Recreational?

The Magnuson Stevens Act contains definitions of commercial fishing and charter fishing that warrant the Secretary's careful consideration.

The term "charter fishing" means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46) who is engaged in recreational fishing³¹.

The term "commercial fishing" means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade³².

³⁰ 16 USC § 773C

³¹ 16 USC Chapter 38, Subchapter 1 § 1802 (3)

The International Pacific Halibut Commission has similar definitions and prohibitions:

"charter vessel" means a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator³³;

(d) "commercial fishing" means fishing, the resulting catch of which is sold or bartered; or is intended to be sold or bartered, other than i) sport fishing, ii) treaty Indian ceremonial and subsistence fishing as referred to in section 22, iii) customary and traditional fishing as referred to in section 23 and defined by and regulated pursuant to NMFS regulations published at 50 CFR Part 300, and iv) Aboriginal groups fishing in British Columbia as referred to in section 24;

No halibut caught by sport fishing shall be offered for sale, traded or bartered³⁴

Finally, the State of Alaska also has definitions that cover commercial and sport fisheries³⁵:

charter vessel means a vessel licensed under AS 16.05.490, used for hire in the sport, personal use, or subsistence taking of fish or shellfish, and not used on the same day for any other commercial fishing purpose; a charter vessel does not include a vessel or skiff without a charter vessel operator.

sport fishing means the taking of or attempting to take for personal use, and not for sale or barter, any freshwater, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended or by other means defined by the Alaska Board of Fisheries.

Sale of sport-caught fish unlawful: No person may buy, sell, or barter sport-caught fish or their parts.

The ACA suggests that the purchase and resale of GAF is problematic for multiple reasons:

1. GAF are fish derived from *commercial* individual fishing quota (IFQ).
2. GAF harvest will be debited from the *commercial* fishery Total Allowable Catch.
3. GAF are fished from charter boats and not commercial fishing boats.
4. GAF are *bought* by charter halibut permit holders and *sold* to individual guided recreational anglers.
5. Guided recreational anglers are not commercial fishermen and neither are most charter captains

³² 16 USC Chapter 38, Subchapter 1 § 1802 (4)

³³ IPHC Pacific Halibut Fishery Regulations 2011, p 3

³⁴ IPHC Pacific Halibut Fishery Regulations 2011, page 19

³⁵ ADF&G 2011 Sport Fishing Regulations Available at:
<http://www.adfg.alaska.gov/index.cfm?adfg=fishregulations.sport>

6. GAF likely convert a charter captain into a commercial fisherman because the charter operator buys and sells them. *Commercial fishermen and their crew are required to hold state licenses that charter operators and their crew are not required to hold.*
7. The Catch Sharing Plan contains a ban on same day commercial and charter operations on the same vessel. *The sale of a GAF onboard a charter vessel is very likely a commercial operation.*
8. By International and Alaskan law, the sale or barter of sport caught fish is illegal.

Clearly GAF are commercial fish and a simple regulatory sleight of hand to convert them into something that isn't commercial runs right into multi-jurisdictional regulatory problems. If a change to state or international law is required, NMFS is by no means assured that this change will occur. *In Alaska, charter operators sell fishing opportunity and not fish.* The ACA suggests that neither the North Council nor NMFS has given this issue the attention it warrants.

4.3 Guided Angler Fish (GAF) Available:

The analysis states:

“Current estimates for GAF available from the Area 2C commercial sector range from 50,000 to 100,000 GAF. Thus, the analysis indicates that in 2011 the GAF required to provide charter anglers in Area 2C with harvest opportunities equivalent to current non-charter anglers is a substantial portion, if not all, of the total number of potentially available GAF under the Preferred Alternative³⁶”

With dockside prices over \$7.00 a pound in 2011, it is doubtful that even 10% of the QS allowed for conversion to GAF will be leased. One hundred thousand pounds will do nothing for Area 2C, especially since the CSP allocation will be up to 30% less than the GHL it replaces.

Further, the analysis assumes that GAF would be created using the average fish size of all charter caught fish. As discussed elsewhere in this document, this approach will likely result in overharvest of the IFQ converted to GAF. The implication is if the accountability issue with GAF is properly addressed, the average GAF size will be greater than anticipated and there will be even fewer GAF available than the analysis suggests.

4.4 GAF Cost

The analysis cites \$1.58 a pound as a possible leasing price³⁷, based on stale 2005 commercial leasing data. Dockside value of halibut exceeded \$6.50 a pound in 2010 and \$7.00 a pound in 2011. At today's dockside prices, there is little incentive to lease IFQ to the guided sector, and if leasing does occur, it will without doubt occur at a much higher price than \$1.58 a pound. Assuming GAF sold at current dockside commercial prices and GAF was based on 2009 average fish size, an Area 2C GAF would cost \$160.00.

The ACA suggests that analysis of GAF availability, potential costs, willingness of quota share holders to lease GAF to the guided sectors and willingness of guided anglers to buy GAF are all issues that fall well within the scope of the proposed rule. The ACA suggests that NMFS should have made a good faith

³⁶ CSP EA/RIR/IFRA June 23, 2011. Available at:

<http://www.fakr.noaa.gov/sustainablefisheries/halibut/analyses/cspea062011.pdf> p 142

³⁷ Ibid. p 114

effort to analyze the economics of GAF rental and reassess whether this feature makes economic sense to QS holders, charter operators or guided recreational anglers. If the economics make no sense, there is no reason to implement this feature.

4.5 GAF Purchase Limitations

The proposed rule suggests a maximum of 400 GAF be allowed annually for a charter halibut permit (CHP) with 6 or fewer angler endorsements, and a maximum of 600 GAF for CHPs endorsed for greater than 6 anglers. This raises legitimate questions of fairness and equity in the allocation of GAF privileges. For example, a CHP endorsed for 6 anglers could purchase 400 GAF, or 67 GAF per angler endorsement. A CHP endorsed for 7 anglers could buy 600 GAF, equating to 86 GAF per angler endorsement. On the other hand, a CHP endorsed for 24 anglers could purchase 600 GAF, or only 25 GAF per angler endorsement. Finally, four CHPs endorsed for 6 passengers each could be stacked on a 24 passenger vessel, for 67 GAF per angler endorsement. From these examples, it should be obvious that if the proposed rule is approved, it will result in inequitable treatment of CHP holders because of the arbitrary selection of 6 angler endorsements as the break point between 400 and 600 GAF. CHP holders originally issued large endorsement CHPs would be especially disadvantaged. *The ACA suggests that the arbitrary selection of GAF purchase limits results in the unfair and inequitable distribution of GAF privileges among CHP holders, a clear violation of the Halibut Act.*

5.0 Frameworked CSP Matrix

The CSP implements a framework of non-discretionary harvest rules that are automatically triggered based on combined catch limits and projected harvest under one or more harvest rules. When the GHIL was published in 2003, a similar set of frameworked, non-discretionary harvest rules that it contained when passed by the North Council was excised by NMFS because the automatic implementation of the rules was not consistent with the Administrative Procedures Act (APA).

From the 2003 GHIL Rule, p.47258³⁸

“Essentially, the Council’s recommendation included a “framework” of restrictions that were explicitly designed to be implemented without proceeding through public notice and comment before becoming effective.”

“This process of implementing preconceived and non-discretionary restrictions by notice, depending on how much the GHIL is exceeded, however, would not have provided for additional public comment at the time of implementing a restriction. The NMFS letter to the Council indicated that this lack of additional public comment would not be consistent with the APA.”

“The public comment required by the APA can be waived only for “good cause.” The harvest restrictions in the proposed rule likely could not be implemented under the “good cause” exemption of the APA. The APA provides for a “good cause” finding only when the agency finds that notice and opportunity for public comment would be impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(B)). These terms are narrowly defined. Because this “good cause” finding would need to be made at the time the harvest restrictions are implemented, NMFS could not conclude in advance that a “good cause” finding would exist in every instance the GHIL was exceeded and harvest restrictions triggered. This requirement would

³⁸ Federal Register, Vol. 68, No. 153, Friday, August 8, 2003, p 47258

effectively undermine the goal of the framework measures to expedite implementation of harvest restriction measures on the guided recreational fishery.”

“The September 6, 2002, letter noted that the proposed rule could be approved only if it were changed to explicitly provide for an opportunity for public comment before implementing any harvest restrictions. This change would increase the amount of time between when the GHIL is exceeded and implementing any harvest restrictions, because the APA rulemaking process would require an analysis of alternatives to the proposed harvest restrictions recommended by the Council under the requirements of the Regulatory Flexibility Act, the National Environmental Policy Act, Executive Order (E.O.) 12866 (which requires a Regulatory Impact Review), and other applicable laws.”

In NMFS own words, a frameworked management scheme very similar to the Catch Sharing Plan was deemed inconsistent with the APA in 2003. However, as currently envisioned by NMFS,

“At its annual meeting in January, the IPHC would specify the Area 2C and Area 3A annual combined catch limits and divide the combined catch limits into separate annual commercial and guided sport catch limits. The IPHC would use guided sport harvest projections and the appropriate CSP management tier to determine the CSP restrictions that would be in place for the guided sport fishery in Area 2C and Area 3A for the upcoming year. If the Secretary of State and the Secretary of Commerce accept the IPHC recommendations, NMFS will publish the Area 2C and Area 3A annual commercial and guided sport catch limits and the CSP restrictions in the Federal Register as annual management measures pursuant to 50 CFR 300.62³⁹.”

Another communication within NMFS relating to the ACA’s questions on the use of the IPHC process to conduct NMFS domestic allocation policy reveals the following:

“The CSP would be implemented and promulgated by a different process. The CSP components (allocations to the commercial and charter sectors, charter harvest restrictions, provisions for transfer of halibut quota between commercial and charter sectors) would be implemented in federal regulations by notice and comment rulemaking as required by the APA. Following the effective date of the federal CSP regulations, each January the IPHC would: (1) determine the combined catch limit based on the stock assessment, staff recommendations, harvest rules, and other considerations, (2) coordinate with NMFS and Alaska Department of Fish & Game staff to apply the CSP allocations to its determination of the annual combined catch limit for each area, and (3) promulgate the CSP commercial and charter catch limits and the non-discretionary charter harvest restrictions in its annual regulations governing the halibut fisheries in Alaska. IPHC annual regulations are not subject to the APA⁴⁰.”

Clearly NMFS intent is to utilize the IPHC annual regulation process to circumvent the APA requirements that precluded the implementation of the frameworked, non-discretionary harvest rules that were originally included in the GHIL. However, in May 1987, the United States informed IPHC that

“... recommendations involving domestic allocation of the halibut resource should be made by the appropriate Regional Fishery Management Council. This provides for extensive public

³⁹ Federal Register Vol. 76, No. 141, Friday, July 22, 2011, p. 44163

⁴⁰ Excerpt from correspondence between Rachel Baker(NMFS) and Russell Dunn(NOAA) (attached)

involvement both during the Council process and in the subsequent rulemaking. Decisions involving the conservation and management of halibut stocks, of the international allocation of the halibut harvest will continue to be made by the IPHC.⁴¹

In fact, in its annual call for catch limits proposals the IPHC advises submitters to "be aware that the IPHC regulates only the catch limits by IPHC Regulatory Area and not by fishery (commercial or sport). Internal allocation issues (catch limit distribution, for example) are handled domestically and should be addressed to the respective governments."⁴² Former NMFS Acting Assistant Administrator Dr. James Balsiger echoes this position in his letter to NPFMC Chair Eric Olson⁴³. *The catch limits restrictions and allocation splits defined by the CSP matrix are obvious examples of domestic allocation and by IPHC's own published guidelines are beyond the scope of its regulatory responsibilities.*

The ACA notes the inequity of an American domestic allocation process that every other year takes place in Canada and every single year will be decided upon by 3 Canadians and 3 Americans behind closed doors with little or no possible legal recourse. Incredibly, neither the CSP analysis nor the proposed rule considers the resulting disenfranchisement of the American public from future participation in this process.

In summary, it is clear that NMFS proposes to use the annual IPHC regulatory process to circumvent APA requirements, even though IPHC has been specifically informed by the Federal Government that matters of domestic allocation are the responsibility of the respective governments. *It should go without saying that the APA was enacted by Congress to protect the American public's right to participate meaningfully in the regulatory process. Legal or otherwise, the decision by NMFS to misuse the IPHC regulatory process in order to circumvent Federal Law while ignoring well-established Federal and International policy on domestic allocation decisions, permanently disenfranchises the American public from its right to participate in this rule making process.*

6.0 CSP Matrix: Linking of Combined Catch Limits and Harvest Rules

Under the CSP matrix, four sets of harvest rule options are specified, each based on specified combined catch limit (CCL) triggers. At any given trigger level, it is conceivable that projected harvest under any harvest rule contained in the level could either exceed or fall well below allocation due to changes in demand, average fish size or charter allocation.

Reviewing the CSP matrix triggers, the ACA finds no rationale behind their selection. As previously discussed, while the analysis claims that the lower levels of the matrix were based on the lowest GHJ levels, hard facts show this claim to be a fallacy.

Reviewing the triggers for tier 4 in IPHC Area 2C, it is an elementary exercise to calculate what total CEY would be required to be to support this tier:

1. The Area 2C tier 4 abundance trigger is a CCL greater than or equal to 14 million pounds.

⁴¹ IPHC Technical Report 26, <http://www.iphc.int/publications/techrep/tech0026.pdf> p 32.

⁴² 2010 IPHC Annual Meeting Call for Catch Limit Proposal Comments (web link deleted)

⁴³ Letter from James Balsiger (NMFS) to Eric Olson (NPFMC) dated Jan 26, 2010 (attached)

2. "Other removals" for Area 2C for 2011 if the CSP were in place would equal 2.272 million pounds.⁴⁴
3. Adding the CCL to other removals results in a total CEY that would have to be greater than or equal to 16.272 million pounds.

The total CEY represents sustainable total removals for a given regulatory area. *Reviewing the IPHC's compilation of Area 2C total removals from 1974 to the present, not once in the last 36 years have total removals come close to 16.27 million pounds⁴⁵.* The highest total removals in this time period were 14.23 million pounds in 2004, just 86% of the required total CEY to trigger tier 4 rules in area 2C. **In fact, under the CSP it is unlikely that abundance will ever increase to levels large enough to support a 2 fish rule for guided anglers in Area 2C.**

As another example, guided anglers in Area 3A in 2011 currently enjoy a daily bag limit of 2 fish of any size. Under the CSP with the same 2011 abundance levels, the Area 3A matrix tier would be the second lowest in the matrix, and the default harvest rule would be 1 fish of any size. Reviewing the abundance levels (triggers) necessary for a two fish limit in tier 4, one can calculate what total CEY would be required to be to support this tier:

1. The Area 3A tier 4 abundance trigger is a combined catch limit greater than or equal to 27 million pounds.
2. "Other removals" for Area 3A for 2011 if the CSP were in place would be 5.51 million pounds.
3. Adding the CCL to other removals, the total CEY would need to be greater than or equal to 32.51 million pounds to support a two fish limit for guided recreational anglers under the CSP.

Reviewing IPHC's Area 3A compilation of total removals from 1974 to the present⁴⁶, total removals have exceeded 32.51 million pounds 12 times. *This means that on average, Area 3A guided recreational anglers can expect a two fish of any size bag limit about one out of three years under the proposed rule.*

The ACA notes that the concept of a tiered CSP matrix was entirely absent from the analysis prior to the North Council's final action. In addition, neither the proposed rule nor the accompanying EA/RIR/IRFA discusses the logic behind the selection of the triggers. Absent a solitary shred of explanation behind the selection of each of the triggers, it is obvious that their selection was entirely arbitrary. The Secretary has no choice other than to reject the proposed rule as arbitrary and capricious.

7.0 Halibut Fishery Management Plan

The ACA notes that there is no Fishery Management Plan (FMP) for halibut. Section 773c(c) of Halibut Act states:

⁴⁴ IPHC subtracts other removals from the total CEY to arrive at the combined fishery CEY. For the CSP, other removals would not include the GHL, so subtracting the GHL from the current other removals results in an estimate of other removals under the CSP. Available at:

<http://www.iphc.int/meetings/2011am/iphc2011bluebook.pdf> p154.

⁴⁵ 2011 IPHC Blue Book, page 135 available at: <http://www.iphc.int/meetings/2011am/iphc2011bluebook.pdf>

⁴⁶ Ibid.

“The Regional Fishery Management Council having authority for the geographic area concerned may develop regulations governing the United States portion of Convention waters, including limited access regulations, applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with regulations adopted by the Commission. Such regulations shall only be implemented with the approval of the Secretary, shall not discriminate between residents of different States, and shall be consistent with the limited entry criteria set forth in section 1853 (b)(6) of this title.”

Section 1853 (b)(6) is part of the Magnuson Stevens Act and it states:

(b) Discretionary provisions

Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

(A) present participation in the fishery;

(B) historical fishing practices in, and dependence on, the fishery;

(C) the economics of the fishery;

(D) the capability of fishing vessels used in the fishery to engage in other fisheries;

(E) the cultural and social framework relevant to the fishery and any affected fishing communities;

(F) the fair and equitable distribution of access privileges in the fishery; and

(G) any other relevant considerations;

From the first passage, it is clear that the Halibut Act delegates authority to develop regulations to the Regional Fishery Management Councils (subject to the Secretary’s approval) and *requires* that any such regulations, limited access or otherwise must comply with the second passage. From the second passage, it is equally clear that its subject is a *fishery management plan*. It should also be clear that in the absence of the preamble to 1853(b) (“Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may-”), the criteria specified in (6) are gibberish. It is easy to conclude that in mandating compliance with 1853(b)(6), the authors of the Halibut Act acknowledged and accepted the requirements of the Magnuson Stevens Act that require the formation of a FMP for each fishery that the Council manages.

The ACA notes that NMFS has been dodging the FMP issue for halibut for many years. The ACA points out that virtually all the rules in the Magnuson Stevens Act apply to fisheries management plans and associated rules, and suggests that NMFS review the legal basis behind the absence of a FMP for halibut.

8.0 Bycatch

The ACA notes that bycatch limits of pacific halibut in Alaskan waters totaled 10.55 million pounds in 2010⁴⁷ and that with less than 100% observer coverage; actual bycatch totals likely exceeded allowable limits. On average, a pound of bycatch equates to 1.19 pounds of lost yield to directed fisheries⁴⁸, meaning that in 2010, if bycatch limits were harvested, 12.56 million pounds of future yield were tossed

⁴⁷ IPHC Report of Assessment and Research Activities, 2010, p 299

⁴⁸ Email correspondence between Steven Hare (IPHC) and Rex Murphy (attached)

overboard dead by non-directed, largely trawl fisheries. *Unlike the GHL, the proposed CSP allocation or the directed commercial fishery allocations of halibut, bycatch allowances do not float with abundance.*

In 2010, guided recreational anglers in Areas 2C and 3A harvested approximately 4.27 million pounds⁴⁹ while bycatch exceeded the guided recreational catch by nearly a factor of three. The guided catch was taken home and consumed by guided recreational anglers and their families. The bycatch was tossed overboard dead. The ACA very strongly suggests that the North Council and NMFS have their priorities reversed with respect to bycatch and the guided recreational allocation. The ACA suggests that NMFS might consider why a non-directed fishery is allowed to continue killing over 12 million pounds of future yield every year without penalty while a guided recreational allocation less than one third the size of the wasted bycatch is being pared by up to 30%.

9.0 Safety:

National Standard 10 requires that safety may not be compromised. Any rule that results in restriction of guided harvest will result in leakage to unguided access. The 56% increase in Area 2C unguided harvest in 2007 (the year the minnow rule was implemented) is proof that this will happen⁵⁰. Guided access is the safest form of access to recreational fisheries because charter captains are required to be USCG licensed. This requirement is directly analogous the requirement that airline pilots hold airline transport pilot instead of private ratings in order to carry passengers for hire. *Plain and simple, any leakage of effort from guided to unguided access comes with a statistically measurable decrease in safety. The ACA encourages NMFS to contact the United States Coast Guard to validate this fact.*

The ACA observes that the tides in Areas 3A and 2C are quite large. For several days each month, in a six hour period, up to 26 feet of water moves in or out of Alaskan bays and inlets. Waters in productive halibut fishing areas can be flat calm at slack tide and roaring 3 hours later. The addition of wind to the tide further complicates matters. A small boat, operated by an inexperienced operator and in the wrong place at the wrong time, can easily find itself in trouble due to winds and tides.

On September 16, 2004, 10 year old Dustin Gates of Anchorage perished while fishing from a private boat about a mile off the end of Homer Spit. The 16 foot boat, carrying 4 people, swamped while pulling anchor in 18 inch, slightly choppy seas. Three survivors were rescued after close to 90 minutes in the water⁵¹.

The ACA notes that the issue of safety is discussed briefly in the analysis, with the comment that the NOAA OLE and USCG have informed the Council that they do not have concerns about boater safety under the preferred alternative⁵². *The ACA suggests that issues of human safety require more than anecdotal mention, and strongly suggests that NMFS should fully document in writing the lack of concern by these agencies.*

The ACA is shocked that NMFS continues to display a cavalier attitude toward safety by suggesting that these issues be deferred until a time where safety issues surface⁵³. *The ACA suggests that NMFS might*

⁴⁹ IPHC Report of Assessment and Research Activities, 2010, p 48

⁵⁰ ADF&G harvest data

http://www.fakr.noaa.gov/npfmc/PDFdocuments/halibut/Area2C3A_Final2009ADFGdata.pdf

⁵¹ http://www.homernews.com/stories/091604/news_916new11001.shtml

⁵² <http://www.fakr.noaa.gov/sustainablefisheries/halibut/analyses/cspea062011.pdf> p xlii

⁵³ Ibid.

consider the fact that when the safety issues are realized, it will be too late for some unlucky halibut angler and his family.

10.0 No Harvest by Skipper and Crew

The CSP contains an outright ban on halibut harvest by skipper and crew. Under the CSP, the only time a charter vessel guide can harvest a halibut is on a non-charter trip. This is very expensive, since it implies a non-revenue day, fuel expenses commensurate with a normal charter trip and unnecessary wear and tear on the boat. The Council's analysis did not analyze the economic impact on skipper and crew and did not consider anything other than an outright ban on skipper and crew harvest when other options exist.

The ACA reminds the Secretary that the skipper and crew of a charter boat are American anglers and are included in the fishermen referenced in fairness and equity provisions of the Halibut Act. The ACA suggests that the Council and NMFS should have considered harvest restrictions for skipper and crew that were less draconian than an outright ban on retention.

11.0 Non-comprehensive Nature of CSP

The IPHC has noted that the CSP does not apply to all sectors, since the unguided recreational sector is not included. The IPHC noted the leakage issue (from guided access to unguided access) and pointed out that the Area 2A and 2B Catch Sharing Plans do include the entire recreational sector⁵⁴. Review of ADF&G harvest data for Area 2C shows a 56% increase in unguided halibut harvest in 2007, the year in which guided anglers only were restricted to one fish any size and one fish under 32 inches⁵⁵. A plan that tightly regulates only the guided recreational sector will result in leakage to the unguided recreational sector, with the end result being a decrease in overall safety level for recreational anglers and little or no reduction of total recreational harvest.

The ACA agrees with the IPHC that the entire recreational sector should be included in a catch sharing plan and suggests that this is yet another good reason for the Secretary to reject the proposed rule.

12.0 Economic Analysis

As noted earlier, the analysis contains major flaws that grossly misrepresent the extent of reallocation from the guided recreational to the commercial sector. In discussing the economic effects of the proposed CSP, the analysis acknowledges that as early as 2007, the North Council SSC noted that quantitative estimates of net national benefits are lacking from the analysis. *The ACA suggests that with over 4 years lead time, NMFS has had ample opportunity to collect this information, yet has not done so.* In addition, the analysis acknowledges that regional economic impacts of all alternatives are not provided and therefore the analysis does not identify an optimal allocation⁵⁶. The ACA notes that NMFS estimates of potential charter income for Areas 2C and 3A⁵⁷ are incorrect due to NMFS reliance on projections that the IPHC admits are useless. The ACA also notes that tables 49 and 50 on page 97 are also incorrect because of their reliance on the IPHC projections.

⁵⁴ Letter from IPHC to NPFMC dated September 30, 2010 (attached)

⁵⁵ ADF&G harvest data

http://www.fakr.noaa.gov/npfmc/PDFdocuments/halibut/Area2C3A_Final2009ADFGdata.pdf

⁵⁶ CSP EA/RIR/IRFA dated 06/20/11, p 89

⁵⁷ Ibid p 90-91

The ACA observes that NMFS is well aware that the data used in the economic analysis is out of date and inaccurate, and is equally aware that the analysis paints a picture that does not come anywhere close to approximating reality. *The ACA suggests that the future of the entire guided recreational industry is at stake with the publication of the final rule.* The ACA implores NMFS to stop hiding behind excuses such as "it is beyond the scope of this analysis" when the collection of economic data is necessary for the Secretary to make an informed decision. *The ACA very strongly suggests that NMFS needs to compile an accurate, up to date and comprehensive economic analysis of the impact of reallocating up to 30% of the guided recreational allocation to the commercial sector.*

13.0 Rule Making Process

At the October 2008 North Council meeting, Council staff presented its analysis of CSP allocation, leasing and traditional harvest management issues such as size and bag limits and season limitations. Several hundred citizens testified on the alternatives presented in the analysis. During the October meeting, largely behind closed doors, the Council then proceeded to invent an entirely different management alternative (the CSP Matrix) that was not part of the analysis⁵⁸. The matrix disposed of the regulatory timeline contained in the analysis and replaced it with non-discretionary harvest rules triggered by arbitrary combined catch levels, to be implemented by IPHC. *This matrix also included a new rule, one fish of a maximum size, not included in the analysis reviewed by the Council or the SSC prior to final action.*⁵⁹ When asked by the Council on the propriety of introducing the matrix, legal counsel advised that the CSP Matrix could be construed to be part of the analysis. *The ACA suggests that this could not possibly be the case, since the concepts of non-discretionary harvest rules, a tiered matrix, and a one fish of a maximum size rule were all entirely absent from the analysis presented to the North Council in October 2008.* The North Council included a statement in its motion to the effect that the Council did not intend to revisit the subject of bag limits,⁶⁰ and passed the motion 10-1, with the lone recreational representative voting against the motion. *The public was not allowed to comment on the new management scheme, the CSP matrix or the impact of a one fish of a maximum size rule prior to the Council's passage of the motion.* *The Council's action was utterly disrespectful of the time and expense the public went through to attend the meeting, the decision making process established in the Magnuson Stevens Act, and the public's right to participate meaningfully in this process.*

Almost three years later, NMFS has finally published a proposed rule that is riddled with problems, many directly resulting from the ad hoc process used during the 2008 Council meeting to concoct the CSP matrix. *The ACA reminds NMFS that the purpose of an analysis is to consider various alternatives and their consequences in order for decision makers to make informed decisions.*

Since it was founded, the ACA has conscientiously followed the Council process, attending and testifying at meetings, participating on stakeholder committees and submitting comments on proposed rules and motions. The behavior of the North Council at the October 2008 meeting has shaken the faith of the ACA in the Council Process. After receiving extensive public testimony on items in the analysis, the Council discarded a large portion of the analysis, cooked up a harvest management scheme that was not in the

⁵⁸ See http://www.fakr.noaa.gov/npfmc/PDFdocuments/halibut/Area2C3A_CSP908.pdf

⁵⁹ Ibid. p 95

⁶⁰ "It is not the Council's intent to revisit or readjust bag limits; such bag limit changes will be triggered by changes in combined charter and setline catch limits established annually by the IPHC. Bag limits will be implemented by the IPHC based upon their determination of the combined charter and setline catch limits and the bag limit parameters described above."

<http://www.fakr.noaa.gov/npfmc/PDFdocuments/halibut/HalibutCSPmotion1008.pdf>

analysis and with the blessing of legal counsel, passed the motion 10-1. At both the April and October 2010 NPFMC meetings, the ACA presented the main issues with the CSP and suggested solutions that are now a matter of the public record. The North Council took no action. NMFS Alaska Region in turn has inexplicably deemed it proper to implement the Council's motion to the letter, also knowing full well of most of the problems the ACA is commenting on in this letter⁶¹. The ACA fails to understand why the NMFS Assistant Administrator, also fully aware of many of the problems, and deferring to the purported expertise of NMFS Alaska Region, appears to have chosen to rubber stamp the proposed rule for publication. The ACA strongly suggests that NMFS carefully review its responsibilities to the public under the Halibut Act §773c:

§ 773c. General responsibility

(a) Secretary of Commerce

The Secretary shall have general responsibility to carry out the Convention and this subchapter.

(b) Adoption of regulations; cooperation with Canadian officials

In fulfilling this responsibility, the Secretary—

(1) shall, in consultation with the Secretary of the department in which the Coast Guard is operating, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this subchapter; and

(2) may, with the concurrence of the Secretary of State, cooperate with the duly authorized officials of the Government of Canada.

(c) Regional Fishery Management Council involvement

The Regional Fishery Management Council having authority for the geographic area concerned may develop regulations governing the United States portion of Convention waters, including limited access regulations, applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with regulations adopted by the Commission. If it becomes necessary to allocate or assign halibut fishing privileges among various United States fishermen, such allocation shall be fair and equitable to all such fishermen, based upon the rights and obligations in existing Federal law, reasonably calculated to promote conservation, and carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of the halibut fishing privileges: Provided, That the Regional Council may provide for the rural coastal villages of Alaska the opportunity to establish a commercial halibut fishery in areas in the Bering Sea to the north of 56 degrees north latitude during a 3 year development period.

Reviewing Halibut Act §773c, it is clear that the Secretary of Commerce has the general responsibility for adhering to the convention. The Secretary of Commerce has in turn delegated this responsibility to NMFS. *While the Halibut Act states that the North Council may develop regulations concerning the domestic halibut fishery, nothing in the Halibut Act mandates that the Secretary accept such regulations, and in fact the Secretary is obligated to reject those regulations if they are not in compliance with §773c or the Administrative Procedures Act. The ACA asserts that this is the case*

⁶¹ Beginning in October 2008, the ACA shared these issues with NMFS and the NPFMC, using written comments as well as PowerPoint Presentations.

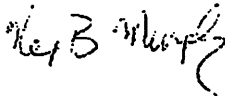
with the CSP, as the allocation is anything but fair and equitable, conservation is definitely not served by the proposed rule and a number of key features of the CSP were decided entirely without analysis or justification.

The ACA suggests that NMFS is shirking its responsibilities to the American public by publishing a proposed rule with serious problems that were very well known within NMFS prior to publication. NMFS should carefully reflect on why it would not point out the known defects to the North Council rather than publish such a massively flawed rule.

14.0 Conclusions

The ACA has noted a number of very serious issues with the halibut Catch Sharing Plan. Conservation is most definitely not served by the CSP, as no fewer than four serious accountability issues have been identified. The analysis is riddled with incomplete, out of date and non-factual data, and makes no attempt to compare the preferred alternative allocation with the current allocation in a meaningful manner. The CSP fails to establish a fair and equitable allocation. Harvest management tiers are arguably arbitrary and capricious. Further, the CSP strips the American public of its future right to participate in the halibut management rule making process. The Council took ad hoc action on unanalyzed components of the final motion with no public comment allowed on those elements. NMFS subsequently failed to analyze the logic behind the management tiers, a key element of the CSP matrix. The expected result, a rule based on prevarications and riddled with problems, has materialized in the proposed rule. *The ACA notes once again that the Secretary of Commerce is ultimately accountable for domestic management of halibut harvests and urges the Secretary to reject the proposed rule.*

Respectfully,



Rex Murphy
Alaska Charter Association

Encl: Letter from IPHC to NPFMC, September 2010 regarding accountability
ADF&G Comparison of Area 2C, 3A Charter Harvests Through June, 2006-2011
Email correspondence between Rex Murphy and Dr. Steven Hare of IPHC regarding projections
Excerpt from correspondence between Rachel Baker (NMFS) and Russell Dunn (NOAA)
Letter from James Balsiger to NPFMC Chair Eric Olson, January 2010 on rulemaking process
Email correspondence between Rex Murphy and Dr. Steven Hare of IPHC regarding lost yield

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INTERNATIONAL PACIFIC HALIBUT COMMISSION

ESTABLISHED BY A CONVENTION BETWEEN CANADA
 AND THE UNITED STATES OF AMERICA

OFFICE OF
 DANIEL M. CLARKE
 P.O. BOX 39029
 SEATTLE, WA 98147-0029
 TELEPHONE
 (206) 464-1051
 FAX
 (206) 464-1051

September 30, 2010

Mr. Eric Olson, Chair
 North Pacific Fishery Management Council
 605 West 4th Avenue, Suite 306
 Anchorage, AK 99501-2252

Re: October 2010 Agenda Item B-2
 VIA EMAIL.

Dear Eric:

The IPHC staff notes that the Council is scheduled to consider draft regulations to implement the Council's halibut Catch Sharing Plan (CSP) under agenda item B-2, at its October meeting. The Commission fully supports the Council's desire to establish such a CSP and resolve long-standing problems of managing catch by the charter halibut sector. Previous discussions between the Commission and the Council have identified a process whereby the Commission could adopt a combined commercial/charter catch limit (CCL) for halibut in Areas 2C and 3A, which the United States could subsequently use as a basis for allocating catch limits to the two sectors under the CSP. While the Commission is encouraged that the Council is contemplating a set of regulations to implement its CSP and wishes to see an effective CSP established as soon as possible, the Commission staff wishes to draw your attention to elements of the regulatory package and surrounding procedures that we believe will compromise the achievement of both Council and Commission halibut management goals.

Our three primary concerns involve the impact of pre-season projection accuracy, the likely precision and ultimate bias that result from the management measures contemplated, and the inclusiveness of the CSP relative to other similar CSPs.

1. Impact of pre-season harvest projection. Meyer (2009), building upon the information in King (2009), outlined the substantial issues of providing accurate pre-season projections of halibut harvest for the guided sector. Projection errors will arise through changes resulting from regulation effects on baseline data used for projection, time delays in average weight data used, non-stationarity in catch trends, and the time duration of data required for projection. Meyer has indicated that pre-season projection error is likely to equal or exceed the projected precision of management ($\pm 3.5\%$) for the guided harvest component of the CSP. Of greater concern is the potential for incorrect decisions on the management measures required for an upcoming year that can result from such projection errors. The Commission staff requests that the Council re-evaluate the effectiveness of the CSP management measures required under various harvest levels, with a view to

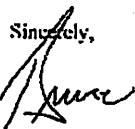
building greater precaution into the process to accommodate projection errors and management responsiveness.

2. Precision and bias in management of recreational fisheries. In its 2008 motion the Council adopted a management precision of $\pm 3.5\%$ of the CCL for the charter component. This translates into a management precision of + 20-25% for the charter sector itself. This level of variance in management effectiveness is considerably higher than that for other CSPs in which the Commission participates. Notwithstanding the nature of GHL management, the history of management to targets for this sector in at least one of the areas is poor. This history suggest strongly that we will not see a symmetric variation about the management targets for this sector under the CSP, rather it will be highly asymmetric with a bias toward overharvest of targets. Again, this will compromise overall management of the halibut resource. Implementation of CSPs in other areas involves either in-season management (Area 2A) or sequestration/leasing of commercial quota to offset recreational overruns (Area 2B). Because the potential for long-term bias is high, the staff suggests that the Council consider remedial measures to deal with overharvest, in particular to require deductions on future catch limits for overruns in previous years.
3. Inclusiveness of the CSP. The Commission participates in CSPs in two other IPHC management areas, Area 2A (California - Washington) and Area 2B (British Columbia), for which the Commission adopts a CCL. However, in both of these other areas the CSP includes all removals by recreational harvesters in addition to the commercial removals. The NPFMC CSP does not include removals by unguided anglers; indeed, total removals by unguided anglers are unregulated, which can have a destabilizing effect on achievement of overall management targets. For example, in Area 2C the unguided angler catch has increased 30-50% since the inception of GHL program. In a 2005 letter to the Council, the Commission noted that 'leakage' from the guided to the unguided sectors would be a likely result of not including the unguided sector in management measures designed for the recreational fishery. While difficult to verify, reports of provision of GPS devices, coordinates, and other fishing instructions to 'bareboat' charters in this area abound - catches on such trips are not counted under guided charter harvests. Again, we urge the Council to work in its future actions to bring all recreational removals in the CSP, to bring such harvests fully into a conservation framework.

We have suggested that several aspects of the CSP be re-examined by the Council. We recognize the desire by all parties, including the Commission, to enact the CSP without further delay, so subsequent improvements to the CSP could be addressed by a trailing amendment or other similar action.

The halibut resource has been on a steady decline from the record high levels seen in the 1990s. While the number of halibut has not declined as sharply, the substantial decline in halibut growth has resulted in decreased exploitable biomass. This decline exacerbates the staff concerns about the effectiveness of management measures being considered. The Commission has also recognized this in its instructions to its staff to present management measures for the recreational fisheries in Alaska for action at its 2011 Annual Meeting, should the Commission view the delays in implementing the CSP as creating unacceptable risks to the halibut stock.

Gregg Williams will be attending the Council's October meeting in Anchorage and would be pleased to review these comments at that time.

Sincerely,


Bruce M. Leaman
Executive Director

cc: Commissioners

Comparison of Area 2C, 3A Charter Harvests Through June, 2006-2011

Table 1. Comparison of Area 2C and 3A reported charter harvest (logbook data), average net weight, and harvest biomass during the period February-June and for the entire year, 2006-2011.

Estimate	Area 2C						Area 3A					
	2006	2007	2008	2009	2010	2011	2006	2007	2008	2009	2010	2011
Through June:												
Harvest (no. fish)	34,234	35,240	30,154	14,580	12,718	12,502	98,231	87,314	77,516	61,352	67,787	70,478
Average Weight (lb)	18.62	17.48	17.30	22.66	27.17	9.18	17.95	17.01	17.07	16.57	16.42	15.83
Std. Error (avg. wt)	0.62	0.50	0.47	0.71	0.95	0.11	0.45	0.50	0.47	0.37	0.45	0.35
Harvest Biomass (M lb)	0.64	0.62	0.52	0.33	0.35	0.12	1.76	1.49	1.32	1.02	1.11	1.12
Std. Error	0.02	0.02	0.01	0.01	0.01	0.00	0.04	0.04	0.04	0.02	0.03	0.03
Entire Year:												
Harvest (no. fish)	110,968	120,385	106,645	51,058	47,574	NA	265,887	258,424	232,621	192,032	216,399	NA
Average Weight (lb)	18.59	16.74	18.51	23.24	26.21	NA	17.64	16.36	16.62	15.85	14.96	NA
Std. Error (avg. wt)	0.47	0.23	0.24	0.44	0.49	NA	0.27	0.23	0.27	0.20	0.29	NA
Harvest Biomass (M lb)	2.06	2.02	1.97	1.19	1.25	NA	4.69	4.23	3.87	3.04	3.24	NA
Std. Error	0.05	0.03	0.03	0.02	0.02	NA	0.07	0.06	0.06	0.06	0.06	NA
Harvest through June as a Percentage of Year												
No. Fish	31%	29%	28%	29%	27%	NA	27%	34%	33%	32%	31%	NA
Harvest Biomass	31%	31%	26%	28%	28%	NA	28%	35%	34%	33%	34%	NA

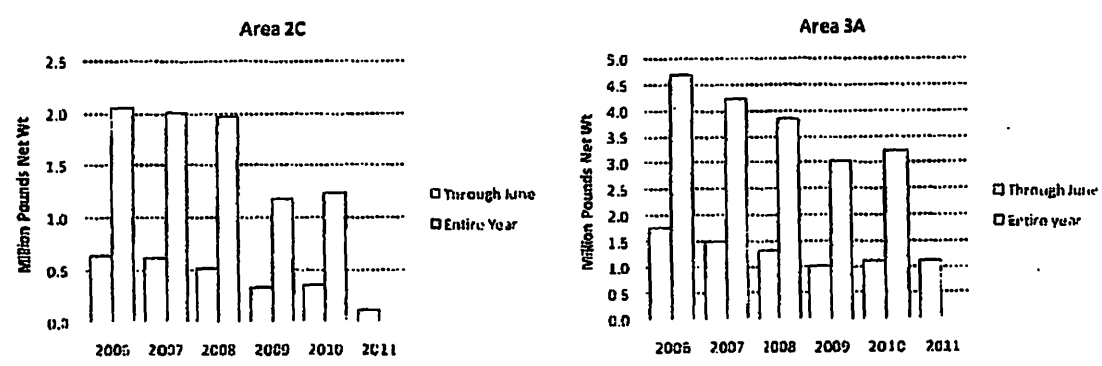
Notes:

Average net weights were calculated from creel sampling length data using the IPHC length-weight relationship. Methods for calculating the sampling standard error of average weight have varied in recent years and are still under development. For consistency across years, all standard errors for this summary are based on equations for simple random sampling, even though cluster sampling was employed. Therefore, the standard errors presented here are likely underestimates.

Logbook harvests were classified into subarea based on the location of the port of landing. Harvest in the Glacier Bay subarea were further broken down by IPHC area. Logbook harvests were obtained for trips made through June of each year. All years except 2011 were based on complete data. The 2011 harvests were adjusted to account for the expected additional harvest resulting from logbook pages submitted late, and for pages received on time but not yet entered. Harvest from all businesses that met the state definition of guided fishing was included.

This summary does not include a 2011 harvest projection. The ADIFCO annual harvest projections are projections of harvest estimates from the Statewide Harvest Survey.

Figure 1. Comparison of charter harvest biomass (M lb net weight) in IPHC areas 2C and 3A through June, and for the entire year, 2006-2011.



RE: IPHC staff CCL projections

Steven Hare <hare@iphc.int>

Thu, Aug 25, 2011 at 11:05 AM

To: Rex Murphy <rex.murphy.ak@gmail.com>

Cc: Gregg Williams <gregg@iphc.int>, Bruce Leaman <bruce@iphc.int>, "Meyer, Scott C (DFG)" <scott.meyer@alaska.gov>, Official Correspondence <oc@iphc.int>

Rex,

We have only made coastwide (not individual regulatory area) CEY projections, and even those we often are backing away from as soon as we show them. I have just not found it to be a useful exercise. The coastwide projections are illustrated in the RARA stock assessment document if you really want to have a look. At the annual meeting this year, we had a cautionary set of alternate projections prepared and presented by Juan Valero – they were much less optimistic than the "naïve" projections that I typically run.

Steven

From: Rex Murphy [mailto:rex.murphy.ak@gmail.com]

Sent: Thursday, August 25, 2011 11:58 AM

To: Steven Hare

Cc: Gregg Williams; Bruce Leaman; Meyer, Scott C (DFG); Official Correspondence

Subject: Re: IPHC staff CCL projections

Thanks Steven.

I understand that you have not made a projection similar to the ones I cited in the analysis. Has IPHC made projections of total CEYs by area since 2008?

Rex

Comment 3: *There is concern that non-discretionary harvest rules within the plan are contrary to the Administrative Procedure Act (APA). The ACA has pointed to the Federal Register and previous NMFS letters to the Council with the accusation that we are going down a route regarding non-discretionary "frameworking" provisions previously found to be not implementable by NMFS. I dug out 68 FR 47258 (August 8, 2003) which states: "NMFS sent a letter to the Council on April 2, 2002 informing the Council that "the current framework cannot be implemented as conceived by the Council because the Administrative Procedure Act (APA) requires that any regulatory action have prior notice and opportunity for public comment before becoming effective.This process of implementing preconceived and non-discretionary restrictions by notice, depending on how much the GHL is exceeded, however would not have provided for additional public comment at the time of implementing a restriction.NMFS sent a second letter to the Council on September 6, 2002.....The September 6th letter noted that the proposed rule could be approved only if it were changed to explicitly provide for an opportunity for public comment before implementing any harvest restrictions."*

The crux of ACA's argument is that the same "mistake" has been made again with regard to "frameworking" the corrective provisions. That said, I don't know the details of the CSP to know if the same problems are in it. I would leave it to Jim and Doug to indicate if this problem has been addressed or if there is meat behind it that could land us in litigation.

Response: NMFS disagrees that the non-discretionary charter harvest restrictions proposed under the CSP would be contrary to the APA. The implementation of the CSP would be different from the non-discretionary "frameworking" process recommended by the Council as part of the GHL program in 2001. Under the Council's recommended GHL, annual non-discretionary harvest restrictions for the charter sector would have been based on the GHL as determined by the federal regulations and promulgated by federal notice. As noted in the comment, NMFS determined this proposal violated the APA because it would not provide an opportunity for the public to comment on the notice announcing the GHL and the accompanying non-discretionary charter harvest restrictions.

The CSP would be implemented and promulgated by a different process. The CSP components (allocations to the commercial and charter sectors, charter harvest restrictions, provisions for transfer of halibut quota between commercial and charter sectors) would be implemented in federal regulations by notice and comment rulemaking as required by the APA. Following the effective date of the federal CSP regulations, each January the IPHC would: (1) determine the combined catch limit based on the stock assessment, staff recommendations, harvest rules, and other considerations, (2) coordinate with NMFS and Alaska Department of Fish & Game staff to apply the CSP allocations to its determination of the annual combined catch limit for each area, and (3) promulgate the CSP commercial and charter catch limits and the non-discretionary charter harvest restrictions in its annual regulations governing the halibut fisheries in Alaska. IPHC annual regulations are not subject to the APA.

The IPHC promulgates annual regulations governing the Pacific halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, D.C., on March 29, 1979).

53222 - F. J. J. J.

Regulations developed by the IPHC are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce (Secretary). After approval by the Secretary of State and the Secretary, the IPHC regulations are published in the *Federal Register* as annual management measures pursuant to 50 CFR 300.62.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-Walrus Highway
UAFW Building, Merford 20R10
THE DIRECTOR

JAN 26 2010

Mr. Eric A. Olson
Chairman
North Pacific Fishery Management Council
605 West 4th Avenue
Anchorage, AK 99501

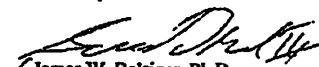
Dear Mr. Olson:

Thank you for your letter expressing the concern of the North Pacific Fishery Management Council (Council) about the potential for the guided sport (charter) halibut fishery in Area 2C (Southeast Alaska) to exceed its guideline harvest level (GHL) in 2010.

The Secretary of Commerce has general responsibility to carry out the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and the Bering Sea (Convention) and the Northern Pacific Halibut Act of 1982 (Halibut Act), by adopting regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. However, the development of regulations that allocate or assign halibut fishing privileges among U.S. nationals or vessels is within the authority of the Council. The Council's development of such regulations through analysis of alternatives provides maximum public participation and transparency. We recognize the Council's history of and commitment to managing fishery and sector removals to specified allocations. The Council's proposed catch share plan (CSP) for the commercial and charter halibut fisheries is the next step in responding to the ongoing conservation and management of these fisheries. The review of this proposed program and associated rulemaking is a priority for NMFS staff resources so that the CSP may be implemented by 2012. We plan to provide the Council a status report on any CSP implementation issues and a schedule for its implementation at the Council's April 2010 meeting.

If the Council believes that further restricting the halibut charter fleet is necessary during the next 2 years while the proposed CSP is reviewed and rulemaking completed, we would support Council action to develop and recommend specific harvest restrictions that would reduce the charter halibut harvest to the GHL. This strategy could delay the implementation of the CSP, but that would be a policy choice of the Council. Thus, while we intend to focus NMFS staff resources on implementation of the proposed CSP and not on an independent development and imposition of further restrictions on the charter halibut fishery in Area 2C, we will work with the Council in developing such restrictions if the Council wishes to proceed in that direction. We continue to believe that the best approach is for the Council and NMFS to work together toward long-term solutions for addressing allocation, management, and ultimately conservation goals for the halibut fisheries.

Sincerely,


James W. Balsiger, Ph.D.
Acting Assistant Administrator
for Fisheries

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THE ASSISTANT ADMINISTRATOR
FOR FISHERIES



----- Forwarded message -----

From: Steven Hare <share@spg.gov>
Date: Thu, Aug 11, 2011 at 12:40 PM
Subject: RE: Lost yield pounds for pound of bycatch
To: "The Community of Stakeholders" <stakeholders@spg.gov>
Cc: Gregg Williams <gregg@spg.gov>

H. Bore

Again, you should ask that as it has been the subject of much discussion of late. Three years ago, I was the one that provided a means of estimating lost yield from 1:32 bycatch. The value ranged from a low of 0.08 in Area 33 to a high of 1.17 in Area 21. A nationwide average was 1.79 lbs of lost yield.

Just recently (last month), I had to redo the calculations. This time for 1:26 bycatch because bycatch between 20 and 32 inches is now treated the same as 1:32 bycatch. I am not at liberty to release the new analysis yet but suffice to say that it falls in the range of 1.0-1.2 pounds of lost yield per pound of 1:26 bycatch is in the ballpark. Lost yield for 1:26 bycatch is, of course, 1.0 times 1:26 bycatch is the dedicated lost yield of 1.0.

Hope that suffices for an answer

Steven



PO Box 22073
Juneau, AK 99802-2073
(206) 260-9111 efax

halibutcoalition@gmail.com
www.halibutcoalition.org

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29 November 2011

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson,

Re: Agenda Item C-6 Halibut Catch Sharing Plan

We understand NMFS has delayed publication of the halibut catch sharing plan (CSP) final rule to obtain policy guidance from the Council and strengthen parts of the analysis.

We urge you to:

- Give clear direction to IPHC to hold the charter sector in both 2C and 3A under their GHF in 2012 using management tools considered in the CSP.
- Expeditiously address policy questions raised by NMFS from public comments and publish the final CSP rule by June 1 for implementation in 2013.
- Ensure the full expertise of Council staff is used to address public concerns with the EA/RIR/IRFA accompanying the CSP proposed rule.
- Review Tier 1 (Low abundance) management measures and propose a trailing amendment, if needed, for implementation in 2013. The use of a trailing amendment is a long standing procedure for the Council to modify previous actions based on new information or refined analysis.
- Publish an interim rule for 2012 allowing charter operators to lease commercial quota share (as described in the guided angler fish (GAF) section of the CSP proposed rule) that includes an accurate method of calculating GAF weight. This will provide charter clients with additional harvesting opportunity and minimize future allocation conflicts.

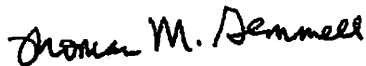
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Producers Cooperative • Southeast Alaska Fishermen's Alliance • United Cook Inlet Driftnetters Association
• United Fishermen's Marketing Association • United Southeast Alaska Gillnetters Association

The public comment period on the CSP generated a lot of public comment; unfortunately not all of it was fact based. Enclosed is an extract from a Halibut Coalition letter to Senator Begich that addresses some of the misinformation in circulation during the CSP comment period.

The Council has been struggling with the halibut allocation issues since 1993. Publication of the CSP was a significant step toward resolution of this controversy, and we urge you to direct NMFS toward immediate implementation. The Council's October 2008 final action on the catch sharing plan fairly allocated between commercial and charter sectors and equitably tied commercial and charter allocations to the same index of abundance.

Abundance-based management is fundamental to fisheries management in the North Pacific, and demands fishermen harvest less when stocks are depleted; it is long past time for the charter industry to grasp that responsibility.

Sincerely,



Thomas M Gemmell
Executive Director

Enclosure: (1) Extract of Halibut Coalition Letter to Senator Begich, October 1, 2011
(2) Halibut Coalition Letter to NMFS; September 21, 2011

Copy: Governor Sean Parnell, State of Alaska
Senator Lisa Murkowski
Senator Mark Begich
Congressman Don Young
Commissioner Cora Campbell, Alaska Department of Fish and Game
Representative Steve Thompson, Alaska Legislature, House Fisheries Committee

Extract of Halibut Coalition Letter to Senator Begich, October 1, 2011

2. You question the fairness of the formula to set the charter allocation under the CSP and state that the allocations "are below the sector's previously set Guideline Harvest Level." This is temporal and there is a reason for this. Remember the 3A charter sector has not had to take any cuts despite a declining stock trend. A brief review of the current trends in resource abundance, the GHL allocations, and harvest levels may be instructive.

The 2010 coastwide Pacific halibut assessment indicates that the exploitable biomass has **declined approximately 50% over the past decade.**¹ The decline is not consistent across all halibut management areas. The Area 2C abundance level is the lowest on record and is at least 60% lower than its highest level. Similarly, **the Area 3A surveyed weight per unit effort, a critical index of abundance, is at historic low levels and is about 40% of the level seen in the late 1990s.**²

By 2011, the annual commercial catch limit in Area 2C had been reduced by 76% to 2.3 million pounds from its 2005 level because of a declining halibut biomass, a reduction of eight million pounds. In Area 3A, the commercial catch limit has been reduced 44%, a reduction of eleven million pounds, since 2005. Meanwhile, the Area 2C charter GHL has been reduced by 45% and the Area 3A GHL has not been reduced one pound. Please remember that the Area 2C charter sector has also annually overfished its allocation by 22-115% every year since the GHL was implemented in 2004 (with a 62% overage in 2010). It is hard to understand what is "fair" to the commercial industry about the current system, what is inappropriate about asking the charter sector to share the burden of conservation, and how anyone can consider the current management system acceptable from a resource perspective given the chronic charter overfishing. Enclosed are some letters documenting financial harm to fishermen. While you seem to be concerned about potential impacts to the charter sector, the commercial fishing families are already living those impacts.

3. A brief review of the charter allocation might also be helpful:

- In Sep 1997 the first GHL was set giving the charter sector an allocation based on a percentage of the combined commercial/guided quota that was **125% of their historic highest harvest**. This allocation translated to 12.76% and 15.61% of the combined charter and commercial catch limit in Areas 2C and 3A respectively.³
- **In February 2000, the Council changed the GHL, giving the charter sector 125% of their average 1995-1999 harvest**, which translated to 13.05% for Area 2C and 14.11% in Area 3A (again based on a percentage of the combined charter/commercial catch limit). Changes to the GHL are triggered by changes in the Constant Exploitation Yield (CEY) of halibut but the changes are implemented in 15-10% stair steps to provide management stability to the charter sector and buffer

¹ 2011 IPHC Annual Meeting Handout¹, at 78. <http://www.iphc.int/meetings/2011am/iphc2011bluebook.pdf>

² *Id.* at 80.

³ Federal Register Vol 68, No 153, August 8, 2003

them against changes in the halibut biomass.⁴ Certain members of the charter sector seem to have forgotten that the basis for the GHL was a percentage allocation and that the Council gave them a significant concession for stability by using stair steps tied to CEY.

- **With the CSP, the Council increased the charter sector's percentage based allocation** of the combined commercial/guided quota to 15.1% in 2C and **gave a further increase to 17.3% at lower levels of abundance**; in 3A the CSP allocation is set at 14.0% with an increase to 15.4% at low levels of abundance. In addition to these target allocations, a range of +/- 3.5% is established around the combined charter and commercial catch limit (this equates to 20% variation around the target allocation), again to accommodate the charter industry by minimizing year to year bag limit changes. The charter sector is also guaranteed a continuous season of historic length. Rationales for selecting the historical catch numbers are detailed in the Federal Register⁵, the EA/RIR/IRFA, and in the Council's final action deliberations. In short, the CSP "addresses [the charter] sector's unique needs" (quoted from your press release).

If the charter fleet is "worse off" under the CSP than under the GHL, it is only because the RESOURCE is worse off now than it was when the GHL was implemented and under the CSP the Council set a clear management objective of sharing the burden of conservation between the commercial and charter sectors. Your statement that you "rely on the appropriate regulatory bodies like the North Pacific Fishery Management Council" is **directly contradicted by your press release challenging the Council's CSP allocations.** At current low abundance levels, the commercial sector is bearing the burden of conservation and, since the charter sector is exceeding its allocation in one area and harvesting disproportionate to abundance in the other, sport and subsistence fishermen are also suffering the "economic impacts." These impacts are amplified by the concentration of charter harvest near towns, which are generally the only fishing grounds that can safely be accessed by local sport and subsistence fishermen.

Senator, the CSP was designed jointly by the charter and commercial sectors to end the "years of divisiveness" and establish an effective management system to halt charter overfishing. The delay jeopardizes that effort, places the resource at risk, and imposes a heavy burden on the commercial, sport and subsistence sectors. Even in the best case scenario, in which the International Pacific Halibut Commission imposes 2012 management measures to prevent charter GHL overages, charter removals will still be disproportionately high relative to abundance and commercial catch limits. **While we expect that your commitment to the scientific process and resource conservation will demand that you support limits imposed by the IPHC, we wanted you to be well aware of the economic consequences imposed on the commercial sector under any extended GHL scenario at these low levels of abundance.**

In the enclosed letter from the Alaska Longline Fishermen's Association (ALFA), you will find excerpts from the Council's 2008 discussion of appropriate charter harvest control measures under the CSP. The Council discussed in some detail the appropriate trigger point for imposition of a one halibut bag limit in Area 3A. While a complete economic assessment of a one halibut limit will depend on factors that continually change (world economics, resource abundance, charter marketing strategies, etc.), **there is no question that the Council considered and evaluated the impacts of harvest control measures that would be necessitated by low halibut abundance.** In fact, before adopting the CSP the Council considered a

⁴ Federal Register Vol 68, No 153, August 8, 2003

⁵ Federal Register Vol 76 No 141, July 22, 2011

broad range of alternatives and carefully modified the proposed charter management matrix. The Council also reviewed the draft EA/RIR/IRFA (@200 pages), oral testimony of 109 associations, written comments that filled two four-inch thick binders, and recommendations from the charter stakeholder committee. The transcript of Council deliberations is 350 pages long. In sum, the Council "weigh[ed] the scientific data, impacts on the various user groups and communities, comments of the public and other relevant information."

The Magnuson Stevens Act requires all sectors to stay within designated allocations. **Resource management is the most challenging when abundance is low; that is also when effective management is most critical. While delays and calls for additional study might be politically attractive, they constitute a resource management failure.** I hope you will find instructive the enclosed article: "*A Tale of Four Fisheries.*" This article, by a knowledgeable fishery manager who used to sit on the NPFMC, provides a well-documented lesson on the resource impacts of politically driven delays.



P.O. Box 22073
Juneau, AK 99802-2073
(206) 260-9111 telefax

halibutcoalition@gmail.com
www.halibutcoalition.org

September 21, 2011

Glenn Merrill
Assistant Regional Administrator
Alaska Region
National Marine Fisheries Service
P.O. Box 21668
Juneau, AK 99802

Attention: Ellen Sebastian

RIN: 0648-BA37

Dear Mr. Merrill:

The Halibut Coalition submits these comments in response to the proposed rule implementing the Halibut Catch Sharing Plan RIN: 0648-BA37. 76 Fed. Reg. 44156 (July 22, 2011). The Coalition urges immediate implementation of the Catch Sharing Plan ("CSP"). The CSP was developed through a lengthy, analytically thorough, and very public process. It provides the necessary conservation and management measures to protect and rebuild the halibut resource while balancing the needs of all who depend on Alaska halibut for sustenance and livelihood. The CSP provides timely management of the charter industry harvest in order to conserve the resource and to protect halibut subsistence and commercial fishermen from the ill effects of charter industry overfishing. The CSP will end decades of allocation battles by establishing a "win-win" mechanism for inter-sector trading. As Dr. Jane Lubchenco stated:

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Association • North Pacific Fisheries Association • Petersburg Vessel Owners Association • Sea Food
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Glenn Merrill
National Marine Fisheries Service
September 21, 2011
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The challenge is to address the issue of allocations and fairness while recognizing that re-allocation is most difficult when a fishery is over-fished and needs rebuilding. At this point everyone – recreational and commercial fishermen – is struggling just to make it. As a starting point, allocation needs to comply with the Magnuson-Stevens Act. Within that framework I would like to see Councils phasing in mechanisms for inter-sector trading—especially at the five year re-evaluation point. I think trading can be a win-win, and can allow a more fluid (and less political) allocation process.

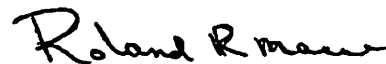
Dr. Jane Lubchenco, April 6, 2010 Recreational Saltwater Fishing Summit, http://www.nmfs.noaa.gov/sfa/PartnershipsCommunications/recfish/RecFishSummit/RecFishSummit_041610_LubchencoRemarks.pdf.

For these reasons and those set forth in the attached Comments, the Coalition urges prompt promulgation of the final rule implementing the Catch Sharing Plan.

Sincerely,



Rochelle van den Broek, Cordova District Fishermen United



Roland Maw, Upper Cook Inlet Driftnetters Association




Jeff Stephan, United Fishermen's Marketing Association



Buck Laukitis, North Pacific Fisheries Association



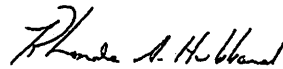
Robert Alverson, General Manager, Fishing Vessel Owners Association



Jan Standaert, President, Deep Sea Fishermen's Union




Linda Behnken, Alaska Longline Fishermen's Association



Rhonda Hubbard, Kruzof Fisheries, LLC

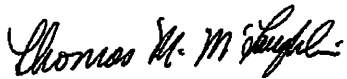
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Bill Auger, President, United Southeast
Alaska Gillnetters



Peggy Parker, Executive Director, Halibut
Association of North America



Thomas M. McLaughlin, President/CEO
Seafood Producers Cooperative



Kathy Hansen, Executive Director,
Southeast Alaska Fishermen's Association



David Polushkin, Kachemak Bay Fisheries
Association



Julianne Curry, Petersburg Vessel Owners
Association

Appendix



P.O. Box 22073
Juneau, AK 99802-2073
(206) 260-9111 telefax

halibutcoalition@gmail.com
www.halibutcoalition.org

COMMENTS OF THE HALIBUT COALITION ON THE PROPOSED RULE TO IMPLEMENT THE HALIBUT CATCH SHARING PLAN

September 21, 2011

Alaska Longline Fishermen's Association • Cordova District Fishermen • Deep Sea Fishermen's Union •
Fishing Vessel Owners Association • Halibut Association of North America • Kachemak Bay Fisheries
Association • North Pacific Fisheries Association • Petersburg Vessel Owners Association • Sea Food
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The Halibut Coalition (“Coalition”) submits these comments in response to the proposed rule implementing the Halibut Catch Sharing Plan (“Proposed Rule”). 76 Fed. Reg. 44156 (July 22, 2011). We urge that a final rule implementing the Catch Sharing Plan be promulgated promptly.

I. Introduction and History

The Coalition includes 13 member organizations and over 500 individual members. The Coalition represents a broad cross-section of people dependent on the halibut resource, including subsistence fishermen, sport and commercial fishermen, commercial halibut processors, fishery dependent communities, and American halibut consumers. Our mission is to promote sustainable management of the Alaska halibut resource and sustained access to that resource by historic participants. We participate fully in federal and international halibut management fora and respect decisions made through these scientifically-based processes.

The Catch Sharing Plan (“CSP”) is the end result of almost two decades of focused effort by managers and stakeholders, including the Coalition, to develop a responsive and effective management system for the halibut charter fleet to protect the resource and all harvester groups. These comments will (1) provide background on the development of the CSP, including the resource issues that guided policy development, (2) discuss how the CSP complies with existing law, (3) discuss the mechanisms embedded in the CSP designed to accommodate charter industry interests, and (4) examine the regulatory provisions of the Proposed Rule.

A. A Brief History of Halibut Charter Management in Alaska

In 1993, concerned commercial halibut fishermen identified serious resource conservation and management concerns caused by the rapidly expanding halibut charter harvest. Commercial fishermen reminded the North Pacific Fishery Management Council (“Council”) that the rapidly growing charter harvest was causing a direct reallocation of the allowable catch from the commercial fleet to the charter sector. This was occurring because, under the allocation system in use, the estimated charter catch was being deducted from the total quota and what was left was the commercial quota. Subsistence and sport fishermen voiced their concerns that the charter harvest, which was growing at an exponential rate, was preventing subsistence fishermen from harvesting the fish necessary to provide their families with food. The problem was, and is, that charter fishing is concentrated near towns, and the geographically concentrated charter harvest depletes the near-town halibut stocks that provide sustenance to resident subsistence and

sport fishermen. Unlike the charter fleet, subsistence fishermen generally operate from small open skiffs and cannot safely access halibut outside their traditional near-shore areas.

Heeding these conservation and allocation concerns, the Council determined that managing the charter catch was necessary to prevent the open ended reallocation of fish from the commercial sector to the charter fleet and to ensure that subsistence users had access to the resource. The Council established a Halibut Charter Working Group to identify and examine potential management options. The Working Group, comprised of six charter representatives, three commercial fishery representatives, and one non-charter fish representative, was dominated by the charter industry.

In 1995, the Council reviewed the Working Group's findings, received public testimony, and adopted a Problem Statement explaining the issues requiring action. The Problem Statement focused on the biological, social, and economic effects of the rapidly growing charter harvest. In June 1996, the Council narrowed the management options to better address the issues in the Problem Statement.

In September 1997, the Council adopted a guideline harvest level ("GHL") for halibut management in International Pacific Halibut Commission ("IPHC") Management Area 2C set at 125% of the 1995 charter harvest, 12.35% of the combined Area 2C commercial/charter combined catch. In late 1997, the National Marine Fisheries Service ("NMFS") informed the Council the GHL would not be published as a regulation because the Council had not identified what management measures could be implemented if the charter fleet ever exceeded 125% of its then current harvest. 63 Fed. Reg. 11649 (March 10, 1998). Nevertheless, NMFS published a Federal Register notice formally announcing the Council's intent to limit the charter harvest to the GHL. *Id.*

Responding to NMFS' action, the Council, in 1998, appointed a nine person GHL Committee to identify management options that could limit the charter harvest to the GHL if the 125% growth limit was exceeded. The GHL Committee was comprised of six charter industry representatives, two subsistence users, and one non-guided recreational fisherman. The subsistence representatives left the Committee after one meeting because they could not afford the travel costs. Again, the charter industry dominated the GHL Committee.

In its 1999 meetings, and based on the GHL Committee's recommendations, the Council identified for analysis a suite of management options that could be implemented if the GHL was ever exceeded. 67 Fed. Reg. 3867, 3869 (Jan. 28, 2002).

At its February 2000 meeting, the Council had before it 25 GHL related management options and sub-options. The Council approved a GHL of 125% of the 1995-1999 average charter harvest with a cap of 13.05% of the combined charter/commercial quota, or 1.4 million pounds. By using data through 1999, the Council increased the percentage of the overall harvest to be taken by the charter fleet.

The Council's action to manage the charter harvest reflected the 1995 Problem Statement which had noted several "areas of concern with respect to the recent growth of halibut charter operations...." Chief among those concerns was "[p]ressure by charter operations may be contributing to localized depletion.... The recent growth of charter operations may be contributing to ... declining harvests for historic sport and subsistence fishermen.... As there is currently no limit on the annual harvest of halibut by charter operations, an open-ended reallocation from the commercial fishery to the charter industry is occurring.... The economic and social impact on the commercial fleet of this open-ended reallocation may be substantial.... [C]ommunity stability may be affected as traditional sport, subsistence, and commercial fishermen are displaced by charter operators."

The process used to develop the GHL had consumed ten years. The Council had devoted over 20 meetings to receiving thousands of pages of testimony and to discussing the best way to manage the halibut fishery. In one meeting alone, the meeting where the Council approved the GHL, the Council allocated 20 hours to considering halibut management issues.

Among the written statements presented to the Council in that and other meetings were many discussing the social and economic problems for commercial fishermen who were the traditional and historic users of the resource, subsistence fishermen, and local communities caused by the explosive growth of the charter industry. Typical comments were that people had invested in commercial halibut vessels, halibut quota shares, etc., often borrowing money and pledging their vessels and homes as collateral, and the ability to repay those loans was jeopardized if the commercial quota was cut to accommodate the new and growing charter industry. Other commenters talked about the conservation problems caused by charter fishing, including localized depletion caused by geographically concentrated charter fishing.

The Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (“EA/RIR”) for the GHL left no doubt as to the purpose of the Council’s action. The EA/RIR stated the GHL was “adopted to prevent the erosion of commercial quotas.... The impact on local communities is another prevalent rationale.... The Council has identified [charter operators] as contributing to localized depletion....” Environmental Assessment of the Guideline Harvest Level for the Guided Recreational Halibut Fishery in International Pacific Halibut Commission Areas 2C and 3A, August 1, 2003, at 13-14.

The preamble to the proposed GHL rule confirmed this intent stating the GHL was intended to “effectively limit further growth” of the charter industry to avoid the economic, social, and conservation issues identified in the Problem Statement. 67 Fed. Reg. at 3867-3868. The preamble to the final rule establishing the GHL in 2003 echoed the proposed rule. “The Council recognized the growth in [charter] harvests” was creating the precise “allocative concerns” discussed in the Council’s 1995 Problem Statement. 68 Fed. Reg. 47256, 47257 (September 8, 2003). The GHL was established to prevent the social and economic problems caused by the uncontrolled growth of the charter catch. *Id.* NMFS explained the commercial halibut catch limit is the amount of fish left over after other harvests are subtracted from the total allowable harvest. *Id.* “Hence, as the guided recreational fishery expands, its harvests reduce the pounds available to be fished in the commercial halibut fishery and, subsequently, the value of quota shares (QS)....” *Id.* NMFS stated that the “ever increasing harvests in this [charter] fishery may make achievement of Magnuson-Stevens Act National Standards [including NS 4’s fair and equitable standard] more difficult.” *Id.* Of particular concern was the:

ability to maintain the stability, economic viability, and diversity of the halibut industry, the quality of the recreational experience, the access of subsistence users, and the socioeconomic well-being of the coastal communities dependent on the halibut resource.

Id. NMFS concluded that “[t]his final rule is the result of ongoing efforts by the Council to address allocation concerns between the commercial IFQ halibut fishery and the guided recreational fishery.” *Id.*

The Council and NMFS were quite clear that the GHL “was to place an upper limit” on the charter harvest. 63 Fed. Reg. at 11649. “The GHLs are established as a total maximum poundage” for the charter industry. 68 Fed. Reg. at 47258. “[T]he GHL was to provide a limit on the total amount of harvests in the guided fishery....” *Id.* at 47259. “[I]t is the Council’s

policy that the charter vessel fishery should not exceed the GHL.” 73 Fed. Reg. 30504, 30505 (May 28, 2008). *See also* 73 Fed. Reg. 78276, 78277 (Dec. 22, 2008) (“the Council’s intent [is] to limit the [charter boat] catch to the GHL.”) The preamble to the final rule establishing the GHL stated: “The GHL was developed by the Council and approved by NMFS as an allowable level of harvest for the charter vessel fishery....” 74 Fed. Reg. 21194, 21202 (May 6, 2009).

B. The Results of GHL Management

Contrary to the Council’s goal, the charter industry has exceeded the Area 2C (southeast Alaska) GHL every year since the GHL was established in 2004. The exceedances have not been trivial, causing the exact problems the Council sought to avoid. Since the GHLs were established, the charter industry has exceeded its quota by 22%-115% for a cumulative overage totaling 3.77 million pounds. Charter overages have also occurred in IPHC Management Area 3A (south central Alaska) with small overages in each year 2004-2006 and a substantial overage in 2007 (352,000 pounds). Compounding these problems is the fact that the regulatory process to implement management measures and control the halibut charter harvest has not been timely and has been subject to interference. While the Council has made repeated attempts to address charter overharvest through a charter individual fishing quota system, annual limits, reduced bag limits, and maximum size limits, the charter industry has fought relentlessly against conservation and management measures through political pressure and litigation. As a result, the charter harvest has grown even as the halibut biomass has declined, thereby threatening the resource and devastating subsistence and commercial fishermen who have depended on the halibut resource for generations.

A brief review of the current trends in resource abundance and harvest levels is instructive. The 2010 coastwide Pacific halibut assessment indicates that the exploitable biomass has declined approximately 50% over the past decade. 2011 IPHC Annual Meeting Handout, at 78. The decline is not consistent across all halibut management areas. The Area 2C abundance level is the lowest on record and is at least 60% lower than its highest level. Similarly, the Area 3A surveyed weight per unit effort, a critical index of abundance, is at its lowest on record and is about 40% of the level seen in the late 1990s. *Id.* at 80. Managers are concerned and have taken drastic steps to protect stocks. By 2011, the annual commercial catch limit in Area 2C had been reduced by 76% from its 2005 level because of a declining halibut biomass, a reduction of eight million pounds. In Area 3A, the commercial catch limit has been

reduced 44%, a reduction of eleven million pounds, since 2005. Meanwhile, the Area 2C charter industry has continued to overfish its allocation (62% in 2010) and to fight against every proposed or approved management restriction. This charter overfishing has perpetuated the conservation and allocation problems the GHL was intended to address. Indeed, in a letter dated September 19, 2008, IPHC told the Council:

The lack of compliance with the GHL targets will exacerbate the present conservation problem in Area 2C. Estimates of exploitable biomass for Area 2C have decreased markedly in recent years and the lack of adherence by the charter fishery to the targets established by the Council in turn frustrates the ability of the IPHC to meet its management targets. The increased charter catch will delay the rebuilding of the Area 2C resource, and increase the harvest rate well above the 20 percent level we believe is appropriate.

The implications of charter overfishing are compounded by the fact that the GHL is not directly tied to abundance. The GHL in each area is set in fixed pounds that do not automatically decline as the resource declines. Instead, the GHL is adjusted only to reflect large declines in abundance and the GHL is reduced only when fixed trigger points in halibut abundance are reached. Two years ago, the Area 2C GHL reached the bottom GHL tier, the level below which the GHL cannot be lowered even if the resource declines. Thus, the GHL has remained unchanged even as the halibut biomass has continued to drop and the commercial quota was slashed to conserve halibut stocks. While the halibut resource declined 16% from 2009 to 2010 (76 Fed. Reg. at 44160) and the Area 2C commercial quota was cut 12% to conserve the resource, the GHL was unchanged and the charter industry overfished its 2010 quota by 62%. Between 2010 and 2011, the Area 2C commercial quota was cut an additional 47% because of the need to conserve the resource. The charter GHL was not cut.

In considering the extent of charter overfishing and the conservation actions that should be undertaken, it is also important to recognize that estimates of charter harvest do not include an accounting of halibut that die after being released from a charter client's hook. Estimated mortality of released halibut in the charter fishery is 6%, but this number is not based on empirical data and does not account for fish that are hooked and released multiple times. Data from other areas indicate mortality rates can increase significantly with multiple hookings.

All of these facts document the underlying failure of GHL management to respond to stock emergencies. The facts are that GHL management does not directly link charter harvest levels to halibut abundance, it is not timely, and GHL management measures have proven to be subject to interference.

C. The Impact of Charter Overfishing

Charter overfishing has contributed to the dramatic declines in the Area 2C halibut resource which has devastated sport, commercial and subsistence fishermen. Many commercial fishermen dependent on the Area 2C resource can no longer earn enough money to pay their trip expenses and to repay the loans they took out to buy the quota shares ("QS") necessary for them to fish halibut. Many QS holders face the very difficult and very real prospect of defaulting on their QS loans because non-fishing employment opportunities to supplement fishing income in Alaska's small rural communities are extremely limited. Many commercial fishermen in this plight also confront the possibility of losing their homes and vessel which served as collateral for the QS loan.

These are not theoretical problems. When the charter industry sued in 2009 to overturn conservation regulations designed to prevent charter overfishing, commercial fishermen told the court about the economic and other impacts of charter industry overfishing. One commercial fisherman said her proportionate share of the commercial halibut quota had been cut 54% but her loan payments for the purchase of halibut QS had not been cut. Her halibut quota simply would not provide enough income to cover the loan payments.

Another commercial fisherman used his savings and borrowed money to purchase QS but was having difficulty repaying his loan and also paying for college because of cuts in the commercial quota. His fear was being forced to drop out of college and losing his chance to build a fishing business.

Another commercial fisherman explained that 60% of his family income was from halibut fishing and commercial quota reductions were having a devastating impact on his family. Another commercial fisherman who had pledged his fishing boat as collateral for the loan to purchase halibut QS was operating on razor thin margins and, because of quota reductions, grossed only \$18,000 from halibut fishing netting only \$2,000 after paying his QS loan.

Others were not as fortunate, not earning enough from halibut fishing to pay for the loan to purchase halibut QS. Like so many others, these fishermen had pledged their boats, the source

of their livelihoods, as loan collateral. These fishermen were forced to raid their life savings to survive and to pay their loan.

The plight of new commercial fishermen is the same. One such person purchased her QS in 2007. Since that time, she has lost 76% of her quota, 76% which would have otherwise been available to help pay the loan taken out to purchase the QS. In 2009 and 2011, she has been unable to cover her loan payments by fishing her halibut shares, notwithstanding the fact that the ex-vessel price of halibut has increased. Hers is a common story throughout Southeast Alaska as commercial fishermen find themselves unable to make payments on boats and/or QS loans based on earnings from halibut fishing. For example, in a letter to NMFS on the CSP, the Short family explained that a family member had been issued QS in 1995 and family members purchased more QS in 1996, 1997, 2002, 2005, 2008, 2009, and 2010. The family now operates two vessels. Both parents and both adult children own QS. They have invested heavily in the fishery, borrowing money to do so. Given the 76% cut in the commercial allocation since 2006, the family faces a severe economic crisis. The amount of their loans has not declined but their ability to pay has been cut by 76%.

In considering the plight of the commercial fishermen, recall that since 2005 the halibut resource in Area 2C has declined 62% and the commercial quota has been cut 76%. In that same time, the charter industry GHQ quota was reduced by 55% but the charter industry overfished its quota by an average of 52%. In other words, the commercial quota was cut for conservation by 76% while the charter industry's quota was cut by only 55%. However, the charter sector successfully avoided taking any responsibility for conservation because it overfished its quota by 52%.

In Area 3A, the halibut resource has declined by 37% from a 2007 high in abundance. The commercial quota has been reduced by 47%. The charter quota has never been reduced.

As noted above, the impact of charter overfishing on commercial fishermen has been direct and immediate because the amount of the harvestable resource was adversely affected and because the IPHC deducted charter overharvests from the commercial fleet. Although a few individual examples are given above, the facts are that the amount of the deduction from commercial fishermen totaled 3.77 million pounds between 2004 and 2010 in Area 2C. These 3.77 million pounds had an ex-vessel value to commercial fishermen of \$15 million (using an

average price of \$4 per pound). In Area 3A, the cumulative charter coverage since 2004 has been 400,000 pounds with an ex-vessel value to commercial fishermen of \$1.6 million.

Equally important, charter fishing is concentrated near towns and has caused local depletion of the halibut resource, with devastating impacts on subsistence fishermen. The paucity of halibut in the protected waters accessible to sport and subsistence fishermen was documented in public testimony to the Council in the mid-1990s and is reflected in the Council's 1998 Problem Statement discussing the need for a management system to restrain the charter harvest. This Problem Statement setting forth the basis for the GHL acknowledged that "[p]ressure by charter operations may be contributing to localized depletion.... Community stability may be affected as traditional ... subsistence ... fishermen are displaced by charter operators." Similarly, the GHL EA/RIR stated: "The Council has identified [charter operators] as contributing to localized depletion." EA/RIR at 13-14. NMFS also identified "the access of subsistence users" to the resource as a significant issue. 68 Fed. Reg. at 47257.

When the charter industry went to court in 2009 to overturn conservation regulations designed to prevent charter overfishing, subsistence fishermen told the court about their plight and the problems caused by localized depletion due to concentrated charter fishing in near shore areas. For example, Carolyn Heuer told the court her family depends on wild fish and game for her family's protein, consuming 50-75 pounds of halibut annually, and she "cannot afford to feed [her] family without depending on a subsistence harvest." Ms. Heuer explained the effects of charter industry overfishing as follows: "Over the past five years, I have noticed a significant decline in the abundance of halibut in the Sitka area. This decline corresponds with the growth of concentrated and unrestricted charter boat fishing in and around the Sitka area. This concentrated fishing effort ... has meant that our usual locations for subsistence fishing are no longer reliable." Because of this localized depletion, Ms. Heuer was unable to catch the fish necessary to meet the subsistence needs of her family. That meant hunger or somehow finding the money to pay for substitute groceries. And whatever economic resources Ms. Heuer may have had were further depleted when, in an effort to find subsistence halibut in a fished out area, Ms. Heuer incurred the added fuel and other expenses associated with traveling farther to find fish.

Similarly, representatives of the Hoonah Indian Association ("HIA"), a federally recognized governing body for 1,032 tribal members of Hoonah, told the court "Our community

has been in existence prior to the formation of our Country, Alaskan Statehood, commercial fishing, and charter fishing.” About 70% of Hoonah residents fish and hunt and gather food. “Fishing, including halibut fishing, has cultural significance” to Tribal members and “[t]he cultural importance and intrinsic value to the ecosystem of the halibut resource and the role it plays in the health of Alaska’s coastal communities, subsistence users and small boat fishing fleet cannot be overstated. Charter overfishing compromises every aspect of our cultural heritage and directly harms my connection to the resource.”

HIA tribal members depend on “our customary and traditional practices” to feed their families. HIA told the court that tribal members were harmed by charter industry overfishing because “the localized depletion of halibut caused by charter overfishing forces us to leave historic fishing grounds that are no longer productive ... [T]he availability of the halibut resource is of great concern to my people’s survival.” About 75% of Hoonah residents use halibut as a subsistence resource. This subsistence dependence reflects the fact that 16% of Hoonah residents live below the poverty line and unemployment hovers around 21%. Hoonah’s representative told the court that allowing continued charter overfishing by failing to implement measures to control charter overfishing harms tribal members by weakening “the ability of local subsistence users to gather the resources necessary for basic sustenance.” The Tribe told the court that their concerns and problems are shared by other Native peoples in Alaska.

At the October 2008 Council meeting, the President of HIA spoke once again about the subsistence needs of native people and explained the effect of charter fishing in just one area. “Icy Strait used to be a hot place to fish halibut. Our people would only have to go a couple of miles to get a fish. Nowadays, we don’t get too much dried halibut because of the lack of fish.... My people are a subsistence gathering people.... We feel that [the resource] may be depleted if we don’t do something about charter boats, a growing industry that is out of control....”

A subsistence fisherman, Hayden Kaden, echoed HIA’s concerns about Icy Strait in testimony submitted to the Council in September 2008. Mr. Kruden told the Council: “In the last 10 or so years, I have witnessed the explosive growth of the commercial charter fishing fleet in Icy Strait.... We subsistence and sport fishers are having to travel far from our community by skiff in order to be able to catch anything for our tables anymore.... This I attribute to the incredible overfishing of our waters by the commercial charter fleet.”

A biologist, Craig Murdoch, told the Council in September 2008 that the charter fleet was “catching more fish than they ever have and are having a real impact. Local depletion is a real problem that is having a real impact....”

The Sitka Conservation Society, Alaska’s oldest conservation society, told the Council in September 2008 that “There is ample circumstantial evidence to demonstrate local depletions.” It is this localized depletion caused by concentrated charter overfishing that is denying traditional subsistence families access to the halibut resource.

The City of Wrangell told the Council in March 2008: “The City of Wrangell is a rural, subsistence community and we support abundance based management that has all users sharing in the burden of conservation.”

As the preceding examples document, during Council consideration of the CSP, the continuing problem of localized depletion and the impacts of charter overfishing were well documented. Significantly, the charter industry admitted the existence of localized depletion when they testified to the Council during hearings on the halibut charter limited entry program that they need to travel farther every year to find halibut because inshore areas are “fished out.” Summing up the problem, the Southeast Alaska Subsistence Regional Advisory Council, a group established by federal law, told the Council in written testimony in September 2008: “The [Southeast Alaska Subsistence Regional Advisory] Council supports the continuation of the subsistence halibut fishery and is concerned with maintaining the availability of the halibut resource near rural communities. The Council has concerns regarding the growing sport halibut fishery charter fleet in Southeast Alaska and the decline in halibut abundance in Southeast Alaska. Many subsistence users have reported that it is becoming much more difficult to catch halibut near communities where they had traditionally harvested fish.”

In an amicus brief filed in a 2011 lawsuit by the charter industry challenging the charter limited entry permit program, Jeff Moran, a representative of the Metlakatla Tribe, told the court about the impacts on local subsistence fishermen of localized depletion caused by charter overfishing. Mr. Moran explained that many members of the Metlakatla community depend on subsistence fishing and then stated: “Speaking from my personal experience, subsistence fishing for halibut has declined to the point that I now feel lucky to catch a single halibut in any particular season.... [O]ne of the reasons for the decrease in the community’s halibut catch is a

depletion of the halibut stock by ... charter fishermen.... This impairs our ability to provide for the community.”

The impacts of charter overfishing also reverberate through the processing industry and the coastal communities in Alaska that depend on revenue generated by the halibut fishery. When the charter industry challenged the 2009 regulations that would prevent charter overfishing, commercial fish processors told the court about the problems caused by charter overfishing. For example, the Seafood Producers Cooperative (“SPC”), the largest fishermen owned cooperative in the United States, told the court that 23% of its revenue is derived from the commercial halibut fishery. The 2007 and 2008 commercial halibut quota reductions, caused in part by the charter industry overfishing its GHL, reduced SPC production by 15% and revenues by \$2 million, reducing income for SPC’s 140 hourly employees. The 2009 cut in the commercial halibut quota was expected to reduce production pounds by another 20% and revenue by \$500,000. SPC was forced to lay off production workers who had few other job opportunities in the local economy. Reduced product throughput and reduced revenue also meant lower revenue for SPC’s 512 owner/members, 275 of whom are commercial halibut fishermen. SPC and its members are further harmed by charter industry overfishing because of the localized depletion it causes when the charter industry concentrates near towns to service lodge and cruise ship tourists. As SPC representatives told the court: “SPC members have been forced to abandon historic fishing grounds near town and now travel most of a day to reach productive fishing grounds outside the range of the charter fleet. Additional time increases operating costs and safety risks.”

Rightly so, SPC also worried that charter overfishing may result in the halibut fishery losing its Marine Stewardship Council (MSC) sustainable fishery certification, an increasingly important marketing tool. Indeed, many importers and other retail purchasers look for the MSC certification in deciding whether to buy harvested product. In the 2011 MSC review of the halibut fishery, the reviewers stated: “The management measures in place for the sport fishing sector of the fishery do not, however, provide positive incentives for sustainable fishing. The daily bag limits and the limit on the number of sport charter permits do not provide incentives for the sector to maintain catches within the GHL (guideline harvest limit). As noted above, the sport fishery frequently exceeded the GHL in recent years.” Marine Stewardship Council Final Report US Pacific Halibut v.4 (June 2011), Scientific Certification Systems,

http://www.msc.org/track-a-fishery/certified/pacific/us-north-pacific-halibut/reassessment-documents/05.07.2011_Final_PacificHalibut.pdf.

An SPC spokesman recently supplemented this information. He reported on recent economic impacts to SPC's members stating: "The reality is, if someone took out a loan to buy 10,000 pounds of quota six years ago, they're now down to fishing 2,200 pounds because of the diminishing catch limits. So they have left less than a quarter of what they're still paying on. The ex-vessel halibut price over that time went from \$2 to \$4 per pound, but if you're only fishing a quarter to a fifth of your quota share, double the price still just doesn't add up." Both the fishermen and the processors are suffering from the quota reductions and processing production for halibut at SPC is down 65% since 2008.

Members of the Halibut Association of North America ("HANA"), an association of processors that processes 70% of the commercial halibut harvest, told the court that commercial deliveries to HANA's processors had, by 2009, dropped by as much as 40% since 2006. Such drops in product inventory cannot be recaptured through higher prices. Less product to process and higher overhead, caused in part by localized depletion resulting from charter overfishing in near shore areas which forces fishermen to travel farther offshore to catch fish, has resulted in layoffs among processing workers and lost wages for remaining workers.

Yet another processor, North Pacific Seafoods, Inc. ("NPS"), which employs 800 workers at three halibut processing plants, told the court in 2009 that since 2004 when the charter industry began exceeding its catch limit, halibut production in NPS' Area 2C processing plant had dropped 25%. Any continuation of charter overfishing would cause even more production cuts and the loss of processing jobs as the commercial quota is cut to compensate for the effects of charter overfishing. Since then the Area 2C quota has been reduced by 52%, further reducing production and processing jobs.

At Hoonah Cold Storage, diminishing halibut quotas have cut production by 75% since 2004 with a corresponding loss of jobs. Similarly, Dana Besecker Co., Inc., which purchases more halibut than any other buyer in Alaska, has seen halibut processing production drop 56% in the last five years. Though production has dropped, expenses have not, creating important economic issues for the processing company and the community since reinvestment dollars are just not there. Like these two companies, Icicle Seafoods, with processing plants in Areas 2C

and 3A, has seen halibut production drop by as much as 50% in some plants, with a corresponding drop in workers' pay and job opportunities.

The effects of charter overfishing on coastal communities were, and are, equally devastating. In Area 2C, for example, 74% of the halibut QS owners are family businessmen and women residing in Alaska's coastal communities and 90% of the Area 2C commercial halibut catch is delivered to community-based processors. Commercial fishermen are tied to their local communities. The effects of charter overfishing on these coastal communities was a significant part of the information presented to the court in 2009 when the charter industry sought to continue overfishing by overturning the conservation regulations intended to prevent that. For example, the City of Pelican is a community of 112 residents, 26% of whom are Alaskan Natives. The Mayor told the court that many Pelican residents are also subsistence fishermen whose subsistence harvest is "essential to their survival." Pelican has no road connections with any other town and the commercial halibut fishery is the mainstay of Pelican's economy. The Mayor explained that Pelican receives 50% of the commercial fish tax collected by Alaska from halibut and other commercial fish landings in Pelican and depends on this revenue. Diminishing the revenue from that tax jeopardizes the ability of Pelican to provide essential services to its residents. Since this tax is based in large part on commercial halibut landings, any reduction in the commercial halibut quota due to charter industry overfishing causes direct and immediate harm to the City. In the words of Pelican's Mayor: "Our community is NOT sustainable without commercial setline halibut fishing and seafood processing."

Similarly, the City of Port Alexander is an isolated fishing community in Area 2C which can only be reached by boat or float plane. It has 51 residents and is almost entirely dependent on the fishing industry. As the City's Mayor told the court, "The survival of Port Alexander as a community ... depends on viable access to healthy and abundant marine fish stocks." Reductions in the commercial catch caused by charter overfishing directly harm Port Alexander "because the economic survival of the community" depends on the fisheries.

That these are continuing problems was documented in March 2008 when the Mayor of Hoonah told the Council: "Our economy is resource based and fisheries is the leading driver.... My municipality does count on raw fish tax which totals well over a hundred thousand dollars on an annual basis." Turning to the need for all sectors to bear a fair share of the responsibility for

resource conservation, the Mayor continued: "If the charter fleet wishes to become a player they need to be asked to take conservation measures when the need arises." Echoing this sentiment, the City of Craig submitted testimony to the Council in September 2008 stating: It is important ... that the charter industry be held accountable for their own excesses...."

The facts are that the impacts of charter overfishing are being felt first and foremost by the resource and then by all who depend on it, commercial, sport, and subsistence fishermen, and processors. Coastal communities who depend on the tax revenue and economic activity generated by commercial halibut fishery are also among those harmed by charter overfishing.

II. The Halibut Catch Sharing Plan

A. The History of CSP Development

This history of failed management and chronic charter overfishing demanded, and still demands, resolution. Recognizing the difficulties with the GHL system, the Council in 2005 began investigating other ways to manage the charter harvest. As the Council's Problem Statement for the CSP establishes, many of the same problems that the Council sought to address with the GHL (sector reallocation, charter overfishing, impacts to sport and subsistence harvesters, tension in coastal communities) have not been resolved by the GHL and these continuing issues demanded a more responsive management system. Recognizing these chronic and continuing problems, the Council re-formed the Halibut Charter Stakeholder Committee. This thirteen-member Committee was comprised of seven charter industry representatives, one sport fisherman, one processor, one Council member, one State of Alaska representative, and two commercial fishermen. Once again, the committee charged with finding solutions was dominated by the charter industry. When the Committee was almost finished with its work, one member was added to represent coastal communities.

The Stakeholder Committee determined that many of the alternative management programs that had been suggested could require federal or state legislation to implement and could not be implemented in a timely fashion. During the March/April 2007 Council meeting, charter industry representatives approached commercial fishermen and requested help. With staff assistance from the State of Alaska, the CSP was developed in October of 2007 with the full support of the charter industry representatives and operators present at the October 2007 Council meeting. The people representing the charter industry in these discussions were the charter representatives on the Stakeholder Committee plus additional representatives of the charter

industry who were present at the Council meeting. At the end, the support from the charter industry was unanimous. All charter and commercial fishermen at the Council meeting stood united before the Council in support of the CSP. Sport and subsistence fishermen added their support through public testimony at subsequent meetings, demanding that the Council restrict charter harvest to protect the resource and traditional users.

However, at the October 2008 Council meeting where the Council was to vote to approve the CSP Agreement, the charter industry withdrew its support of the Agreement it had endorsed and demanded a new plan that would meet their newly minted definition of fair and equitable. The charter industry's new plan proposed raising the then existing Area 2C charter catch from 913,000 pounds to 4.9 – 5.7 million pounds, between 70%-80% of the total harvest allowed by the IPHC. At that point, the commercial fleet would effectively cease to exist. If the total harvest had to be restricted for conservation reasons, all catch reductions would come from what was left of the commercial quota. The charter catch would not be restricted until the IPHC determined the coastwide halibut population had reached such low levels that all fishing must stop.

In response to the charter industry's proposal, the Alaska Department of Fish and Game ("ADF&G") Commissioner sought to salvage the CSP and presented another proposal that ultimately was the foundation for what the Council adopted. Neither the commercial sector nor the charter sector saw the State of Alaska proposal in advance, although the State consulted with both groups before presenting its proposal to the Council.

Members of the charter industry have subsequently claimed that the Council chose to "invent an entirely different" CSP from what the Stakeholder Committee and others had recommended. This claim ignores the fact that it was the charter industry that reversed its position, rejecting the CSP Agreement it had previously endorsed, forcing the State of Alaska to devise a modified plan. Notwithstanding the substantial turmoil caused by the charter industry's reversal of position and unrealistic demands, the CSP adopted by the Council accommodated charter industry interests in many important ways. For example, the charter industry had always asked for management stability regarding bag limits so that management measures would not change during the fishing season. The Council agreed to keep those measures constant during the fishing season. The Council also established a range around the charter allocation that allows charter harvest levels to vary by 3.5% above or below the allocation before bag limits are

changed. The range represents a variance of approximately 20% around the charter allocation, which can only be considered a very generous accommodation by managers and other halibut harvesters. We note that the U.S.-Canada Pacific Salmon Commission defines the annual management error range for Chinook salmon as \pm 7.5% of the point estimate harvest; the Chinook fishery includes both commercial and sport (guided and unguided) and both Chinook and halibut sport harvests are assessed with the same tools: charter log books and the Statewide Harvest Survey. Again, this provision was adopted in response to the charter industry's demand for stability and predictability. The Council then increased the charter industry's allocation percentage when halibut populations are low in order to provide an additional economic bonus to the charter industry. The effect is to reduce the charter industry's conservation responsibility and to shift that responsibility to the commercial sector since higher charter quotas mean lower commercial harvests. Finally, the Council established a unique opportunity for charter operators to maintain stability and client opportunity by leasing quota from commercial fishermen. This quota leasing program, called the Guided Angler Fish ("GAF") program, had broad support before the Council. As the Environmental Assessment published contemporaneously with this Proposed Rule noted: "Stakeholders from the commercial and charter sectors have testified in support of the GAF program as a market-based mechanism for attaining a more nearly optimal allocation." Environmental Assessment/ Regulatory Impact Review/Initial Regulatory Flexibility Analysis, Regulatory Amendment for a Catch Sharing Plan for the Pacific Halibut Charter and Commercial Longline Sectors in International Pacific Halibut Commission Regulatory Areas 2C and 3A, June 23, 2011 ("EA") at xxxvi. We note that the Canadians, who are experiencing similar problems with controlling the sport harvest, came to the same conclusion about the use of leased fish and their experimental program is exceeding expectations this year; we suggest the NMFS confer with the Canadian Department of Fisheries and Oceans to share lessons learned. In short, the Council accommodated charter interests to the maximum extent possible while still providing some protection to other harvesters, processors, and communities. In October 2008, the Council approved the CSP by a 10-1 vote. In that meeting, the Council received testimony from 109 organizations and individuals and the public submitted written comments that filled two four-inch binders.

The first response of the charter industry to the Council's action was to allege the Council was not fair because the Council had not adopted the charter industry's new allocation demands.

The charter industry said the Council was prejudiced because the Council had more members who were commercial fishermen than recreational fishermen. These comments will address the fair and equitable issue below. However, as to the composition of the Council, it is important to recognize that the Council manages 46 species and multi-species complexes but only one recreational fishery (halibut). The commercial harvest for all species when the CSP was adopted totaled 4.5 billion pounds. In contrast, the halibut charter harvest managed by the Council totaled 5 million pounds, 0.1% of the commercial harvest for which the Council was responsible. The Council has 11 members, four of whom are public sector representatives (NMFS plus the principal fisheries management official from each of the states of Oregon, Washington, and Alaska). Of the seven non-public sector members appointed by NMFS, two are from Washington and five from Alaska. Of those seven non-public sector members at the time the CSP was approved, six were commercial representatives and one a recreational fisherman. Given that only 0.1% of the Council's management responsibility based on pounds harvested involved recreational commercial fisheries, this was not surprising. Further, almost all of the commercial and public sector representatives on the Council were also recreational fishermen who accessed the resource from charter boats.

The CSP addresses the conservation and allocation issues that have plagued the halibut fishery for almost two decades. The CSP has four critical components. First, the CSP establishes clear sector allocations between the charter and commercial sectors via a percentage allocation that will allow harvests to rise and fall with the abundance of the halibut resource. Second, the CSP includes an improved method for timely implementation of management measures to restrict the charter harvest to that sector's allocation. Third, the CSP provides the charter industry an unprecedented measure of management stability by ensuring charter operations an uninterrupted season of historic length, restricting charter management measures to bag and size limits, holding charter management measures stable throughout the annual fishing season, and allowing charter harvest to fluctuate within an allocation range without a change in harvest restrictions. Finally, the CSP allows charter operators to lease QS from commercial fishermen to satisfy any need to harvest halibut above the specified charter limits. This is the market-based mechanism for inter-sector trading envisioned by Dr. Lubchenco.

B. The CSP is a Fair and Equitable Allocation

1. The Allocation Amount

When the GHL was established, it was set at 125% of the then existing charter harvest. That was 13.1% of the combined commercial/charter harvest in Area 2C and 14.0% in Area 3A. In the CSP, the Council awarded the Area 2C charter fleet 15.1% - 17.3% of the combined commercial/charter quota, with the higher percentage granted at times of low halibut abundance. In Area 3A, the CSP charter allocation is 14% - 15.4% of the combined quota, again depending on halibut population levels. In other words, the CSP allocation is at least equal to, and is generally greater than, the GHL allocation. In fact, a retrospective analysis discussed below establishes that had the CSP been in place since 2004 instead of the GHL the charter sector would have been allocated more fish under the CSP than it was allowed under the GHL.

To further place the allocation percentages into perspective, the 17.3% allocation for Area 2C was the highest percentage allocation considered by the Council and the lower tier of 15.1% was the second largest percentage considered. These percentages also accounted for present participation in the fishery by the charter fleet because the allocation was calculated as 125% of the average charter harvest in Area 2C from 2001-2005. In other words, notwithstanding the fact that the charter industry overfished its 2004 and 2005 GHL quota by 22% and 36% respectively, the CSP includes those overfishing harvest levels in the average, and then adds 25%, to reach the CSP allocation. Another way to look at this is that the charter industry was rewarded for overfishing and was given a 25% bonus on top of that.

Applying the CSP allocation percentages to the actual harvest levels in Area 2C amply demonstrates that the allocation is fair and equitable and that any related allegation about not accounting for present participation is false. In Area 2C, if the CSP had been in effect in 2010, the charter industry would have been allowed to take 15.1% of the combined commercial and charter allowed harvest. Under the GHL, the charter industry was allowed to take 15.4% -- a difference of only 8,000 pounds. However, it should be noted that because the charter industry overfished their quota, they actually harvested 21% of the combined commercial and charter catch, to the detriment of the resource and the commercial fishermen.

For Area 3A, the 15.4% charter allocation, the upper bound, was based on a calculation of 125% of the average charter harvest 2001-2005. In other words, the allocation was based on current harvest levels plus 25%. The 14% lower bound was established using the GHL formula

of 125% of the 1995-1999 average charter harvest in Area 3A. This allocation is fair because in 2008 and 2009 the Area 3A charter harvest did not exceed the GHL and from 2004-2007 exceeded the GHL by less than 3%. In other words, the charter harvest in Area 3A closely approximated the GHL in all years. Consequently, the CSP allocation based on the GHL fully takes into account present participation in the fishery and, in fact, provides a larger percentage allocation.

While it is not possible to predict future harvest levels because no one can know the size of the resource, it may be instructive when considering whether the CSP allocation is fair and equitable to compare actual GHL harvest amounts with what would have occurred had the CSP been in effect. Those numbers are set forth in Tables 1 and 2 for Areas 2C and 3A respectively. For Area 2C in the years 2004-2011, the total cumulative GHL quota was 9.023 million pounds. The harvest under the CSP allocation would have been 10.31 million pounds. In other words, the CSP would allow a greater overall harvest than the GHL. This information is also graphed in Appendix 1, which is attached to these comments.

The facts are the same in Area 3A where the total cumulative GHL quota 2004-2011 was 29.20 million pounds. If the CSP had been in place in the same time period, the cumulative harvest would have been 29.92 million pounds. Again, the CSP harvest levels exceed the comparable GHL levels.

Notwithstanding these facts, the charter industry argues the CSP is not fair and equitable and fails to account for present participation because in 2011 in both Areas 2C and 3A the charter allocation under the GHL would have been greater than under the CSP. Such statements only document the charter industry's view that they should bear no responsibility for the conservation of the resource and that declines in resource abundance should not change the charter catch. Such a definition of what is fair and equitable does not comport with long accepted principles of fishery management or with reality. The facts are that in the 2004-2011 period in Area 2C, the halibut resource declined 62% in abundance. The commercial catch declined 76%. However, the charter harvest under the GHL declined only 45%. Further illustrating the disparity in conservation burdens is the fact that between 2009 and 2011 the halibut resource declined by 16%, the commercial harvest was reduced 53%, but the charter GHL quota was not reduced by one pound. As the Proposed Rule states: "The burden of a lower exploitable biomass in Area 2C was borne entirely by the commercial sector in 2010." 76 Fed.

Reg. at 44160. That the CSP asks the charter industry to assume a share of the conservation responsibility for a declining resource is fair and equitable.

In Area 3A, the story is the same. In the 2004-2011 period, the resource declined 25%. The commercial catch was cut 43%. The charter GHL quota was not reduced one pound. Again, it is only fair and equitable that everyone share the responsibility for conservation when resource abundance is declining. It is neither fair nor equitable for one sector, here the charter industry, to argue it should be able to maintain or increase its harvests when the resource size is plummeting and the commercial fleet is seeing its quota cut with the attendant serious adverse economic consequences.

There are those who now argue that the Council never intended the 3A charter sector to be managed with a one fish bag limit. The transcripts from the October 4, 2008 Council final action deliberations, which are quoted at length in the CSP proposed rule comments submitted by the Alaska Longline Fishermen’s Association, contain ample evidence to the contrary. The Council discussed and fine tuned through amendment the management tiers and triggers for Area 2C and Area 3A separately. The tiers and triggers of the Area 2C matrix are different from the tiers and triggers in the 3A matrix; each was determined based on data specific to the area. However, each area contains a combined charter and commercial catch level that triggers a one halibut daily bag limit. There can be no question that the Council considered and prepared for the one halibut daily limit management scenario in both Area 2C and Area 3A.

TABLE 1
Area 2C Comparative Charter Allocations

Year	GH ¹	CSP % Allocation	CSP ¹ Allocation
2004	1.432	15.1%	1.79
2005	1.432	15.1%	1.87
2006	1.432	15.1%	1.85
2007	1.432	15.1%	1.50
2008	0.931	15.1%	1.08
2009	0.788	15.1%	0.90
2010	0.788	15.1%	0.78
2011	<u>0.788</u>	17.3%	<u>0.54</u>
Total	9.023		10.31

¹ Weights in millions of pounds.

TABLE 2
Area 3C Comparative Charter Allocations

Year	GHL ¹	CSP % Allocation	CSP ¹ Allocation
2004	3.650	14%	3.97
2005	3.650	14%	4.01
2006	3.650	14%	4.01
2007	3.650	14%	4.18
2008	3.650	14%	3.90
2009	3.650	14%	3.55
2010	3.650	14%	3.30
2011	<u>3.650</u>	14%	<u>2.52</u>
Total	29.20		29.92

2. The “Jink”

Charter representatives cite what they call the “jink” in the CSP as further evidence of the alleged unfairness of the CSP. However, the so called “jink” about which the charter industry complains was adopted at their request. During public testimony on the GHL and the CSP, the charter industry repeatedly asked for management stability and a higher harvest percentage at low levels of halibut stock abundance, claiming they needed extra fish to keep their businesses alive when stocks were scarce. The change in the charter harvest percentages which the charter industry requested causes the so-called “jink.” For example, under the CSP, when halibut abundance permits a combined catch of 5 million pounds, the charter harvest is 755,000 pounds.

But if the halibut population drops and the allowed harvest falls 2% to be below the 5 million pound level, the commercial harvest drops 2% but the charter harvest increases from 755,000 pounds to 847,000 pounds. This counter-intuitive system was adopted only because the charter industry did not want to reduce their harvest when the halibut population declined. Instead, the CSP provides the stability in the charter harvest the industry sought by increasing the charter allocation percentage when the halibut population drops, taking that increase from the commercial fleet and making the commercial fleet bear the conservation burden. The Council could have fixed the so called “jink” by assigning the same allocation percentage to the charter industry regardless of the level of halibut abundance. Instead, the charter industry was granted protection when halibut populations fell, shifting conservation responsibility and lower catches to the commercial fleet.

3. “Stale Data”

After working for years to delay conservation and management measures and the CSP by filing lawsuits, changing previously agreed positions and endlessly demanding more halibut despite declining stocks, the charter industry now alleges the CSP relies on stale data that do not fully recognize current charter harvest levels. Charter plaintiffs made the same argument in their 2009 lawsuit against management measures designed to enforce the GHL. There, charter operators argued the GHL allocation was not appropriate and their allocation should be based on “present participation,” *i.e.*, their current harvest levels. The Court rejected this argument and its ruling provides essential insight. The Court stated:

Where overfishing by one group in recent years is the precise concern that the regulation intends to address, it makes sense to disregard the most recent participation data.

Van Valin v. Locke, 671 F.Supp.2d 1, 13 (D.D.C. 2009). The Court determined the charter sector should not be rewarded for ignoring the GHL and for overfishing. The Court stated:

The Charter Operators' argument that the Secretary should have relied on recent participation data is in essence a claim that they are entitled to a greater allocation of the harvest because they have been harvesting a greater amount in recent years, *i.e.*, that they should be rewarded for exceeding the guidelines year after year. The Secretary understandably chose not to encourage such overharvesting.

Id. Rewarding a sector for overharvesting would place the resource and the North Pacific management system at risk.

4. GHL versus CSP Management

Certain charter associations argue they are worse off under the CSP than under the GHL, despite the increased percentage allocations to the charter industry, the historic analysis captured in Tables 1 and 2 above, and the market-based mechanism that allows charter operators to acquire more fish. Instead, the charter industry has presented information to NMFS and the Council that allegedly compares charter allocations under the GHL and the CSP. *See* SEAGO letter of September 10, 2010 to the Council. These comparisons are inaccurate and misleading. First, the SEAGO comparisons are theoretical and lack any historical basis. Second, the charter industry based its charts on projected Constant Exploitation Yield (“CEY”), rather than the combined charter and commercial catch limit, which is the basis for the CSP allocations. The

combined charter commercial catch limit is set after the IPHC Commissioners evaluate CEY, apply appropriate harvest and management policies, and listen to public testimony. The Council very deliberately elected to base the CSP allocations on the combined commercial and charter catch limit to allow for the incorporation of these management factors. Creating graphs that apply CSP percentages to the CEY is misleading at best.

In considering the charter industry's allegations, it is important to recall the analysis in Part II(B)(1) of these Comments comparing the cumulative GHL quota harvest with the harvest levels had the CSP been in effect. Indeed, the 2010 Area 2C charter allocation under the CSP would have been 15.1% or 780,000 pounds. This compared to the GHL of 788,000 pounds – only 8,000 pounds different. The facts are that the 2011 charter allocation reductions that would have occurred under the CSP, and about which the charter industry complains, result from the resource decline discussed above and the need to proportionately reduce the harvest of both the charter and commercial sectors. What the charter industry wants to forget is that the halibut resource decline caused a 47% reduction in the 2010 commercial quota. The charter industry's quota was not cut. Now, they are arguing that despite continuing resource declines, they do not want to accept any quota reduction for conservation under the CSP.

With respect to Area 3A, the difference between the GHL and CSP allocations illustrates what is unfair and inequitable about the GHL—namely that resource declines in Area 3A have triggered a 44% reduction in the commercial quota over the past six years without triggering any reduction in the charter GHL allocation. The CSP requires the charter sector to share in conserving stocks and, therefore, reduces charter harvest at these low levels of halibut abundance to allow stocks to rebuild.

When evaluating charter industry allegations, recall also that the CSP sets an allowable range, not an inflexible fixed amount. Under the CSP, the annual charter catch is allowed to vary from the allocation percentage by up to 3.5% in either direction. This harvest range equates to about a 20% range around the charter allocation. To our knowledge, no other fishery, commercial or charter, is allowed to exceed its allocation by 20% without immediate conservation action. To illustrate, in 2010, the allowable charter catch in Area 2C under the CSP would have been from 600,000 pounds to 960,000 pounds with a midpoint of 780,000 pounds. A harvest within that range would mean no management action was required. In contrast, under the GHL, if the charter catch exceeded 788,000 pounds in 2010, management action would be

initiated to restrict charter harvest in subsequent years. While the Council clearly committed to managing the charter sector over time to the CSP allocation mid-point, the CSP allows the charter harvest to fluctuate by up to 20% of their allocation without changing charter bag or size limits, thus giving the charter fleet greater predictability for marketing trips to clients. That the management measures are limited to bag and size limits is further evidence of concessions to the charter industry, which did not want any other management tools in the tool box. The charter fleet repeatedly asked for predictability to assist in marketing charters to their clients and the allocation range and management measure matrix were developed to accommodate the charter business model.

The CSP provides another benefit to the charter sector when compared to the GHL system. As halibut stocks rebuild, the CSP process will allow charter management measures to be liberalized more quickly than is possible under the GHL. Under the GHL, Area 2C charter clients will likely be limited to one 37 inch halibut per day for 3-4 years even as stocks rebuild since the GHL relies on an end of the season evaluation of charter catch, which takes nine months to verify after the season closes, and uses the Council/NMFS rulemaking process to modify management measures. The CSP projects charter catch levels pre-season, uses the Council approved matrix or tiers to identify appropriate management measures based on halibut abundance and projected catch, and then relies on the annual IPHC management process to implement changes. This innovative process will allow the size and bag restrictions to be liberalized in response to stock recovery on a 1-2 year timeframe.

In sum, when the CSP versus GHL harvest level is plotted as in Tables 1 and 2 the analysis establishes a very different story than that claimed to exist by the charter industry. Over the long-term, the CSP grants the charter industry in both Areas 2C and 3A a larger halibut allocation than was made under the GHL. When charter lobbyists cite the quota reduction charter operators would have faced in 2011 under the CSP if it had been in place this year they ignore the recent resource declines and corresponding commercial catch limit reductions, abdicating their responsibility for sharing in conserving and rebuilding the halibut resource. Moreover, the charter industry has ignored the advantage of the CSP during increasing halibut abundance, which will allow management measures to be liberalized on a more timely basis.

5. Market-Based Transfer Mechanism: Leasing Commercial Quota

Furthering the fair and equitable nature of the CSP, the CSP allows charter operators to lease QS from commercial fishermen to meet the harvesting desires of their clients. The original Council CSP alternatives also included an option to allow charter operators to purchase a limited amount of commercial quota share, but this option was removed at the charter industry's request.

Commercial fishermen will likely lease quota to charter operators for two reasons. First, many commercial halibut fishermen currently do not have enough QS to pay the overhead of a fishing trip. Second, rather than exceed their allocation, many commercial fishermen leave a margin of their quota unharvested on their final trip. They can do this because commercial operators are allowed to carry over to the next year 10% of their annual allocation. At a minimum, it is that margin that could be leased with the understanding that charter operators return any unused portion to the commercial quota holder at the end of the charter season, and only pay for quota that is actually used by charter clients. In 2011, applying only the 10% margin, the amount available for leasing if the CSP were in place would approximate 230,000 pounds in Area 2C and 1.4 million pounds in Area 3A, approximately 10% of the quota in each Area. Further, charter operators would only pay for the quota actually used, a win for everyone. This leasing provision allows the market to resolve the allocation issue, removing the matter from the political arena. It will also end the bitter feuds between commercial and charter operators that have torn apart Alaska's coastal communities. In short, it is the win-win identified by Dr. Lubchenco in her speech at the 2010 Recreational Fishing Summit.

The charter industry, however, asserts it will not be able to afford to lease fish because the price will be too high. They are wrong. Some commercial halibut fishermen currently lease part or all of their quota to other commercial fishermen and this precedent provides a reasonable basis to estimate lease fees to charter operators. Although arrangements vary, a 50% split on the ex-vessel value is the industry average. Halibut prices have varied over time, but the average 2010 ex-vessel price was approximately \$4.50. This would place the lease fee at \$2.25 per pound. The average size halibut harvested in the charter fishery has varied over time, but 20 pounds is a reasonable average. Hence, the conversion from commercial QS to charter GAF will likely be in that range. To complete the equation, a charter operator leasing QS will likely pay approximately \$45 per purchased fish. Given that a day of charter fishing costs between \$150 and \$300, charter fishermen regularly pay \$2 per pound for processing, and charter fishermen

can pay over \$100 to ship their catch home, this added leasing expense is proportionately reasonable, if not small.

6. Accommodations to the Charter Industry – Fair and Equitable

The CSP has numerous benefits to the charter industry that amply demonstrate the CSP is fair and equitable to that industry. First, the percentage allocations are at least equal to and generally greater than the GHL allocations. Second, the charter industry can add to its harvest percentage by leasing quota from the commercial fleet. Third, as noted in paragraph 1 of this section, a retrospective comparison of charter quotas under the GHL versus the CSP shows that charter operators would have been better off under the CSP over the 2004-2011 period. Fourth, at the request of the charter industry, the CSP has no in-season harvest changes for the charter fleet and harvest can vary within a range of the charter allocation without triggering changes in bag or size limits. This provision was included based on testimony from the charter industry that in-season changes to harvest regulations would be disruptive and that predictability in management measures between seasons was important to their businesses. Fifth, at the request of charter industry, conservation actions were limited to bag and size limits. Conservation actions such as season limits and fishery closures were taken off the table.

Sixth, the CSP recognizes the charter harvest is difficult to predict. Instead of imposing management restrictions based on a fixed charter quota, the CSP allows the charter harvest level to fluctuate plus or minus 3.5% of the allocation percentage without changing bag or size limits. Thus, in Area 2C, the 17.3% allocation is actually a range of 13.8%-20.8% and the 15.1% is in effect a range of 11.6%-18.6%. For Area 3A, the allocation of 15.4% becomes a range of 11.9%-18.9% and the allocation of 14% becomes a range of 10.5%-17.5%. This harvest range translates into approximately a 20% range in the charter allocation. Not only does this floating percentage add an important element of flexibility for the charter industry, but it addresses the concern in the charter industry that a fixed allocation amount and a no halibut retention rule once that amount was reached would disrupt their business. Such a “hard cap” would, according to the charter industry, be a disincentive for people to book charters assuming the only purpose of the charter was to catch halibut. By providing the 3.5% upward adjustment, the Council avoided the hard cap, thus giving the charter industry the room to exceed its in-season quota. The Council then added the opportunity for the charter fleet to buy more quota. To our knowledge,

no commercial or charter fishery is allowed to exceed an allocation by 20% without triggering conservation actions.

Seventh, the Council increased the charter industry's allocation percentage when halibut populations are low in order to protect the industry. The effect is to reduce the charter industry's conservation responsibility and to shift that responsibility to the commercial sector since higher charter quotas mean lower commercial harvests.

Eighth, by linking the charter allocation to halibut abundance, the charter industry avoids the situation such as that which occurred in Area 3A when the allowable biological level of removals, called the Total CEY, increased by approximately 11% from 2006 to 2007, but this increase did not trigger a change in the GHL which was held at a constant level. In contrast, the CSP allows the charter allocation to increase above GHL allocations. It also allows charter bag and size limits to be liberalized more quickly as the halibut biomass rebuilds.

All of these concessions were adopted by the Council and are accepted by the commercial fleet in an effort to finally resolve the 18 year conflict between sectors, ensure the resource is protected, and address the unacceptable inequities of the GHL.

7. The GHL System is Unfair and Inequitable to Commercial Fishermen

Without question, status quo GHL management is unfair and inequitable to the commercial sector. While the charter industry has been allowed to overfish its allocation without consequence, the commercial sector has dutifully accepted painful quota reductions, some a direct result of charter overfishing, and has never exceeded its quota. While the GHL and the CSP allow the charter sector a continuous season of historic length, commercial fishermen must stop fishing once their individual allocations are met. While commercial fishermen on average received 80% of their historic harvest when the halibut QS system was implemented, the charter industry received 125% of its historic largest harvests. At low levels of abundance, the charter GHL is not reduced, forcing the commercial fishermen to bear the entire conservation burden. Under the GHL management restrictions go unchanged for 3-4 years following charter overages, almost ensuring measures will be inappropriate and inadequate by the time they are implemented. And critically important, as discussed in part of the next section, the charter industry has not borne its share of the responsibility for conserving the resource during these times of low abundance, which shifts that responsibility to the commercial sector and disadvantages both subsistence and sport harvesters.

8. Shared Conservation Responsibility

The CSP is fair and equitable because under the CSP both the charter industry and the commercial fleet share in the benefits and burdens of changes in resource abundance. The benefits and costs of managing the resource are shared because the amount of the sector allocation adjusts directly with resource abundance.

Under the fixed poundage allocation of the GHL system, the charter industry may not get to share in the benefits of a resource increase if the increase is not large enough to trigger the next higher GHL allocation level. Similarly, the charter industry does not bear the conservation burden of a decreased allocation when, as now, the resource is declining but the GHL is already at its lowest level. In that circumstance, the entire conservation burden falls on the commercial fleet which is unfair and inequitable to the commercial sector.

Under the status quo, the charter industry has overfished its Area 2C GHL allocation by 22%-115% in each year. In contrast, the commercial sector has never overfished its quota since the 1995 implementation of the IFQ plan. Charter overfishing has to be accounted for someplace. Either the resource pays the price with reduced abundance caused by overfishing or the commercial fleet pays the price as its quota is cut to compensate for charter overfishing. Under the status quo, both have happened. This is both unfair and inequitable to the resource and to commercial fishermen.

The charter industry, however, complains that in Area 2C it has sustained conservation related cuts because the GHL has declined. The charter industry forgets two facts. First, while the GHL has declined from 1,432,000 pounds in 2003-2007 to 931,000 pounds in 2008 and 788,000 pounds in 2009, 2010, and 2011, the charter percentage decline from 2007 to 2011 of 45% is nowhere near the 73% decline from 2007-2011 experienced by the commercial fleet. Second, the charter sector overlooks the fact that it has ignored the GHL, overfishing its annual quota by as much as 115%.

In Area 3A, the story is much the same. The commercial fleet has seen its quota cut by 45% from 2007 to 2011 because of the need to conserve the resource. However, the charter industry has never had its GHL reduced, and from 2004 to 2007 overfished its GHL by 9% (320,000 pounds). However, if the CSP had been in effect, the charter allocation would have been reduced from the 3.65 million pound GHL to 2.52 million pounds in 2011. This 21% quota

reduction under the CSP would have allowed the charter industry to do its part to conserve the Area 3A halibut resource.

The charter industry also complains that if CSP had been in place in 2011, the charter allocation would be lower. Such statements ignore the fact that in 2011 the commercial quota in Areas 2C and 3A was cut from 2010 levels by 47% and 38%, respectively, while under the GHJ the charter quota was not reduced in either area. A fair and equitable allocation would have reduced the quota for each sector by equal amounts. But the charter industry does not want fair and equitable. It wants what is unfair and inequitable – that the charter industry not bear its full share of the responsibility for conserving the resource – a conservation need caused in part by years of overfishing by the charter industry.

9. Public Trust

Some charter operators argue it is a violation of the public trust doctrine to allow commercial fishermen to sell unused commercial quota to charter vessels. Reduced to its core, the argument is that the fish belong to the public and commercial fishermen should not be allowed to profit by selling a public trust. The problem with this argument is that it means no one could ever harvest and sell fish because doing so would constitute the sale of a public trust resource. It also means charter vessels would be put out of business because they are selling the right to harvest a public trust resource. Further, it is well settled law that a government agency charged with managing a public trust resource may allow private entities to harvest and sell the resource. Here, commercial fishermen have been given that right. To whom a commercial fisherman sells the fish, whether to charter vessels or to commercial fish processors, does not implicate the public trust doctrine once the commercial fisherman has been given the right to take the resource.

Charter fishermen have also argued that the GAF program is illegal asserting that a charter operator who allows a client to harvest GAF becomes a commercial fisherman. Since halibut harvested under the GAF program may not be sold on a commercial market, such claims are without merit. Further, a charter operator purchasing GAF is simply changing the overall charter CSP allocation consistent with the applicable regulations. Moreover, the charter operator is not selling fish to the client but is selling a seat on the charter vessel with the opportunity to harvest one of dozens of fish that are eligible for sport harvest. Indeed, the charter client is not

allowed to harvest more than the applicable bag or size limit, and is certainly not allowed to sell the fish.

10. Unguided Sport Fishing

The charter industry asserts it is unfair to not include unguided sport fishing and perhaps subsistence fishing in the CSP. The Council's decision to include only the charter and commercial sectors in the CSP was deliberative and well founded. The charter industry's arguments do not comport with the facts. Neither the sport nor the subsistence harvest has shown a definitive increasing trend over time. Rather, both have increased slightly in one year only to fall again in the next. The Council rightly recognized that the halibut resource conservation and allocation problems that currently exist are caused by the rapid growth of charter harvest over the past decade, that the charter harvest increases are negatively affecting sport and subsistence fishermen, and that the Council has a responsibility to control charter harvest for the benefit of all who depend on the halibut resource. As the Council's CSP Problem Statement clarifies: "The Council seeks to address this instability, while balancing the needs of all who depend on the halibut resource for food, sport or livelihood." EA at xi.

Sport and subsistence fishermen have testified in support of charter harvest controls since 1993 when the issue of increased charter harvest first came before the Council. The Council's problem statement for the GHL reflected these concerns stating: "The recent growth of charter operations may be contributing to overcrowding of productive grounds and declining harvests for historic sport and subsistence fishermen in some areas." 2001 Environmental Assessment at 13. By tying charter harvest directly to resource abundance and by preventing charter overages, the CSP addresses resource and access issues identified by the Council's GHL and CSP problem statements.

Ignoring the history that the GHL and the CSP were created to protect the subsistence and unguided sector from charter industry overfishing, charter operators now voice concern that the CSP is unfair to charter operators because it does not include harvest controls on the unguided sport sector. While arguing for controls on subsistence and unguided fishermen, the charter industry fails to identify any problems caused by the unguided sport harvest that justify harvest controls. Instead, charter operators simply claim the CSP will drive clients to harvest halibut without their professional services and create safety issues because the charter industry views unguided fishing vessels as less safe than charter vessels. As to alleged safety issues, no

one has identified unguided recreational fishing as a safety issue. The facts are that Coast Guard safety regulations currently require little more in the way of lifesaving equipment on a "six pack" charter boat than on a sport boat. The charter industry's alleged safety concerns are unfounded. As to more people choosing unguided fishing rather than paying for charter fishing, the facts are that unguided sport fishing is perfectly legal. In that regard, it may be significant that the harvest rate of unguided fishermen is generally significantly lower than guided clients. Thus, any changeover to unguided sport fishing that may occur can be expected to reduce overall halibut harvest and thereby reduce pressure on the resource. Jaenicke and White, ADF&G, 2007, Summary Data for the Sportfish Fishery for Pacific Halibut in IPHC Area 2C.

A more valid concern than that raised by the charter industry is the growing practice of "assisted unguided" fishing where some members of the charter industry are again trying to subvert resource conservation for their own profit. It is well established that a charter vessel will often lead a fleet of "unguided" vessels to the fishing grounds and then call directions to the "unguided" fishermen regarding how to select and operate fishing gear. This obvious attempt to circumvent regulations governing the charter industry targets a loophole in the definition of "guided fishing" and should be fixed by action of NMFS and the Alaska State Legislature.

In short, the charter industry is, once again, part of the problem and needs to be part of the solution. Their complaints about the need to regulate unguided sport fishing ignore the facts and ignore the role of the charter industry in creating any issue that might exist. While the Coalition supports efforts to close regulatory loopholes that allow the charter industry to evade regulations on guided fishing, that issue is not solved by delaying the CSP. Moreover, that issue pales in comparison the resource issues associated with charter overfishing.

11. Harvest Rates

Some charter operators are now accusing Area 2C commercial fishermen of overfishing the resource, basing the accusation on a retrospective analysis of halibut stocks and on flawed recalculated harvest rates. The target harvest rate, as identified by the IPHC, has varied over time as the scientific understanding of stock dynamics has changed. Harvest rates can also vary between areas based on biological indices determined through the stock assessment process. The current target harvest rate in Area 2C is 20% and the 2011 commercial catch limits and GHL allocation are established to control the actual harvest rate to this level. Because retrospective analysis allows a re-evaluation of older data and a testing of past assumptions based on data that

did not exist at that time, comparing past target and actual harvest rates to current rates based on new data is inappropriate at best. When questioned on this issue, IPHC Research Program Manager Gregg Williams responded: "There is some lag in the data being reported. There's also an issue of fish stock assessments in which the most recent year is frankly the most poorly estimated one because you don't have as good a look at the younger age classes that you do as you go down the road when those age classes get to be larger components in the stock. It's a bit of a red herring to look at those high exploitation rates as being commercial overharvest. It's more appropriate to look at each year on a stand-alone basis."

<http://www.alaskajournal.com/Alaska-Journal-of-Commerce/September-2011/Fish-Bytes/index.php?cparticle=1&siarticle=0#artanc>. Curiously, if the charter operators are now arguing that the commercial catch limit should have been reduced in previous years based on a new present-day understanding of past stock abundance, they must then also be arguing that the charter GHL, and perhaps the CSP which is based in part on the GHL, should be lower since the GHL was also set in accordance with what the charter industry is now calling an erroneous understanding of stock abundance. The argument now presented by the charter industry is specious and is nothing more than an attempt to confuse the issue.

12. Net National Benefits

At the outset, it must be recognized that the primary goal of any fishery management plan is conservation of the resource. The findings, purposes, and policy of the Magnuson-Stevens Fishery Conservation and Management Act ("MSA"), for example, make that clear for all fishery managers. *See* 16 U.S.C. §1801. This policy and priority is reflected in the Proposed Rule that states: "While NMFS intends for the CSP to accommodate the guided sport industry's need for predictability and sustainability, it believes conservation of the halibut resource should be a priority under the CSP." 76 Fed. Reg. at 44173.

In considering our national policy of fisheries conservation, certain facts stand out. Foremost among those facts is that in Area 2C, for example, the charter industry has exceeded its GHL quota every year by 22%-115%, a level of overfishing which, as noted above, the IPHC believes threatens the conservation of the resource. The situation in Area 3A is trending in the same direction. The CSP was developed against the backdrop of the need to prevent charter overfishing – something that had proven impossible to accomplish under the existing GHL management system.

In contrast, the commercial fleet has never exceeded its quota since the commercial IFQ plan was instituted in 1995. Thus, it is no surprise that the CSP focuses on the one area of overfishing that is occurring – charter industry overfishing. Although it is not possible to place a quantitative value on ending overfishing, it is clear that there is a significant qualitative value and national benefit. Indeed, the MSA requires as a matter of national policy that fishery management plans “prevent overfishing.” 16 U.S.C. §1853(a)(10). The CSP seeks to implement that national policy which comprises an important net national benefit to the nation.

The charter industry ignores this conservation reality and benefit, instead focusing on the alleged economic impacts of the CSP to its industry. Before turning to this argument, it is important to consider the Court’s words in the case the charter industry filed to overturn regulations designed to prevent charter overfishing. There, the charter industry made claims of economic harm if they were regulated. The Court rejected the industry’s argument finding “[t]he Secretary gave little weight to quantitative estimates of the economic impact of the Rule because it is not appropriate to compare the economic impact to the commercial sector with the economic impact to the charter sector when their products are so very different.” *Van Valin v. Lock*, 671 F.Supp.2d at 16.

Nevertheless, the charter industry persists. And again, the charter industry has chosen to ignore critical facts. Among those facts, as discussed above, is that under the CSP the charter industry receives an equal or greater percentage of the allowed catch than under the current GHL management system. Equally important, if the CSP had been in place 2004-2011 instead of the GHL, the charter industry would have been allocated more fish than under the GHL program. In short, any quantifiable national benefits of the CSP to the charter industry over time would have been, and will be, greater than under the status quo.

The argument made by the charter industry that in the short term their harvest under the CSP will be lower than if the GHL system is retained confuses rather than clarifies the issue of net national benefits. First, as discussed throughout these comments, the facts are that the halibut resource is, and has been, declining. Throughout this decline, the commercial quota has been significantly reduced for resource conservation reasons. Yet, in Area 3A, the charter industry quota has never been reduced. In Area 2C, the charter industry quota has not been reduced in any of the past three years and, before that, the GHL quota reductions were much less than the corresponding cuts for the commercial fleet. Significantly, the charter industry offset much of

their Area 2C quota reductions by overfishing their quota. There is clearly a net national benefit in providing that both the commercial fleet and the charter industry be invested equally in sharing the responsibility for conservation – a responsibility which heretofore has been borne almost exclusively by the commercial fleet. Providing both sectors with an incentive for conservation instead of providing that incentive to only one sector is a net national benefit.

In addition, as discussed above, there is a net national benefit in terms of jobs, income, and economic output to the commercial halibut processing sector that comes from properly managing the resource to prevent charter overfishing. That benefit also reaches to Alaska's coastal communities who depend on the tax revenue and economic activity generated by the commercial fleet.

Furthermore, there is a net national benefit to ensuring that the least fortunate among us, those living near, at, or below the poverty level, who urgently depend on subsistence fishing should be able to meet their nutritional needs. This cannot be done if they cannot find fish to harvest. As discussed above, the localized depletion of the resource caused by geographically concentrated charter industry overfishing inflicts a significant negative toll on resource dependent subsistence fishermen.

The economic impact of localized depletion caused by charter overfishing is a huge force throughout Alaska but particularly in isolated rural, subsistence communities. To estimate the economic impacts, the Sitka Conservation Society, Alaska's oldest conservation society, estimated that nearly one in four residents of Sitka, Alaska are subsistence fishermen. The Society told the Council in September 2008: "The economic value of these [subsistence] harvests to local communities is substantial. One accepted method of quantifying this value is to estimate the replacement cost of a substitute, imported product. Had [the subsistence fishermen in Sitka] purchased their fish at a grocery store in Anchorage the cost would easily have exceeded \$1.5 million at current prices for halibut fillets." If one considers the number of subsistence users throughout Alaska, the net negative benefit of continuing to allow charter overfishing and its associated localized depletion is enormous. This is a cost that those who depend on subsistence fishing cannot afford.

In addition to ignoring the economic impacts of charter overfishing on subsistence fisheries, the EA makes almost no effort to quantify the importance of the commercial sector and the economic effects of the CSP. Instead, the EA focuses only on the charter industry which has

presented misleading and incomplete information. A careful examination of the facts reveals that virtually all of the economic analyses relied on by the charter industry can be ignored because these analyses complain about the effects of reducing the charter harvest for conservation reasons. Thus, these economic impact analyses rest on the false premise that the charter industry should not suffer any quota reductions notwithstanding that the halibut resource has been, and is, declining. Curiously, and as noted above, if the CSP had been in place in lieu of the GHL from 2004-2011, the charter industry would have experienced a net positive benefit because its quotas would have been larger. In contrast, as discussed above, the Area 2C commercial fleet lost \$15 million in harvest because of the decline in the resource caused in part by charter overfishing and caused directly by quota reductions made to offset the amount of charter overfishing. For Area 3A, the commercial loss due to charter overfishing was \$1.6 million. These are real, direct, and quantifiable net negative benefits from the status quo that the CSP will correct.

Analyses by the charter industry about their overall economic value should also be discounted because all of the alleged total economic value is not, in fact, properly attributable to halibut. Halibut is only one of 33 fish (3%) (halibut, five salmon species, rockfish, black cod, ling cod, Pacific cod, flatfish, etc) which a charter client is allowed to catch in Area 2C and two of 39 fish (5.1%) a charter client is allowed to catch in Area 3A. Thus, statements about the total economic benefits of, or harms to, the charter industry must be reduced accordingly.

Moreover, as discussed in more detail below in Part IV of these Comments, the economic benefit of the commercial sector within Alaska far outweighs the total economic benefit of the charter industry regardless of whether one considers total economic benefits or halibut specific benefits. The total sport fish industry economic output in Alaska in 2007, the most recent year for which data are available, was \$1.6 billion. The comparable number for the commercial fishing sector was \$5.8 billion. The tourism related jobs in Alaska from all tourist industries total 36,200. The comparable number for commercial fishing alone is 80,800. With respect to halibut specifically, under the most optimistic scenario, only \$200 million (see analysis below on page 47) of the total \$1.6 billion of alleged sport fish economic output can be attributed to halibut in Areas 2C and 3A. For the commercial fishery, the comparable number for Areas 2C and 3A is \$478 million. In other words, actions which disadvantage the commercial sector, such

as continuing the status quo GHM management system have quantifiable negative net benefits versus a system such as the CSP.

In considering net national benefits, it should also be noted that seafood is one of very few products shipped south out of Alaska by barge. This is an important net positive economic benefit to Alaska's residents. By providing a freight "backhaul," these seafood "exports" from Alaska reduce the cost of incoming or north-bound freight to Alaska by approximately 10%. Indeed, both inside and outside the U.S., commercially caught halibut provides economic benefits to transportation services, retail markets, and restaurants.

When discussing economic issues and benefits, the charter industry loudly asserts that bag and size limits hurt the economics of their fishery and, therefore, net national benefits. Such an argument ignores fundamental points. First, bag and size limits are designed to prevent charter overfishing which harms the resource. Economics should never trump fisheries conservation. Indeed, overfishing and destroying the resource ultimately destroys any fishery economics that once existed.

Second, try as they might, the charter industry cannot ignore the fact that it is the national economy, not bag or size limits, that is affecting their current economics. The EA states the number of charter trips has declined significantly between 2008 and 2010 in both Areas 2C and 3A. EA at 51. While Area 2C charter fishermen try to fix the blame for this on regulatory changes designed to prevent their overfishing, bag and size limits have not changed in Area 3A. Yet, both Areas have experienced significant declines in demand. The only conclusion is that changing national economic conditions are the driving force behind the reduced demand for charter services, not regulatory issues.

Although the preceding discussion focuses on benefits occurring in U.S. markets, one should not overlook the benefits to the U.S. of halibut in the international market. In 2010, approximately one third of the commercial halibut harvest was exported. These exports had a value to the U.S. of just under \$100 million and positively affected our balance of payments.

13. Conclusion

When the charter industry asserts the CSP is unfair and inequitable, they forget that: (1) they agreed to the CSP, but withdrew their support and just before final action by the Council submitted a completely new plan to the Council, (2) their newly minted "fair and equitable" proposal increased the Area 2C charter catch from 913,000 pounds to 4.9-5.7 million pounds,

between 70%-80% of the allowed harvest, effectively putting the commercial fleet out of business, (3) the GHL gave the charter fleet 125% of their then existing harvest levels and the CSP gives the charter fleet an equal or higher harvest percentage than the GHL, (4) while the commercial harvest has declined by 76% in Area 2C and 44% in Area 3A because of the declining halibut population and the commercial fleet has not exceeded its quota, the charter fleet has increased its harvest, exceeding its quota by 22%-115% every year in Area 2C and by lesser amounts in Area 3A, (5) when the charter industry challenged NMFS regulations designed to keep the charter fleet within its quota, arguing they were now harvesting above their quota and it was unfair to make them live within their quota, the Court rejected the challenge noting it is bad public policy to reward overfishing, (6) charter overharvests are often subtracted from the commercial harvest making the commercial fleet pay for overfishing by the charter fleet, (7) reductions in the commercial quota caused by resource declines resulting in part from charter overfishing and caused directly by subtracting the amount of charter overfishing from the commercial quota has already cost the commercial fleet \$15 million in Area 2C alone which translates to \$46.5 million using a standard economic multiplier, (8) charter overfishing results in localized depletion of inshore areas meaning that subsistence fishermen who typically live close to the poverty line cannot harvest the fish they need to feed their families because they do not own boats allowing them to get to distant fishing areas, (9) the charter industry would have received more quota under the CSP than under the GHL if the CSP had been in effect since 2004, (10) it is unfair and inequitable for the charter industry to not share equally in the conservation of a declining resource, and (11) even if the CSP had been in effect in 2011, the charter industry would have had a smaller percentage quota reduction for conservation than the commercial sector.

C. Conservation

A fundamental underlying predicate for the CSP is to promote conservation by preventing overfishing. As noted above, in each year since the GHL was established, the charter industry has overfished its Area 2C quota by 22%-115% and its Area 3A quota by lesser amounts. It is intuitively obvious that fishing beyond the quota limit harms the resource. More importantly, the IPHC has specifically found that charter industry overfishing threatens the health of the resource. *See Part I(B) above.* Without the CSP, charter overfishing will likely continue under the GHL, just as it has in the past.

In contrast to the record of the charter industry, the commercial halibut fleet has never exceeded its quota since the commercial halibut IFQ was implemented in 1995. Careful monitoring of halibut dockside deliveries by processors, enforcement personnel, and IPHC observers, as well as at-sea enforcement, ensures compliance with quotas. Every pound taken off a commercial boat is weighed on a NMFS certified scale and the weight is reported on an Alaska Department of Fish and Game fish ticket. In addition, a policy of allowing up to 10% underage (with carry forward) and 10 % overage without penalty (overages are deducted from next year's quota) provides a reasonable mechanism to stay within the commercial allocation.

The CSP is a better mechanism to address charter industry overfishing and the conservation of the halibut resource than the existing GHL system. The principal reason is that the pre-season specification of CSP management restrictions is designed to limit the charter harvest to its annual quota before an overage occurs. Contrast this with the retroactive GHL approach that implements corrective action only after the overages have occurred. While the GHL management system allows charter overfishing to occur and then reacts, the CSP is designed to proactively prevent such overfishing from occurring in the first place. Although it is possible the 2011 GHL enforcement measures may be effective, it has taken seven years since the GHL was created to get such measures because every year the charter industry has fought politically or in court against conservation regulations.

The CSP establishes a matrix of management measures that correspond to biomass levels and charter catch. The matrix clearly specifies bag and size limits to be implemented based on the pre-season evaluation of halibut abundance and charter catch projections. This management matrix is deliberately structured to be proscriptive in order to provide clear direction to the IPHC on necessary charter bag or size limits. In this way, the Council clearly established CSP allocations and management actions, engaging the IPHC to conduct the mechanical part of implementing management changes.

The facts are that the CSP is more likely to prevent overfishing than is the GHL status quo. The CSP establishes a percentage allocation for the charter fleet where catches are expected to average the CSP percentage allocation over time. In some years, the charter catch will be over the CSP percentage allocation but under the upper limit and in some years the catch may be under. The Council was aware that the allocation range might allow overharvest by as much as 3.5% of the combined charter and commercial catch limit, which is why it emphasized the need

to err on the side of conservation. As stated in the Council's CSP management objectives: "In meeting its conservation mandate while accommodating the charter industry's need for predictability and stability, the Council will necessarily err on the side of conservation in selection of management tools and season length, with the result that the sport charter sector may not be able to harvest its entire allocation." EA at 7.

D. Discrimination

Not only is the CSP fair and equitable and promotes conservation, but it does not discriminate against fishermen based on state residency or any other basis. The CSP does not establish or perpetuate any standard or requirement that allocates fish based on state residency or any other basis.

The CSP does establish limits on charter clients without limiting unguided sport fishermen. This differentiation is justified by the enhanced catch rates of the charter fleet versus unguided operators and by the dramatic increase in charter harvest over the past decade. In stark contrast to the charter industry harvest, unguided sport harvest has not demonstrated an increasing trend, but has instead varied over time.

E. There is No Concentration of Shares

The CSP does not allocate shares of the common pool. Thus, consolidation of shares is not an issue. The GAF program includes limits on the amount of GAF a charter operator may lease, thus addressing the issue of any excessive share in this segment of the CSP.

F. Delay Tactics

The Halibut Coalition is aware that some members of the charter industry have requested that the CSP be delayed until federal funding is available to shift halibut quota from the commercial sector to the charter industry. This is unrealistic and unwise. Current economic conditions in this country make federal funding for any such endeavor highly unlikely. Even if such funding is procured, the impacts of a compensated reallocation are substantial and need careful evaluation. These impacts include reduced opportunities for subsistence and sport fishermen, the loss of commercial fishing employment opportunities in harvesting and processing, reduced consumer access to halibut, and increased risk to the resource of overharvest given that catch accounting in the charter fishery is far inferior to catch accounting in the commercial fishery. These complications, coupled with the dearth of available funding, clarified to all stakeholders that this approach could only be considered as part of a longer-term

management strategy that might modify the CSP. The Council did not want the obvious conservation and allocation problems that would result from the charter industry's proposal to delay the CSP. The CSP must be implemented immediately to protect the resource and all who depend on the resource for sustenance and livelihood. Further delays will only allow continued overfishing by the charter industry at the expense of the resource, the commercial industry, sport and subsistence harvesters, and coastal communities. NMFS needs to call an end to the charter industry's bait and switch tactics and implement the CSP.

III. Participation in the Fishery

A. The CSP Takes Into Account Present Participation

The charter industry asserts the CSP fails to take into account their present participation in the fishery. These comments will not repeat all of the discussion in previous sections showing how present participation was, in fact, taken into account. Rather, we incorporate by reference as if repeated here all of the discussion in Part II addressing the present participation issue.

Included in Part II is a discussion showing that (1) the allocation percentages under the CSP are greater than under the GHL, (2) had the CSP been in effect since the GHL was implemented the charter industry would have been allocated more fish, (3) for Area 2C, the Council included in the base CSP calculation the amount of fish harvested by the charter industry in excess of the GHL, i.e. the amount of overfishing done by the charter industry, and added 25%, (4) for Area 2C, if the CSP had been in effect in 2010 the charter industry would have been allowed to take 15.1% of the combined commercial and charter catch versus 15.4% under the GHL, a difference of only 8,000 pounds, and (5) for Area 3A the charter catch has approximated the GHL and that is the base allocation used in the CSP.

The essence of the charter industry's complaint is that if the CSP had been in effect in 2011 their allocation would have been below their GHL levels. Such logic ignores the fact that the principal reason for the reduction is a decline in resource abundance. In effect, the charter industry is trying to use the present participation standard to subvert the national policy of preventing overfishing. The charter industry's argument is that their allocation should not be cut because the resource is declining. To do so according to the charter industry means they will catch less fish and their "present participation" is adversely affected. This argument is without merit. It contravenes our national fisheries policy to conserve the resource and to prevent overfishing.

Another aspect of the charter industry's argument is that because they have overfished their GHL, any reduction in the fishing level to require them to live within their quota fails to take into account their "present participation." As noted above, when the charter industry presented this argument in court, the judge rightly rejected it, finding the charter industry should not be rewarded for overfishing.

Finally, it should be noted that in 2008 and 2009, the charter industry refused to accept the conservation measures intended to keep them within their GHL quota and sued in each year to overturn the conservation measures. This had the effect of delaying the promulgation of the Proposed Rule because many of the agency staff charged with bringing the CSP to fruition were diverted from that task in order to respond to the charter industry's lawsuits. In short, the charter industry's singular desire to oppose conservation regulations designed to prevent charter overfishing contributed to the delay in promulgating the CSP about which the charter industry now complains.

B. The CSP Takes into Account Historical Participation In, and Dependence On, the Fishery

As stated in Part II(B) of these Comments, the CSP takes into account both historical and present participation in the halibut fishery, as well as dependence on the halibut resource. In identifying the charter allocations, the Council relied on the historic harvest under the GHL, which allocated the charter fleet 125% of its historic catch and translated to 13% and 14%, respectively, of the Area 2C and Area 3A combined commercial/charter catch limit. The Council then reviewed the charter harvest levels relative to the GHL allocation, and elected to use the most recent years' catch levels despite charter overharvest of the GHL in Area 2C and the Court decision that the charter industry should not be rewarded for overfishing the resource. Because the charter fleet was not satisfied with even these concessions, the Council recommended allocation percentages for the charter fleet that are even higher during times of low halibut abundance. This decision shifts the burden of conservation to the commercial fleet during periods of low stock abundance. This is best illustrated by a comparison of commercial and charter allocations over the past six years. In Area 2C, the commercial catch limit has been reduced by 76% but the charter allocation 55%. In Area 3A, the commercial catch limit has been reduced 44% while the charter allocation has not been reduced at all. In short, the CSP establishes allocations that tie both sectors to present abundance, the CSP establishes allocations

based on historical catch and the CSP updates the historical allocation to include the most recent catch split between the charter and commercial sectors to account for dependence on the fishery.

Significantly, the CSP addresses “historical dependence” beyond the commercial and charter fisheries. High levels of charter fishing activity adversely affect catch rates for unguided sport anglers and subsistence harvesters because of localized depletion, making it difficult for these harvesters to meet their subsistence needs. Charter catch is concentrated near towns, and local depletion from this concentrated charter catch has been established through testimony before the Council, court filings, and comments to the Secretary. Subsistence and sport testimony before the Council, some of which is referenced in these Comments, document the impacts of charter overfishing. Indeed, charter fishermen admitted the existence of localized depletion when they testified to the Council during hearings on the halibut charter limited entry program that they need to travel farther every year to find halibut for their clients because inshore areas are “fished out.” That testimony is hereby incorporated by referenced into these Comments. Allowing the charter fleet to overfish the resource has had negative impacts on local sport and subsistence fishermen. The failure to constrain charter-based catches will have increasingly negative impacts on the people who have historically depended on the halibut resource for sport and sustenance. The CSP protects the interests of these historic harvesters by accounting for sport and subsistence needs before allocating the resource between charter and commercial fishermen, by tying charter catch directly to resource abundance, and by establishing management measures that prevent rather than react to charter overages. The failure of the EA/RIR/IRFA to reflect the negative effects of the status quo on these historic harvesters and the positive impact of the CSP should be corrected. *See* EA at xiii.

It has been argued that the leasing provision included in the CSP could harm unguided sport and subsistence harvesters by allowing more charter effort. The Halibut Coalition shares concerns relative to any reallocation, included compensated reallocation, and for that reason supports the provision in the CSP that restricts quota transfer to 10% of the IPHC Area total. This percentage provides ample opportunity for individual charter operators to meet the demands of their clients without placing undue additional pressure on near-shore harvesting areas. Any increased charter harvesting will be less than the disproportionately high (relative to halibut abundance) charter harvest allowed under the GHL status quo.

C. The CSP Takes Into Account the Economics of the Fishery

Per the discussion in the two preceding sections and throughout these comments, the CSP takes into account the economics of the fishery by protecting the halibut resource from overharvest, tying the charter allocation to resource abundance, and maintaining allocations that recognize historic and current participation as well as dependence on the resource. At the outset, it is important to return to first principles -- fishery managers have a responsibility first and foremost to protect the health and productivity of the resource. Economic considerations are secondary to this objective. It should state the obvious that the economics of a fishery depend completely on protecting and, in the case of the Areas 2C and 3A halibut resource, restoring the health and productivity of the stock. The CSP safeguards the resource by preventing sector overfishing, which in turn safeguards the economics of the halibut industry.

The CSP, however, specifically takes into account the economics of the charter fishery. The CSP accommodates the charter business model by, among other things, providing a continuous season of historic length, setting management measures preseason and holding them constant throughout the season, creating a range around the charter allocations, holding charter bag and size limits constant provided forecasted charter harvest remained within the established range, and allowing charter operators to lease commercial quota if existing bag and size limits do not satisfy their clients. These CSP provisions were all designed in response to testimony from the charter sector and to Council consideration of charter business plans.

Importantly, the CSP also takes into account the economics of others who depend on and enjoy the halibut resource, including harvesters, processors and consumers, by ensuring that charter allocations are clearly established and closely tied to resource abundance, that the open-ended reallocation of halibut to the charter sector is finally stopped, and that charter management measures are timely and effective in preventing charter overfishing. These are the critical components requested again and again by sport, subsistence and commercial harvesters, halibut processors, retailers, and Americans who love to eat halibut.

D. The CSP Takes Into Account the Capacity of Fishing Vessels in the Fishery to Engage in Other Fisheries

The CSP follows closely on the heels of the charter limited entry program ("LEP"). In developing the LEP, charter stakeholders, charter industry members, and the Council carefully reviewed issues of historic and present participation in the charter sector as well as the capacity

of vessels that did not receive an LEP to participate in other fisheries. Those documents are hereby incorporated by reference into these Comments. Similarly, the commercial halibut fishery has been managed with an Individual Fishing Quota system since 1995. Adoption of this program was preceded by a lengthy public and analytical process that included consideration of the capacity of fishing vessels in the halibut fishery to engage in other fisheries.

E. The CSP Takes Into Account the Cultural and Social Framework Relevant to the Fishery and Affected Fishing Communities

The CSP is an innovative approach to sector management that resulted from Council discussion, staff research, and extensive public participation. The Council received testimony from representatives of coastal communities, Tribal organizations, and community-based fishermen from all sectors. The CSP is the result of carefully balancing the cultural and social framework of all who depend on the halibut resource for sustenance or livelihood. The CSP first and foremost safeguards the resource from overharvest. Second, the CSP maintains historical allocations, which protects traditional harvesters, processors, and communities. Third, the CSP accommodates to the maximum extent possible the business plans and burgeoning needs of the charter industry and their clients.

The charter sector has grown from next to nothing in the early 1990s to current levels which, in 2011, are now comparable to commercial catch in Area 2C. For perspective, the charter harvest in Area 2C increased 93% between 1997 and 2008. EA at 53. The 2010 sport harvest in Area 2C was 2.55 million pounds while the commercial catch limit for 2011 is 2.33 million pounds. This explosive growth and the *de facto* reallocation from historical harvesters to the charter fleet that resulted have created conflict in Alaska's small coastal communities, pitting neighbor against neighbor. The inability of managers to resolve this conflict through an effective allocation has torn southeast and south central Alaska communities apart. The CSP, which establishes clear allocations, an effective management process, and a market-based transfer mechanism between sectors, will finally end this conflict and restore the "social and cultural" framework in these small communities.

F. The CSP Takes Into Account Other Relevant Considerations

At its core, the allocation aspect of the CSP is between the small segment of the population who can afford to access the halibut resource from fancy charter boats, and those who have neither the resources nor the inclination to do so but have access to halibut via local

restaurants and grocery stores. If one examines the ratio of sport licenses to the general public, over 98% of the American public access the halibut resource through commercial fishermen. This access is highly valued. It is telling that halibut ex-vessel prices (*i.e.*, the price paid to commercial fishermen at the dock) is at an all time high in 2011, having increased from an average price of \$5 per pound in 2009 to an average price of \$7 in 2011, despite the economic recession. In contrast, a 2011 report indicates that the number of visitors to the State of Alaska has declined each year since 2007, and that the number of visitors travelling to Alaska by cruise ship dropped 14.5% between 2009 and 2010. McDowell Group, Inc., Alaska Visitor Statistics Program VI Interim Visitors Volume Report, March 2011. In this regard, the EA states that the change in demand for charter trip cannot be estimated, but that "the demand for charter trips is expected to decline." EA at 61. Indeed, Table 15 in the EA establishes that the number of charter trips decreased significantly between 2008 and 2010 -- and that it decreased in both Areas 2C and 3A (by 23% and 15% respectively). EA at 51. While charter operators in Area 2C may try to blame this demand reduction on regulatory changes, bag and size limits in Area 3A have not changed over this time period. The inescapable conclusion is that the reduction reflects reduced demand from the public. The CSP takes into account the consuming public and protects their interest in the halibut resource.

IV. Economic Impact

Certain charter associations continue to claim that recreational fisheries are more valuable than commercial fisheries and that the public and the Nation will benefit from a reallocation of the allowable harvest. These statements are unsubstantiated and incorrect.

At the outset, it should be noted that the commercial sector delivers the fish to the public. The charter sector delivers the public to the fish. Both provide the public with access to the resource, although the Coalition submits that the commercial sector provides access to a much larger public, people who are either disinclined, unable, or cannot afford to travel to Alaska to harvest fish for themselves. In terms of public access, it should also be noted that charter industry growth has displaced subsistence fishermen, preventing subsistence fishermen from having access to the resource because of the localized depletion caused by the charter fleet. To place that growth in perspective: the charter harvest in Area 2C increased by 93% between 1997 and 2008. EA at 53. The economic impact on subsistence fishermen is huge. In one community alone, the cost of replacing the subsistence halibut harvest with grocery store purchased product

was a staggering \$1.5 million – a cost that few people living below, at, or near the poverty level can afford. *See* Part II(B)(12) of these comments.

Further, the numbers advanced by the charter industry to “prove” their alleged economic dominance are incorrect. In 2007, the sport fish total industry output in Alaska (real estate construction/repair, trip expenses, pre-purchased packages, equipment purchases, lodging, food, etc.) for both fresh and saltwater was \$1.6 billion. The comparable number for the statewide commercial fishing sector was \$5.8 billion. The Seafood Industry in Alaska, Northern Economics, January 2009.

In considering the relative importance of halibut to the charter industry, it is also important to note that in 2010 the daily sport fishing bag limit in southeast Alaska (Area 2C) totaled 33 fish of which only one could be a halibut. In southcentral Alaska (Area 3A) the daily bag limit is 39 fish (which does not include 6 species of cod for which there is no daily limit) of which two could be halibut. Therefore, it could be argued that only 1/33 (3%) or 2/39 (5.1%) of the economic activity claimed by the charter industry is attributable to halibut. Indeed, no charter fishing lodge advertises to its clients for halibut alone. Every species (halibut, cod, rockfish (30+), lingcod, sharks, salmon (5), steelhead, and dolly varden) that can possibly be caught is mentioned as a reason to go to that lodge. In fact, some charter fishing lodges do not even advertise fishing for halibut as an option, mentioning only other species. For a charter client, one permit entitles that client to catch a multitude of species and target whichever is seasonal, has the most appeal, or is most abundant to fulfill their fishing experience. The reality is that the economic impact of travel lodging and food claimed by the charter industry is more closely related to the fishing experience than to the number of halibut caught.

It may also be helpful to examine the actual 2007 data with respect to halibut fishing. The 2007 Alaska Sport Fishing Survey indicates that slightly over 3,032,493 million fish of all types were caught in the Alaska sport fish fishery. Of that number, 584,764 were Pacific halibut (charter and unguided), which equates to 19% of the state-wide total.

<http://www.adfg.alaska.gov/sf/sportfishingsurvey/>. Of the 584,764 sport caught halibut statewide, 65% were caught by charter boats in 2C/3A. ADF&G Special Publication 09-11. To complete the equation, Area 2C and 3A charter boats accounted for 12.5% of the 2007 state-wide halibut sport harvest. Thus, of the \$1.6 billion state-wide sport fish output, only \$200 million can possibly be attributed to the charter halibut fishery in Areas 2C and 3A. Economic Impacts

and Contributions of Sportfishing in Alaska 2007 (Southwick Associates and Alaska Dept of Fish and Game Sportfish Division), The Seafood Industry in Alaska's Economy 2007 (Northern Economics).

The commercial halibut fishery accounts for 14% of the state-wide commercial fishery economic output or \$812 million. The Seafood Industry in Alaska, Northern Economics, January 2009. Using a 2010 ex-vessel value of \$194.5 million and a multiplier of 3.1, the 2010 halibut economic output was \$603 million. ASMI 2011. The Area 2C and 3A contribution to the total was \$478 million.

To place these gross numbers into perspective, Sitka, the major halibut charter and commercial port in southeast Alaska, accounted for 28% of all southeast Alaska charter halibut landings in 2009 and approximately 35% of commercial halibut landings. In 2008, the first wholesale value of processed commercially caught fish landed by Sitka residents was \$119 million. The comparable number for the charter industry (gross business sales) was \$29 million. NMFS AK Region landings data (<http://www.fakr.noaa.gov/ram/ifqreports.htm>); Sitka Economic Development Association (<http://www.sitka.net/Economy/reports.html>), revenue data.

The story is the same regarding jobs impact. In the 2008-2009 visitor season, visitors to Alaska accounted for 36,200 full and part time jobs in Alaska. 2009 Alaska Economic Performance Report, Alaska Department of Economic Development (http://www.dced.state.ak.us/pub/2009_Performance_Report_web.pdf). This number includes visitor activity resulting from all forms of tourism (skiing, hiking, wildlife viewing, cruise ships, bus tours, charter fishing, etc.). In comparison, in 2007 Alaska's commercial seafood industry alone provided employment for 80,800 people. Northern Economics, The Seafood Industry in Alaska's Economy 2009 (Feb. 2011).

Under the status quo GHM management, commercial fishermen have borne a disproportionate share of the economic impact from the decline in halibut stocks. Status quo management allows the charter industry to overfish its allocation and fails to reduce the charter allocation commensurate with the decline in halibut abundance. Commercial fishermen, processors, seafood support industries, and coastal communities have all suffered as a result. To supplement the EA, a few examples of these impacts, in addition to those set forth in Part I(C) above, are described below.

In considering economic impacts to commercial fishermen, it is important to begin with the fact that in order to harvest halibut in Alaska commercial fishermen must own Individual Fishing Quota ("IFQ"). The facts are that commercial fishermen have made substantial investments to purchase halibut IFQs. Over 60% of the quota has changed hands since the IFQ program was implemented in 1995. Because of these investments in the fishery, the economic impact of quota reductions caused by charter overfishing has been severe. Most fishermen borrow money to purchase IFQ, which sells for \$25-\$35 per pound, and are now struggling to pay loans that were taken out based on quota levels that were two or three times higher than current levels. Some fishermen will not be able to make loan payments this year and may lose their shares. Many currently owe more than they can make by fishing or by selling their shares because of the quota reductions. For example, one young fisherwoman purchased halibut QS in 2007, leveraging a sizable loan to move from being a deckhand to vesting herself in the fishery. Since that time, she has lost 76% of her quota, 76% which would have otherwise been available to help pay the loan taken out to purchase the QS. She has been unable to cover her loan payments by fishing her halibut shares in two of the past four years, notwithstanding the fact that the ex-vessel price of halibut has increased. Another young gillnet fishermen from Juneau took his savings, secured a loan, and bought 5,600 pounds of Area 2C QS in 2006 for \$18 per pound. As a boat owner, he recognized that he needed to use his boat in more than one fishery to make it pay for itself. Little did he know that his poundage would be reduced to the point where he could not catch enough halibut to cover his QS loan payments. He now has 1,237 pounds of QS left, owes \$70,000 on his loan. If he sold his QS at current market value he could hope to receive \$35,000, half of what he owes on his loan. Another older fisherman took his \$40,000 nest egg and bought 3,000 pounds of Area 2C halibut QS in 2007. Given the quota cuts, he has approximately 800 pounds of QS left and the nest egg is gone. Another family from a small Alaska community has invested over \$700,000 in halibut QS since 2005, with all four members of the family buying QS and fishing together to harvest it. The 76% quota reduction has made it difficult for the family to afford their children's education and forced them to defer maintenance on their boat. These are but a few of the examples of economic problems caused by the status quo GHM management of the charter fishery and by the declining halibut resource.

Any consideration of comparative economic impacts must also take into account the fact that charter operators offer their clients a large portfolio of species to target, and one license

provides all of this access. The same is not true in the commercial fisheries. Most federal and state commercial fisheries off Alaska are restricted through limited access programs and require significant investment to enter. Commercial fishermen do not have the same flexibility that charter operators and clients have to enter other fisheries and target species other than halibut. If the commercial catch limit for halibut is reduced, the commercial halibut QS holders experience direct revenue losses and direct economic impacts. While some commercial fishermen participate in multiple fisheries, they do so only after a substantial investment (\$35,000-\$300,000) in a limited access permit for that fishery.

In assessing relative economic benefits, one must also consider Alaska's coastal communities that receive tax revenues from commercial fish processing and who use the generated funds to maintain harbors and to provide other necessary governmental services. In 2010, this tax generated approximately \$266,500 to local governments, in addition to revenue to the state government. As commercial halibut quotas drop, so too do the commercial fish tax revenues to communities and the State. By way of example, the ex-vessel value of commercial halibut landings in Juneau declined between 2008 and 2010 from \$50 million to \$32 million, a 35% loss. Since commercial fishermen pay a percentage-based tax on this ex-vessel value to the State and local community, this reduction has local and statewide impacts.

Charter fisheries do not pay a comparable landing tax to local communities. Therefore, the reallocation of harvest to the charter industry caused by charter overharvest has imposed economic stress on Alaska's coastal communities. Some rural Alaska communities, such as Pelican, Hoonah, and Port Alexander are struggling to remain viable in the wake of declining commercial halibut quotas. As the residents of Pelican have learned, charter businesses leave town when the infrastructure previously funded by the commercial fishing industry falls apart. And when businesses leave town, schools close, health care facilities falter, and the future of the community is bleak.

Declining halibut quotas have also resulted in reduced employment both in the harvesting and processing sectors. As one report stated: "The trend in harvesting employment for the halibut fishery has continued its slow but steady decline. From 2008 to 2009, 132 average monthly jobs were lost." Alaska Economic Trends (Nov. 2010), <http://labor.state.ak.us/trends/nov10.pdf>.

Another report estimated the impact of shifts in halibut quota from the commercial to the charter sector stating: "Based on 2005 prices (average of \$3.08 and \$3.07 in Areas 2C and 3A respectively) and the labor income estimates described above, the economic impact of reallocation of 100,000 pounds of halibut would be approximately \$360,000 in personal income in Area 2C and \$300,000 in Area 3A. In terms of total economic output, the impact would be just under \$600,000 in both 2C and 3A." Economic Impact of the Commercial Halibut Fisheries in Areas 2C and 3A (McDowell April 2007) at 16. The cost to the commercial fleet, due to ineffective GHL enforcement and the reallocation of 100,000 pounds of halibut at the average 2010 halibut price of \$4.58 is even more severe and has had a much larger impact on QS holders who are struggling to meet loan payments and to make a living on reduced quotas.

The commercial fisheries also support other industries important to Alaska and Alaska's isolated communities. Yet another report highlights by way of example the importance of commercial fisheries to the Kodiak Island Borough. "Kodiak's status as the state's commercial seafood capital is the reason many organizations are located there, including the U.S. Coast Guard, University of Alaska Fairbanks' Fisheries Industrial Technology Center and Kodiak Fisheries Research Center." Alaska Economic Trends (June, 2010), <http://labor.state.ak.us/trends/jun10.pdf>.

The transportation sector and dependent Alaskans also rely heavily on the commercial fishing sector. A spokesman for Lynden Transport, which employs 800 people in Alaska, testified that transportation of the commercial seafood harvest from Alaska as a backhaul significantly reduces the cost of freight to Alaska's remote communities. He estimated that north-bound freight costs would be 10% higher without the seafood backhaul. Since most of the food and goods sold in Alaska are imported from the Lower 48, this increase in freight costs would impose a substantial economic burden on all Alaskans, particularly on residents of Alaska's remote coastal villages.

Finally, it is worth pausing to consider the nature of the commercial and charter fleets. Virtually all Area 2C commercial halibut fishermen operate small boat family businesses working from vessels less than 60 feet. In 2010, approximately 60% were permitted to harvest 3,300 pounds or less of halibut and 90% could harvest less than 9,000 pounds. The average Area 2C individual commercial halibut fisherman grosses approximately \$9,000 from halibut fishing in this Area.

The comparison to the charter fleet, particularly the large fishing lodges that dominate harvest in the charter industry, became clear in 2009 when the charter industry sued to prevent NMFS from enforcing the GHL harvest quota. The annual revenue from the smallest of the charter plaintiffs was \$100,000. Two charter plaintiffs reported annual revenues of \$1.6 million and \$1.89 million. One charter plaintiff operated a corporate fleet of 27 vessels catching between 460,000 and 763,000 pounds of halibut annually. Another charter plaintiff was catching between 93,000 and 148,000 pounds of halibut annually. In 2010, less than 1% of the Area 2C commercial fishermen harvested 22,000 or more pounds of halibut in this area. In Area 3A, less than 16% of commercial fishermen harvested more than 25,000 pounds. Pacific Halibut–Sablefish IFQ Report for Fishing Year 2010 at Table 3.12.

In sum, claims by the charter industry that their harvest has greater economic value than the commercial industry are false. Claims that business losses are solely due to increased regulation are also false. The facts indicate that the National economic recession has reduced tourism to Alaska and that tourism spending per visitor has also declined, both forces driving demand for charter boats downward. Further, charter boat operators are not the only ones suffering because of a decrease in resource size. Commercial fishermen are also suffering, and because the commercial quota has been reduced proportionately more than charter quotas, the economic impact of resource decline has been greater for the commercial sector. And one cannot overlook the fact that charter overfishing is the cause of some of the economic harm being suffered by the commercial fleet. The cumulative charter overharvest of 3.77 million pounds in Area 2C from 2004-2010 cost the 1,162 QS holders in the commercial sector over \$15 million in lost ex-vessel value. The de-valuation of QS, which is now worth \$25-30 per pound, is an order of magnitude higher. The cost to processors includes the 76% reduction in product flow from reduced commercial quotas, as well as the inability to retain a year-round employment force.

Furthermore, it cannot be said that the agency has not prepared numerous economic analyses of the halibut charter and commercial sectors and that the public has not had the opportunity to comment on each. In addition to the analyses referenced in the EA and the Proposed Rule, those analyses are found in the following documents.

- RIR/FRFA of a Regulatory Amendment to Revise Permit Endorsements for Charter Halibut Businesses That Are Qualified to Receive Multiple Permits – Draft for Secretarial Review, August 26, 2010
- Categorical Exclusion for a Regulatory Amendment to Revise Method of Assigning Angler Endorsements to Charter Halibut Permits, June 10, 2010
- Public Review Draft RIR/IRFA for a Regulatory Amendment To Revise Permit Endorsements for Charter Halibut Businesses that Are Qualified to Receive Multiple Permits, June 9, 2010
- Categorical Exclusion for Regulatory Amendment to Revise Charter Halibut Logbook Submission Requirements, March 31, 2010
- Draft for Secretarial Review Regulatory Amendment to Modify Regulations Governing Submission of Halibut Charter Logbooks - Regulatory Impact Review/Initial Regulatory Flexibility Analysis, January 5, 2010
- EA/RIR/FRFA for Regulatory Amendment to Limit Entry in the Halibut Charter Fisheries in IPHC Regulatory Areas 2C and 3A, November 6, 2009
- Regulatory Impact Review/Final Regulatory Flexibility Analysis/Environmental Assessment for a Regulatory Amendment to Implement Guideline Harvest Level Measures in the Halibut Charter Fisheries in International Pacific Halibut Commission Regulatory Area 2C, March 26, 2009
- Secretarial Review Draft RIR/IRFA/EA for a Regulatory Amendment to Implement Guideline Harvest Level Measures in the Halibut Charter Fisheries in International Pacific Halibut Commission Regulatory Area 2C, November 3, 2008
- Secretarial Review Draft EA/RIR/IRFA for a Regulatory Amendment to Limit Entry in the Halibut Charter Fisheries in IPHC Regulatory Areas 2C and 3A, April 25, 2008
- Draft for Secretarial Review EA/RIR/IRFA for a Regulatory Amendment to Implement Guideline Harvest Level Measures in the Halibut Charter Fisheries in International Pacific Halibut Commission Regulatory Area 2C, November 27, 2007
- Final EA/RIR/FRFA for the Regulatory Amendment to Modify the Halibut Bag Limit In the Halibut Charter Fisheries in IPHC Regulatory Area 2C, April 11, 2007
- Draft EA/RIR/IRFA for the Regulatory Amendment to Modify the Halibut Bag Limit In the Halibut Charter Fisheries In IPHC Regulatory Area 2C, March 23, 2007
- Environmental Assessment of the Guideline Harvest Level for the Guided Recreational Halibut Fishery in International Pacific Halibut Commission Areas 2c and 3a, June 2, 2003
- EA/RIR/FRFA for a Local Area Halibut Management Plan for Sitka Sound. FONSI determination 09-14-99; NEPA Coordinator letter dated 09-16-99; EA dated 8-26-99 August 26, 1999

Finally, the charter industry is fond of quoting a study by Dr. Keith Criddle asserting the study “proves” that the maximization of economic benefits in the halibut fishery occurs when the commercial sector has 71% of the allowed harvest and the recreational sector has 29%. After the charter industry first presented this argument, Dr. Criddle stated in a September 28, 2008 email that his study was “not intended to serve as a specific review of an optimal allocation of halibut

in Alaska.” Rather, his studies “were intended to demonstrate the kind of information that would be required if there were an attempt to determine an optimal allocation and to show the impracticality of trying to do the analyses needed to determine an optimal allocation.” In other words, not only does the author of the study reject the charter industry’s use of his work, but he says his study demonstrates why the charter industry cannot even begin to argue there is such a thing as an optimal allocation.

V. Comments Specific to the Provisions of the Proposed Rule

A. Allocation Clarification

In approving the CSP, the Council clarified that the CSP sets clear percentage-based allocations for the commercial and charter sectors. Although the CSP allows the charter harvest to fluctuate within a specified range of this allocation, the goal of the CSP is to restrain charter harvest at or below the level specified by the target allocation percentage (midpoint of the allocation range). The CSP regulations trigger management changes if pre-season projections indicate charter harvest will fall outside the specified charter allocation range.

NMFS’ previous decision to label the GHL a “benchmark” invited multiple lawsuits that were costly to the industry, the public, and the resource. Following NMFS’ lead, charter plaintiffs in *Van Valin v. Locke* argued the GHL “merely set benchmarks and did not limit the halibut harvest.” *Van Valin v. Locke*, 671 F.Supp.2d at 11-12. Noting all the references in the record to the GHL as a cap on the charter harvest, *see* Part I(A) above, the Court responded to Plaintiffs’ argument stating: “This argument is unsupported by the Administrative Record.” *Id.* at 12. The Court noted the word “benchmark” is to be understood in the context that the GHL is only a “benchmark” in that it tells the agency when it is necessary to adopt appropriate enforcement measures. *Id.* at 4, 12. Thus, the Court noted the GHL is not self-enforcing but sets a charter limit that is to be enforced “by subsequent regulation.” *Id.* at 4. While this court decision finally forced effective restriction of charter harvest, the seven year lag between the first charter Area 2C GHL overage and effective action undermined the productivity of the halibut resource and cost the commercial halibut industry over \$15 million directly in lost revenue, which does not include indirect costs to commercial fishermen in the devaluation of QS, nor does it include costs to the processing or support sectors of the commercial industry. The inadequacy of the GHL system to protect resource health and the interests of all who depend on the halibut

resource demands change and drove development of the CSP. The Coalition hopes NMFS will avoid the use of words such as “benchmark” in describing the GHL and the CSP.

The CSP sets clear allocations for the charter sector and a process to prevent allocation overages before they occur. By identifying “unique management measures for the charter sector that are associated with different allocations” the system allows federal regulations to be adjusted as necessary prior to the start of the fishing season. EA at 49. This method eliminates the delays that have been associated with GHL management and will ensure management measures implemented pre-season via the IPHC process so as to protect the resource and historic users.

The CSP still allows the charter sector a continuous season of historic length and guarantees management measures will not be changed in-season. It also provides a range around the charter sector’s allocation to minimize bag and size limit changes over time—again at the request of the charter sector for predictability. Recognizing that these concessions could allow a measure of charter overharvest, the Management Objectives section of the CSP EA/RIR makes it clear that managers are expected to err on the side of conservation and caution when projecting charter harvest relative to allocation:

In meeting its conservation mandate while accommodating the charter industry’s need for predictability and stability, the Council will necessarily err on the side of conservation in the selection of management tools and season length, with the result that the sport charter sector may not be able to harvest its entire allocation.

CSP EA/RIR October 2008, Statement of Management Objectives.

In short, the CSP establishes sector allocations and directs managers to constrain charter harvest at or below the allocations, which are the range mid-points. This built-in conservatism is necessary to offset the imprecision in charter management and the lack of timely in-season catch accounting. Thus, charter management under the CSP demands a measure of conservatism. The ranges give managers time to finalize data and confirm harvest trends before changing charter harvest restrictions. The ranges are not intended to allow an increase in the charter allocation. As the motion to adopt the CSP stated:

The Council recognizes that management measures are imprecise. Therefore a small variance can be expected to occur around the allocation. The Council’s expectation is that the variances will balance over time to ensure IPHC conservation and management objectives are achieved.

All of these factors and issues must be reflected in the final rule.

B. Catch Accounting in the Charter Sector

The CSP proposes the following process to convert commercial IFQ to GAF: "The conversion factor for the current fishing year would be the ADF&G estimate of the average net weight calculated from all halibut harvested in the guided sport fishery during the preceding fishing year in that IPHC regulatory area." 76 Fed. Reg. at 44186.

This procedure can be expected to underestimate the weight of GAF since charter operators are likely to lease quota to provide their clients the opportunity to harvest a larger fish than is allowed under existing bag and size limits in the common pool charter fishery. For example, in Area 2C in 2011, the 37" maximum size fish will result in a maximum net weight of 17 pounds, with the average weight likely to be lower. If an Area 2C client wants the opportunity to catch a bigger halibut, the client can harvest a GAF and will likely not retain a halibut until a larger fish is harvested. Accurate accounting for GAF, and hence resource removals, requires that charter operators log and report the length of GAF fish and that ADF&G and the IPHC use this data to set the GAF conversion rate the following year. Alternatively, ADF&G and the IPHC could use the average weight of commercial caught halibut or IPHC survey-caught halibut.

The Halibut Coalition strongly supports the proposal set forth at 76 Fed. Reg. 44180 that GAF holders be required to allow ADF&G and IPHC scientific personnel access to private property owned by GAF permit holders in order to monitor GAF and collect scientific data. This data collection will result in a better size estimate for GAF and reduce the potential for over harvest of the halibut resource.

The Coalition recommends NMFS clarify the regulatory language at proposed section 300.65(c)(6)(iv) titled GAF Use Restriction that states QS holders may only convert to GAF commercial quota they held as of January 1. One interpretation of this language is that a QS holder would be eligible to lease IFQ as GAF only if that person held QS when IFQ permits were initially issued for that year. To avoid any misunderstandings on the part of charter or commercial fishermen, this section should be clarified.

At 76 Fed Reg. 44173, the Proposed Rule requests comments on the use of proposed Methods A, B, C, or other potential methods to establish maximum lengths under the CSP. The Coalition supports Method B. This is the most biologically conservative method proposed under

the CSP and will provide the most benefit to the resource. The Coalition remains concerned about the adequacy of catch accounting in the charter fishery, particularly relative to catch accounting and mortality rates of “released” halibut, and believes any underharvest that may result from Method B will provide a necessary conservation buffer. As catch accounting in the charter fishery improves and regulators gain experience with size limit management in the halibut charter fishery, it may be appropriate to revisit the algorithm and adjust the methodology.

Relevant to the issue of catch accounting, the Coalition supports the requirement that charter operators be required to retain the halibut carcass when a maximum size limit is in place, and not disfigure or mutilate a halibut such that the size and number of halibut harvested is difficult to ascertain under any bag or size limit. The Coalition accepts that on-board filleting benefits charter operations, and agrees with NMFS that while filleting on board can be permitted. However, the fillets should be cut in no more than two ventral, two dorsal and two cheek pieces to facilitate enforcement of bag and possession limits.

The Coalition supports the prohibition on charter operator, guide and crew retention of halibut while engaged in guiding efforts in both Areas 2C and 3A. This prohibition will reduce charter harvest by approximately 4.5% in Area 2C and 10.4 percent in Area 3A. These reductions are consistent with CSP objectives and will ensure guided clients are provided maximum opportunity to harvest halibut while still restraining the sector’s catch to its allocations. The Coalition also supports prohibiting an individual from using both a charter halibut permit and Subsistence Halibut Registration Certificate during the same day. This will discourage abuse of halibut subsistence harvesting opportunities and aid in enforcement.

Finally, in managing and accounting for charter harvest, it is essential that NMFS, the Council, and the IPHC remained firmly focused on the charter allocation as the management target. The management range of 3.5% above and below the allocation is intended to minimize changes to charter bag and size limits while still preventing resource overharvest. The Council recognized that charter catch accounting and charter management measures are imprecise and “therefore a small variance can be expected to occur around the allocation.” That said, the Council made clear that the goal is to achieve a zero variance over time: “The Council’s expectation is that the variances will balance over time to ensure conservation and management objectives are achieved.” EA/RIR/IRFA xix. The Halibut Coalition strongly supports this commitment to manage the charter fleet to its percentage-based allocation.

C. Requested EA/RIR/IRFA Revisions

Throughout the EA, information is provided on the economic contributions of, and impacts to, the charter sector. However, minimal information is included in the EA regarding the economic impacts of the status quo to all who depend on the halibut resource, from harvesters through processors, communities, and consumers. For balance and accuracy, the EA should be amended to include these effects, and, more importantly, the benefits of the CSP. Because the CSP directly ties charter harvest to resource abundance through a percentage-based allocation and establishes a management system that prevents, rather than reacts to, charter overfishing, there are clear benefits to the resource and quantifiable benefits to sport, subsistence and commercial harvesters; commercial processors; distributors; and consumers. The Coalition has identified and quantified some of the impacts of status quo GHL management in these Comments and has also described and quantified the benefits of the CSP. The EA should be supplemented to include this information.

The EA attributes too much weight to halibut in assessing impacts to the charter sector of changes in management measures. The EA should be amended to more accurately reflect the relative impact of changing management measures for one of the 33 or 39 species, depending on the IPHC Area referenced, that can be retained in any given day by a charter client.

There are also specific sections of the EA that demand revision. These are set forth below.

1. Page xxxviii. This section provides estimates of revenue to charter operators from trip fees and should include estimates of ex-vessel revenues to commercial fishermen.
2. Page xli. The discussion of impacts to communities in this section assumes charter overfishing is an acceptable part of the status quo, when in fact that overfishing has imposed significant costs. The costs, and conversely the benefits of preventing charter overfishing, should be described. This section also includes the comment repeated later at 50 that the one fish bag limit has decreased client demand. The decrease in client demand should be evaluated relative to the State-wide decline in Alaska tourism, the reductions in tourism spending, and the reduced availability of halibut—all of which are already discussed in the analysis. The EA/IRFA at 155 suggests that the 2007-2009 recession “likely” played a part in the decline of Area 2C bottomfish anglers. The following 2009 information from *The Juneau and Southeast Economic Indicators 2010* (Juneau Economic Development Council 2010, available at http://jedc.org/forms/2010_Juneau_&_SE_Economic_Indicators_Final.pdf) demonstrates the scale of the recession on the tourism business.

- From 2008-2009, Juneau's Leisure and Hospitality annual employment was down 180 jobs.
- From 2008-2009, passenger transportation indicators were down: ferry -12%, Alaska Air -9%, Other Air -5%, cruise ship -1%.

In sum, the statement attributing decline in angler demand to regulation is unsubstantiated and should be evaluated in a larger context or struck.

3. Page 156. Substitution of species. As noted elsewhere, the daily recreational bag limit varies from 33-39 or more in Areas 2C and 3A. In 2008, ADF&G Special Publication No 09-11 (Tables 15 & 16) reported that saltwater guided vessels caught a total of 807,618 fish in 2C/3A (not including sablefish and Pacific cod), of which 42% were halibut. This indicates that saltwater clients already place considerable importance (58%) on species other than halibut. The EA states: "More restrictive regulation will reduce the profitability of this sector...." This is overstated and needs to be examined in light of the obvious substitution occurring. This statement is also contradicted by the market that has developed for charter permits. There is clear demand for the newly created charter halibut limited entry permits, which indicates confidence in the future of the halibut charter business. Since January 2011, 58 permits have sold for average prices of \$32,000 in Area 2C (April) and \$58,833 in Area 3A (May). http://www.fakr.noaa.gov/ram/charter/apps_permits.htm.
4. Page 159. Change "400 or fewer" to "400 or fewer".
5. Page 165. This section should note that most, if not all, charter trips target not only halibut but other bottom fish such as lingcod, rockfish, shark, Pacific cod. In addition, many charters also target salmon during a bottomfish trip and view wildlife as part of their experience. The revenue numbers, therefore, do not reflect a "pure" halibut trip.
6. Page 167. This text should be clarified to show that the term "hook-and-line catcher vessels," as used in the SAFE, includes vessels harvesting not only halibut but also sablefish and Pacific cod. The average gross income of \$390,000 cited does not align with the average halibut longline gross. The Coalition does agree with the conclusion that most if not all halibut longline vessels qualify as small businesses under SBA rules. This section should be carefully reviewed to ascertain if vessel or QS holder average is the appropriate number to use. In the SAFE, the title of Table 36 is "Number of groundfish vessels that caught or caught and processed more than \$4.0 million...."
7. Appendix B, section 8.5. The regional economic impacts of changes that affect charter operations are discussed in this section. However, once again the regional economic impacts of the status quo and of any changes to the status quo that affect commercial fishermen are not discussed. These need to be added.

8. Appendix B, section 8.6. This section should be revised to describe the impacts to subsistence and sport fishermen of local depletion. Charter operations have gradually increased their working radius from coastal towns seaward as they deplete the more accessible fishing grounds. This forces resident sport and subsistence fishermen to travel farther in search of halibut, which increases fuel costs, heightens the risk of perilous fishing in more exposed areas of the ocean, and increases the number of trips needed to find halibut.

VI. Conclusion

The Halibut Coalition urges NMFS to implement the CSP without further delay. The CSP marks 18 years of public discourse on halibut charter management that engaged hundreds of people from all sectors of the halibut fishery: subsistence, sport, and commercial fishermen; consumers; processors and distributors; and coastal communities. The CSP will allow halibut fishery managers to achieve important conservation and management goals. It will provide a measure of stability to the halibut fishery. Finally, the CSP will establish a market-based mechanism to resolve the allocation conflict that has consumed the Council and torn apart coastal fishing communities.

The almost two decades of testimony and analysis surrounding the development of the CSP have resulted in an extensive and complete factual and legal record supporting the CSP – a record that fully demonstrates the CSP is fair and equitable, takes into account present participation in the fishery, and promotes conservation. Among those facts are the following.

- The GHM and CSP were developed by committees dominated by the charter industry.
- When the charter industry decided at the last minute to oppose the CSP to which it had previously agreed, the industry did so based on the assertion the CSP was neither fair nor equitable. The charter industry's "fair and equitable" alternative proposed raising the then-existing Area 2C charter catch from 913,000 pounds to 4.9-5.7 million pounds, between 70%-80% of the total harvest, effectively putting the commercial fleet out of business.
- The status quo GHM management program has resulted in the Area 2C charter industry exceeding its quota by 22%-115% and by lesser amounts in Area 3A. The commercial sector has never exceeded its quota since the IFQ program was established.
- The IPHC has stated that charter overfishing is a threat to resource conservation.
- In Area 2C since 2005, the halibut resource has declined 62% and the commercial quota has been cut 76%. The charter industry's quota was reduced by only 55% but the charter industry offset those reductions by overfishing its quota by an average of 52%. While the resource has been declining, the charter industry in Area 2C increased its harvest by 93% between 1997 and 2008.

- Charter overfishing has resulted in direct reductions to the Area 2C commercial fleet to offset the charter overharvest. These reductions have an ex-vessel value to commercial fishermen of \$15 million which translates to a \$46.5 million economic loss using standard multipliers.

- Charter overfishing causes localized depletion because it is concentrated in nearshore areas. The charter industry admitted the existence of localized depletion in testimony on the charter limited entry program.

- Localized depletion means the least fortunate among us, those who live near, at, or below the poverty level, and who depend on subsistence fishing, cannot find the resources to feed their families.

- The commercial processing sector has seen significant declines in the amount of halibut available for processing, caused in part by charter overfishing, with a corresponding impact on jobs and community wages.

- Alaska's coastal communities which depend on halibut and other commercial fish landing taxes to support essential government services have suffered a dramatic loss of income as commercial quotas have been cut to compensate for charter overfishing.

- The CSP awards the charter industry a percentage of the allowable harvest that is equal to, or greater than, the GHL percentage in both Areas 2C and 3A.

- Had the CSP been in place in lieu of the GHL since 2004, the charter industry would have received more fish in both Areas 2C and 3A.

- The CSP allows the charter industry to increase its allocation by providing a mechanism for the industry to acquire more fish from the commercial fleet.

- The CSP makes substantial concessions requested by the charter industry, mostly at the expense of the resource or the commercial fleet. Among those concessions are:

- percentage allocations equal to or greater than the GHL allocations;
- a program that allows the charter industry to increase its harvest by leasing commercial quota;
- no in-season harvest management changes;
- allowing the charter industry to exceed its annual harvest limit by approximately 20% with no new regulations to limit harvest;
- management measures limited to bag and size limits with season limits and fishery closures taken off the table as possible management measures;
- an increase in the charter industry's allocation percentage when halibut

abundance is low so that the commercial fleet bears the conservation burden;
and

- a more flexible management system so that charter allocations can rise more quickly when halibut abundance increases.

Despite these facts, the charter industry protests. Ignoring the fact that if the CSP had been in place since 2004 instead of the GHIL, the charter industry would have received more fish, the industry asserts that their 2011 allocations, had the CSP been in place, would have been less than their GHIL allocations. This argument captures the essence of the charter industry's attitude and the exact nature of the problem confronting fishery managers. The facts are that:

- the difference between the 2010 CSP and the GHIL Area 2C allocation to the charter industry would have been only 8,000 pounds;
- while the commercial fleet has seen its quota cut by 73% between 2007 and 2011, the charter industry quota was cut by only 45%, and none at all in the last three years even though the resource has continued to decline and commercial quotas have been slashed to conserve the resource;
- in Area 3A, the commercial quota was cut 45% between 2007 and 2011 for conservation reasons, but the charter quota was never reduced; and
- in 2011, the commercial quota in Areas 2C and 3A was reduced from 2010 levels by 47% and 38%, respectively, while the charter quota under the GHIL was not cut by one pound.

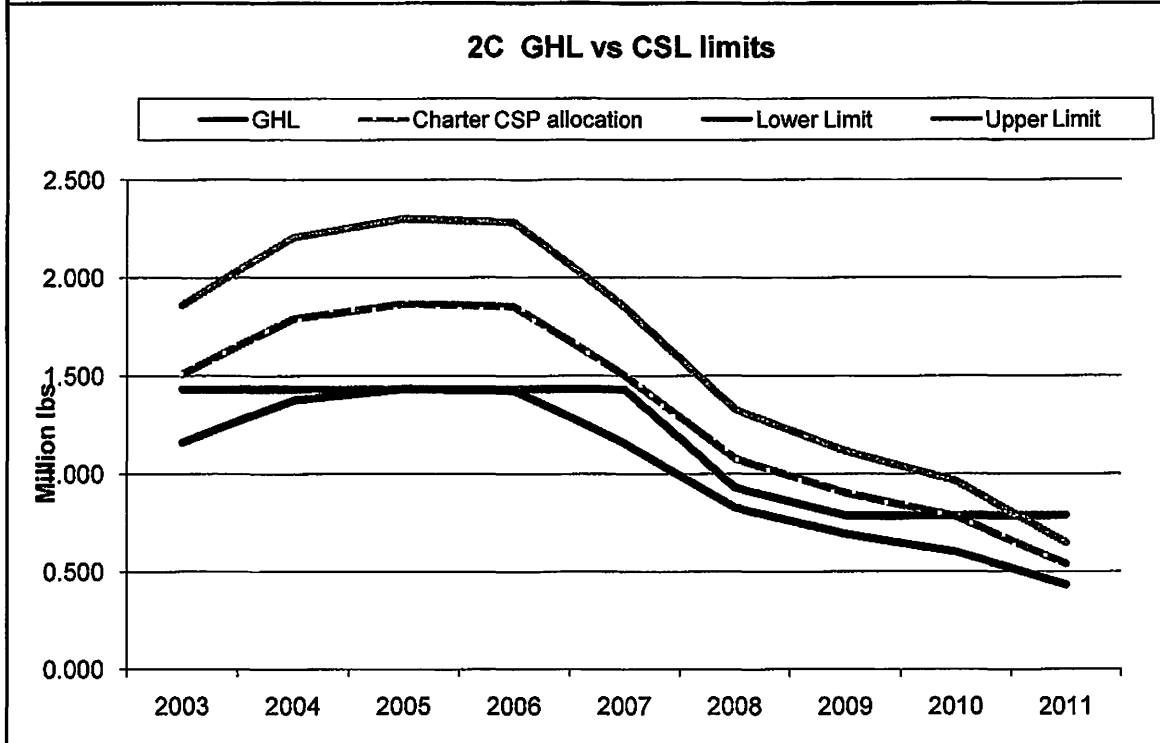
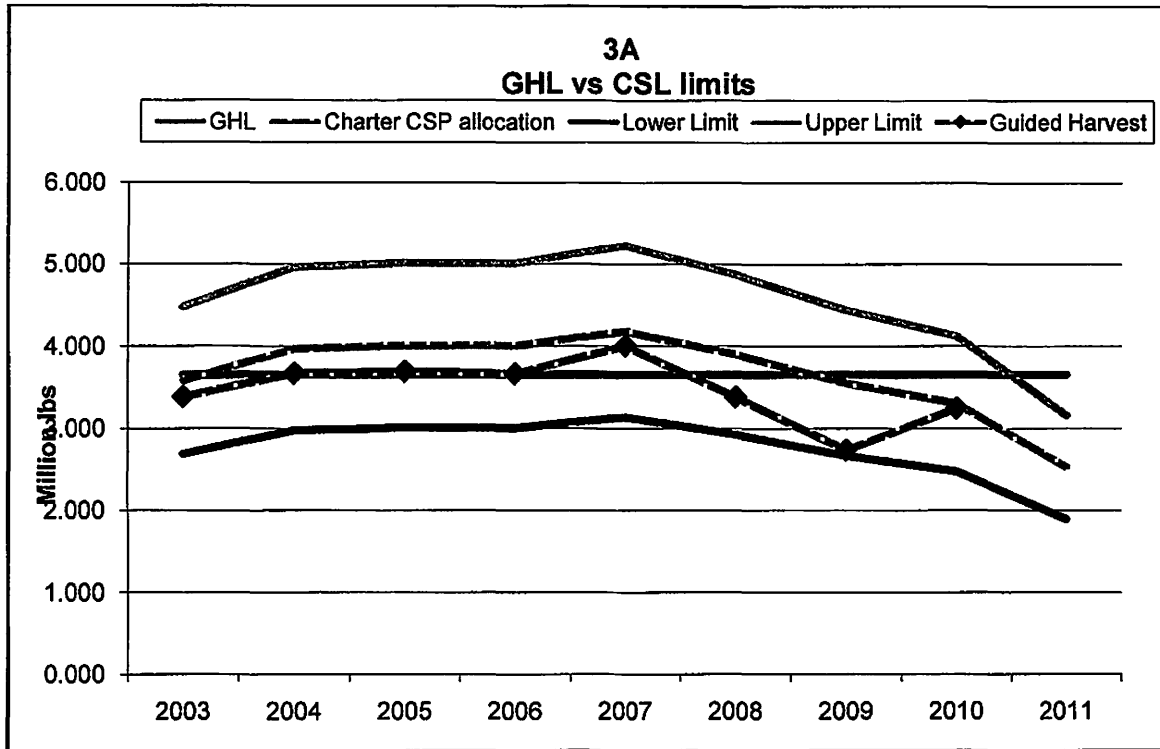
A fair and equitable allocation would have reduced the quota for each sector by equal amounts. But the charter industry does not want fair and equitable. It wants what is unfair and inequitable – that the charter industry not bear its share of the responsibility for conserving the resource – a conservation need caused in part by years of overfishing by the charter industry – overfishing that has inflicted enormous harm on the resource, commercial fishermen, subsistence fishermen, processors, and coastal communities.

There are clearly net national benefits to implementing our national policy of preventing overfishing. There are national benefits to not inflicting economic loss on the commercial fleet (and dependent processors and coastal communities) when the IPHC is forced to reduce the commercial quota to offset charter overfishing and to conserve the resource. There is clearly a net national benefit to ensuring that the least fortunate among us, subsistence fishermen, do not lose access to the resource due to localized depletion caused by charter overfishing. And in

considering net national benefits, one cannot forget that the charter industry would have received more fish if the CSP had been in place since 2004 instead of the GHF. This means the benefit to that industry would have been, and will be, greater under the CSP.

The facts and the law are clear. The CSP can and must be implemented for the 2012 season.

Appendix A: CSP Limits compared to GHL



**2C CSP
Data**

Year	Commercial Limit	Charter deduction	Combined Catch limit	GHL	CSP rule	Charter CSP allocation	Lower Range	Upper Range	Lower Limit	Upper Limit
2003	8.500	1.501	10.001	1.432	15.1%	1.51	11.6%	18.6%	1.16	1.86
2004	10.530	1.333	11.863	1.432	15.1%	1.79	11.6%	18.6%	1.38	2.21
2005	10.930	1.437	12.367	1.432	15.1%	1.87	11.6%	18.6%	1.43	2.30
2006	10.630	1.639	12.269	1.432	15.1%	1.85	11.6%	18.6%	1.42	2.28
2007	8.513	1.432	9.945	1.432	15.1%	1.50	11.6%	18.6%	1.15	1.85
2008	6.210	0.931	7.141	0.931	15.1%	1.08	11.6%	18.6%	0.83	1.33
2009	5.200	0.788	5.988	0.788	15.1%	0.90	11.6%	18.6%	0.69	1.11
2010	4.400	0.788	5.188	0.788	15.1%	0.78	11.6%	18.6%	0.60	0.96
2011	2.330	0.788	3.118	0.788	17.3%	0.54	13.8%	20.8%	0.43	0.65

3A

Year	Commercial Limit	Charter deduction	Combined Catch limit	GHL	CSP rule	Charter CSP allocation	Lower Range	Upper Range	Lower Number	Upper Number	Guided Harvest
2003	22.630	2.943	25.573	3.650	14.0%	3.58	10.5%	17.5%	2.69	4.48	3.382
2004	25.060	3.279	28.339	3.650	14.0%	3.97	10.5%	17.5%	2.98	4.96	3.668
2005	25.470	3.161	28.631	3.650	14.0%	4.01	10.5%	17.5%	3.01	5.01	3.689
2006	25.200	3.414	28.614	3.650	14.0%	4.01	10.5%	17.5%	3.00	5.01	3.664
2007	26.200	3.650	29.850	3.650	14.0%	4.18	10.5%	17.5%	3.13	5.22	4.002
2008	24.200	3.650	27.850	3.650	14.0%	3.90	10.5%	17.5%	2.92	4.87	3.378
2009	21.700	3.650	25.350	3.650	14.0%	3.55	10.5%	17.5%	2.66	4.44	2.734
2010	19.900	3.650	23.550	3.650	14.0%	3.30	10.5%	17.5%	2.47	4.12	3.24
2011	14.360	3.650	18.010	3.650	14.0%	2.52	10.5%	17.5%	1.89	3.15	