

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director



ESTIMATED TIME
2 HOURS

DATE: April 3, 2000

SUBJECT: Halibut Subsistence

ACTION REQUIRED

Approve revised analysis for public review.

BACKGROUND

Management measures for halibut subsistence were first developed in September 1996 because of a conflict between the IFQ/CDQ regulations and customary and traditional practices of Alaska Natives in IPHC regulatory Area 4E, whereby halibut CDQ fishermen were retaining undersized halibut for personal use. The Council formed a Halibut Subsistence Committee, initiated a regulatory amendment, and in June 1997, took final action on the part of the proposed action that allowed Area 4E CDQ fishermen to retain undersized halibut while commercial fishing. That measure took effect June 4, 1998, and was renewed by the IPHC through December 31, 2001.

The broader issue of defining subsistence for Pacific halibut is addressed in the analysis mailed to you on March 31, 2000. The executive summary is attached as item C-6(a). Item C-6(b) provides a complete list of Alaska Native federally-recognized tribes with customary and traditional use of halibut and other permanent residents in such Native villages under Alternative 2, Option 2, Suboption A. Under that suboption, about 88,662 people, of which 42,003 are Alaska Native and 46,659 are non-Native, would be deemed eligible. The alternatives in the analysis were revised by the Council at its December 1999 meeting. The current analysis contains the same data analysis as the original May 1997 public review draft, updated to reflect the revised list of alternatives. The May 1997 draft had been recommended for release by the SSC and is not scheduled for further SSC review.

Co-management agreements with NMFS (items C-6(c-d)) for beluga whales and harbor seals are attached as examples for Council consideration in designing a cooperative agreement with Tribal, State, and Federal governments to collect, monitor, and enforce subsistence harvests and develop local area halibut subsistence use plans in coastal communities under Alternative 2, Option 6. Reporting vehicles for undersized halibut in Area 4E CDQ fisheries are included in the analysis in Appendix III.

Executive Summary

The Halibut Subsistence EA/RIR/IRFA addresses the development of fishery regulations to define the legal harvest of halibut for subsistence use in the Bering Sea/Aleutian Islands and Gulf of Alaska. First, subsistence halibut harvests are currently included within the personal use, or sportfish, regulations, largely because the pattern of subsistence use has not been adequately documented. Sportfish regulations do not reflect the customary and traditional use of halibut in rural communities. Federal fishery regulations for Alaska limit all non-commercial halibut harvests to two fish per person per day, caught on a single line with a maximum of two hooks or a spear, from February 1 through December 31. Increased enforcement of commercial halibut IFQ and CDQ regulations has led to increased awareness of the conflict between halibut regulations and customary and traditional subsistence practices of Alaska Natives in coastal communities.

Second, subsistence harvests may not be adequately accounted in the International Pacific Halibut Commission calculations of total halibut removals. Despite the lack of accurate landings information, all non-commercial halibut harvests are estimated to account for less than one percent of total halibut removals.

A management proposal to define halibut subsistence was first developed to address a conflict between the IFQ/CDQ regulations and customary and traditional practices of Alaska Natives in IPHC regulatory Area 4E, whereby halibut CDQ fishermen were retaining undersized halibut for personal use. In December 1996, the Council initiated preparation of an EA/RIR for a regulatory amendment to allow the legal harvest of halibut for subsistence in rural communities to conform with state and Federal statutes that provide for the opportunity for the continued existence of these traditional cultures and economies.

In June 1997, the Council took final action to recommend the allowable retention of undersized halibut in the Area 4E Community Development Quota fishery. That measure took effect June 4, 1998, was renewed by the IPHC in January 2000, and sunsets on December 31, 2001. The Council did not recommend a sunset, but the IPHC wanted to ensure an adequate data collection program.

The Council deferred action in 1998 and 1999 on the larger issue of defining eligibility, legal gear, customary and traditional trade, bag limits, and cooperative management agreements for a halibut subsistence fishery, while the State of Alaska Legislature considered amending the State Constitution to become compliant with Federal law related to management of fish and game on Federal lands. The State/Federal takeover does not affect management of Pacific halibut (except in a few small areas of the National Park lands), however, the Council chose to postpone its action to allow the State to address its management issue. When the Legislature did not take such action by an October 1999 deadline, NMFS recommended that the Council reschedule final action.

In December 1999, the Council revised the alternatives in the draft analysis (listed below) and rescheduled initial review and final action for April and June 2000, respectively.

ALTERNATIVE 1. Status quo.

ALTERNATIVE 2. Allow the harvest of halibut for subsistence.

OPTION 1. Define subsistence.

Halibut subsistence regulations are needed to allow the continued practice of long-term customary and traditional practices of fishing halibut for food for families in a non-commercial manner for non-economic consumption. Subsistence is defined as 'long-term, customary and traditional use of halibut.'

OPTION 2. Define eligibility for halibut subsistence:

Suboption A. Members of Alaska Native Federally-recognized Tribes with customary and traditional use of halibut and other permanent rural residents in such Native villages.

Suboption B. Alaska rural residents as defined in ANILCA and identified in the table entitled 'Alaska Rural Places and Native Groups with Subsistence Halibut Uses,' and will also include other communities for which customary and traditional findings are developed in the future.

Suboption C. Tribal members and other permanent residents of Native villages who have legitimate subsistence needs.

OPTION 3. Define legal gear.

Suboption A. rod-and-reel gear.

Suboption B. hook-and-line gear (including set and hand-held gear) with a range of:

1. 2 hooks;
2. 10 hooks;
3. 30 hooks;
4. 60 hooks.

Suboption C. Allow Tribal governments to contract with NMFS to register designated fishermen to fish for the community using:

1. 1 - 3 skates of gear, up to 60 hooks each;
2. any gear type

Suboption D. Allow retention of subsistence halibut using commercial gear while IFQ/CDQ fishing.

OPTION 4. Allow the customary and traditional trade of subsistence halibut.

Suboption 1. Customary and traditional trade through monetary exchange shall be limited to an annual maximum of:

1. \$0;
2. \$200;
3. \$400;
4. \$600.

- Suboption 2. Customary and traditional trade through non-monetary exchange is allowed with:
1. other Alaska Tribes;
 2. any Alaska rural resident;
 3. any Alaska resident;
 4. anyone.

OPTION 5. Define a daily bag limit of between 2-20 halibut.

Suboption. No bag limits for subsistence halibut.

OPTION 6. Develop cooperative agreements with Tribal, State, and Federal governments to collect, monitor, and enforce subsistence harvests and develop local area halibut subsistence use plans in coastal communities.

Alternative 2, Option 2, Suboption A would qualify nearly 42,000 individuals from 118 Alaska Native Tribes for proposed halibut subsistence regulations. Suboption B would qualify over 82,000 Alaska rural residents from 114 coastal communities that had established customary and traditional halibut subsistence practices. Suboption C would qualify over 88,500 Alaska Natives and other rural residents from 114 communities. Halibut consumption was estimated to be approximately 1.8 million lb under Suboption A, 3.3 million lb under Suboption B, and 3.5 million lb under Suboption C, based on per capita rates reported by resident type and community. For the remaining Alternative 2 options (legal gear, customary and traditional trade, bag limits), it is assumed that a relatively fixed amount of halibut will be taken annually dependent upon the number of eligible individuals.

None of the alternatives is expected to result in a "significant regulatory action" as defined in E.O. 12866.

SUPPLEMENT TO THE REVISED INITIAL REVIEW DRAFT FOR DEFINING HALIBUT SUBSISTENCE

Suboption A, “members of Alaska Native federally-recognized tribes with customary and traditional uses of halibut and other permanent rural residents in such Native villages,” is also referred to as the “rural plus” or “tribal plus” option. Under it, about 88,663 Alaskans are eligible, of which about 42,004 are Alaska Natives and 46,659 are not Alaska Natives. Eligibility is determined in two ways. You must be: (1) a permanent resident in a listed rural community; or (2) a card-carrying member of a listed tribe. The listed communities and tribes are rural places or tribal groups with a demonstrated customary and traditional use of halibut (the current list is based on Division of Subsistence studies and findings by the Alaska Board of Fisheries of which areas have customary and traditional uses of halibut). This option includes all the Alaska Natives who have established subsistence halibut uses. It also includes all permanent non-residents of rural communities in areas with subsistence halibut uses. The suboption is administratively simple – eligibility is based on residency in a listed rural community or on tribal membership, which are factors easy to verify. The suboption does not split rural communities into two groups -- those who can fish and those who cannot. The suboption allows for Alaska Natives in Juneau, Ketchikan, and the Kenai area to fish in customary areas, which is a common practice.

Staff has suggested a *modification* to the language of Suboption A to address ambiguity in the eligibility definition. The suggested text would replace, “such Native villages” with “and other permanent rural residents in communities with customary and traditional uses of halibut.”

Suboption B, “Alaska rural residents as defined in ANILCA and identified in the table entitled ‘Alaska Rural Places and Native groups with Subsistence Halibut Uses,’ will also include other communities for which customary and traditional findings are developed in the future.” This is a “rural” standard.

Suboption C, “tribal members and other permanent residents of Native villages who have legitimate subsistence needs,” is similar to Suboption A except the former includes an individual eligibility standard based on “need” applied to non-Natives. It is administratively complex because it requires some entity to do individual qualification determinations. The state has experience with individual needs-based eligibility systems through administering Tier II subsistence hunts, and while Suboption C is administratively feasible, it is contentious and expensive in time and money.

The above suboption is modeled after new language in the Migratory Bird Treaty Act which has not yet been implemented. The Native Halibut Subsistence Working Group requests that the tribes be authorized to determine eligibility of non-Natives, as a type of cooperative agreement. Under this approach, the tribes would determine who else may participate in what is primarily a tribal fishery. Individual standards that might be used by tribes to qualify non-Natives might include: (1) some history of use of longline skates for halibut fishing, (2) some level of food need that cannot be met with the two-hook, two-bag sport limit, and (3) some degree of participation in the tribal fishery pattern, such as a person married to a tribal member, or a helper in the tribal fishery. There may be other acceptable standards.

The text on page 103 will be revised to reflect the potential numbers of people potentially eligible under each suboption. These are:

- Suboption A: 88,663 people and 1.5 million lbs;
- Suboption B: 82,171 people and 1.4 million lbs;
- Suboption C: from 42,004 to 88,663 people and from 636,813 lbs to 1.5 million lbs, including Alaska Natives and some undetermined number of non-Natives under an individual standard.

Also, the text on page 103 will be revised to report that in Areas 2C, Suboption B excludes 5,487 Tlingit-Haida-Tsimshian tribal members in Juneau and Ketchikan, and not 14,052 individuals in ten coastal communities.

Staff also suggests a minor revision to *clarify* that the text on page 106 related to Suboption B. The Council should clarify whether it intends to limit a fisherman to one skate of gear or as may be interpreted now, a fisherman could have more than one skate of gear, but that in aggregate the ground lines are limited to a certain number of hooks. At 18-20 ft apart, a 60 hook limit is equivalent to about 1800 ft of ground line in aggregate.

Eligibility Suboption A. Members of Alaska Native Federally-Recognized Tribes with Customary and Traditional Use of Halibut and Other Permanent Rural Residents in Such Native Villages

Sources: Alaska Department of Fish and Game; Alaska Department of Labor

| <u>Rural Place*</u> | <u>Organized Tribal Entity**</u> | <u>Municipality or Census Designated Place</u> | <u>Population (1995)</u> | <u>Percent Alaska Native</u> | <u>Number Alaska Natives</u> | <u>Number Non-Natives</u> | <u>Halibut Coastal District</u> | <u>Use Pattern</u> 1 = regular 2 = periodic 3 = undocumented |
|---------------------|---|--|--------------------------|------------------------------|------------------------------|---------------------------|---------------------------------|---|
| District 2C | | | | | | | | |
| Angoon | Angoon Community Association | Municipality | 601 | 82.3% | 495 | 106 | 2C | 1 |
| Coffman Cove | **** | Municipality | 254 | 6.9% | 18 | 236 | 2C | 1 |
| Craig | Craig Community Association | Municipality | 1,946 | 22.9% | 446 | 1,500 | 2C | 1 |
| Edna Bay | **** | Census Designated Place | 79 | 0.0% | 0 | 79 | 2C | 1 |
| Elfin Cove | **** | Census Designated Place | 48 | 1.8% | 1 | 47 | 2C | 1 |
| Gustavus | **** | Census Designated Place | 328 | 3.9% | 13 | 315 | 2C | 1 |
| Haines | Chilkoot Indian Association | Municipality | 1,363 | 18.1% | 247 | 1,116 | 2C | 1 |
| Hollis | **** | Census Designated Place | 106 | 2.7% | 3 | 103 | 2C | 1 |
| Hoonah | Hoonah Indian Association | Municipality | 903 | 67.2% | 607 | 296 | 2C | 1 |
| Hydaburg | Hydaburg Cooperative Association | Municipality | 406 | 89.1% | 362 | 44 | 2C | 1 |
| Hyder | **** | Census Designated Place | 138 | 1.0% | 1 | 137 | 2C | 1 |
| Nonrural | Aukquan Traditional Council*** | ***** | 3,770 | 100.0% | 3,770 | 0 | 2C | 1 |
| Nonrural | Central Council Tlingit & Haida Indian Tribes | ***** | | | | | 2C | 1 |
| Nonrural | Douglas Indian Association | ***** | | | | | 2C | 1 |
| Kake | Organized Village of Kake | Municipality | 696 | 73.4% | 511 | 185 | 2C | 1 |
| Kasaan | Organized Village of Kasaan | Municipality | 41 | 53.7% | 22 | 19 | 2C | 1 |
| Nonrural | Ketchikan Indian Corporation | ***** | 1,717 | 100.0% | 1,717 | 0 | 2C | 1 |
| Klawock | Klawock Cooperative Association | Municipality | 759 | 54.3% | 412 | 347 | 2C | 1 |
| Klukwan | Chilkat Indian Village | Census Designated Place | 165 | 86.8% | 143 | 22 | 2C | 1 |
| Metlakatla | Metlakatla Indian Community, Annette Island Reserve | Census Designated Place | 1,540 | 82.9% | 1,277 | 263 | 2C | 1 |
| Meyers Chuck | **** | Census Designated Place | 35 | 10.8% | 4 | 31 | 2C | 1 |
| Pelican | **** | Municipality | 209 | 29.3% | 61 | 148 | 2C | 1 |
| Petersburg | Petersburg Indian Association | Municipality | 3,374 | 10.1% | 341 | 3,033 | 2C | 1 |
| Point Baker | **** | Census Designated Place | 62 | 0.0% | 0 | 62 | 2C | 1 |
| Port Alexander | **** | Municipality | 98 | 2.5% | 2 | 96 | 2C | 1 |
| Port Protection | **** | Census Designated Place | 64 | 1.6% | 1 | 63 | 2C | 1 |
| Saxman | Organized Village of Saxman | Municipality | 394 | 76.9% | 303 | 91 | 2C | 1 |

Eligibility Suboption A. Members of Alaska Native Federally-Recognized Tribes with Customary and Traditional Use of Halibut and Other Permanent Rural Residents in Such Native Villages

Sources: Alaska Department of Fish and Game; Alaska Department of Labor

| <u>Rural Place*</u> | <u>Organized Tribal Entity**</u> | <u>Municipality or Census Designated Place</u> | <u>Population (1995)</u> | <u>Percent Alaska Native</u> | <u>Number Alaska Natives</u> | <u>Number Non-Natives</u> | <u>Halibut Coastal District</u> | <u>Use Pattern</u> 1 = regular 2 = periodic 3 = undocumented |
|---------------------|----------------------------------|--|--------------------------|------------------------------|------------------------------|---------------------------|---------------------------------|---|
| Sitka | Sitka Tribe of Alaska | Municipality | 9,194 | 20.9% | 1,922 | 7,272 | 2C | 1 |
| Skagway | Skagway Village | Municipality | 811 | 5.5% | 45 | 766 | 2C | 1 |
| Tenakee Springs | **** | Municipality | 107 | 9.6% | 10 | 97 | 2C | 1 |
| Thorne Bay | **** | Municipality | 650 | 1.2% | 8 | 642 | 2C | 1 |
| Whale Pass | **** | Census Designated Place | 92 | 2.7% | 2 | 90 | 2C | 1 |
| Wrangell | Wrangell Cooperative Association | Municipality | 2,758 | 20.0% | 552 | 2,206 | 2C | 1 |
| | | <i>District 2C Communities</i> | 32,708 | 40.6% | 13,293 | 19,415 | | |

District 3A

| | | | | | | | | |
|-------------|-------------------------------|--------------------------------|---------------|--------------|--------------|---------------|----|---|
| Akhiok | Native Village of Akhiok | Municipality | 80 | 93.5% | 75 | 5 | 3A | 1 |
| Chenega Bay | Native Village of Chanega | Census Designated Place | 96 | 69.2% | 66 | 30 | 3A | 1 |
| Cordova | Native Village of Eyak | Municipality | 2,568 | 11.2% | 288 | 2,280 | 3A | 1 |
| Karluk | Native Village of Karluk | Census Designated Place | 58 | 91.5% | 53 | 5 | 3A | 1 |
| Nonrural | Kenaitze Indian Tribe | ***** | 775 | 100.0% | 775 | 0 | 3A | 1 |
| Nonrural | Village of Salamatoff | ***** | 113 | 100.0% | 113 | 0 | 3A | 1 |
| Kodiak City | Lesnoi Village (Woody Island) | Municipality | 13,498 | 10.7% | 1,443 | 12,055 | 3A | 1 |
| Kodiak City | Native Village of Afognak | Municipality | | | | | 3A | 1 |
| Kodiak City | Shoonaq' Tribe of Kodiak*** | Municipality | | | | | 3A | 1 |
| Larsen Bay | Native Village of Larsen Bay | Municipality | 130 | 84.4% | 110 | 20 | 3A | 1 |
| Nanwalek | Native Village of Nanwalek | Census Designated Place | 162 | 91.1% | 148 | 14 | 3A | 1 |
| Nonrural | Ninilchik Village | ***** | 116 | 100.0% | 116 | 0 | 3A | 1 |
| Old Harbor | Village of Old Harbor | Municipality | 310 | 88.7% | 275 | 35 | 3A | 1 |
| Ouzinkie | Native Village of Ouzinkie | Municipality | 259 | 85.2% | 221 | 38 | 3A | 1 |
| Port Graham | Native Village of Port Graham | Census Designated Place | 170 | 90.4% | 154 | 16 | 3A | 1 |
| Port Lions | Native Village of Port Lions | Municipality | 233 | 67.6% | 158 | 75 | 3A | 1 |
| Seldovia | Seldovia Village Tribe | Municipality | 289 | 15.2% | 44 | 245 | 3A | 1 |
| Tatitlek | Native Village of Tatitlek | Census Designated Place | 124 | 86.6% | 107 | 17 | 3A | 1 |
| Yakutat | Yakutat Tlingit Tribe | Municipality | 801 | 55.1% | 441 | 360 | 3A | 1 |
| | | <i>District 3A Communities</i> | 19,782 | 23.2% | 4,586 | 15,196 | | |

Eligibility Suboption A. Members of Alaska Native Federally-Recognized Tribes with Customary and Traditional Use of Halibut and Other Permanent Rural Residents in Such Native Villages

Sources: Alaska Department of Fish and Game; Alaska Department of Labor

| <u>Rural Place*</u> | <u>Organized Tribal Entity**</u> | <u>Municipality or Census Designated Place</u> | <u>Population (1995)</u> | <u>Percent Alaska Native</u> | <u>Number Alaska Natives</u> | <u>Number Non-Natives</u> | <u>Halibut Coastal District</u> | <u>Use Pattern</u> 1 = regular 2 = periodic 3 = undocumented |
|----------------------------------|--|--|--------------------------|------------------------------|------------------------------|---------------------------|---------------------------------|---|
| District 3B | | | | | | | | |
| Chignik Bay | Native Village of Chignik | Municipality | 141 | 45.2% | 64 | 77 | 3B | 1 |
| Chignik Lagoon | Native Village of Chignik Lagoon | Census Designated Place | 65 | 56.6% | 37 | 28 | 3B | 1 |
| Chignik Lake | Chignik Lake Village | Census Designated Place | 154 | 91.8% | 141 | 13 | 3B | 1 |
| Cold Bay | **** | Municipality | 107 | 5.4% | 6 | 101 | 3B | 1 |
| False Pass | Native Village of False Pass | Municipality | 73 | 76.5% | 56 | 17 | 3B | 1 |
| Ivanof Bay | Ivanoff Bay Village | Census Designated Place | 28 | 94.3% | 26 | 2 | 3B | 1 |
| King Cove | Agdaagux Tribe of King Cove | Municipality | 716 | 39.3% | 281 | 435 | 3B | 1 |
| King Cove | Native Village of Belkofski | Municipality | | | | | 3B | 1 |
| Nelson Lagoon | Native Village of Nelson Lagoon | Census Designated Place | 88 | 80.7% | 71 | 17 | 3B | 1 |
| Perryville | Native Village of Perryville | Census Designated Place | 104 | 94.4% | 98 | 6 | 3B | 1 |
| Sand Point | Pauloff Harbor Village | Municipality | 844 | 49.3% | 416 | 428 | 3B | 1 |
| Sand Point | Native Village of Unga | Municipality | | | | | 3B | 1 |
| Sand Point | Qagan Toyagungin Tribe of Sand Point Village | Municipality | | | | | 3B | 1 |
| <i>District 3B Communities</i> | | | 2,320 | 51.6% | 1,196 | 1,124 | | |
| Districts 4A-D | | | | | | | | |
| Akutan | Native Village of Akutan | Municipality | 436 | 13.6% | 59 | 377 | 4A-D | 1 |
| Atka | Native Village of Atka | Municipality | 77 | 92.9% | 71 | 6 | 4A-D | 1 |
| Nikolski | Native Village of Nikolski | Census Designated Place | 27 | 82.9% | 22 | 5 | 4A-D | 1 |
| St. George | Pribilof Islands Aleut Communities of St. Paul Island & St. George Islands | Municipality | 151 | 94.9% | 143 | 8 | 4A-D | 1 |
| St. Paul | Pribilof Islands Aleut Communities of St. Paul Island & St. George Islands | Municipality | 767 | 66.1% | 507 | 260 | 4A-D | 1 |
| Unalaska | Qawalingin Tribe of Unalaska | Municipality | 4,083 | 8.4% | 342 | 3,741 | 4A-D | 1 |
| <i>District 4A-D Communities</i> | | | 5,541 | 20.7% | 1,145 | 4,396 | | |
| District 4E | | | | | | | | |
| Chefornak | Village of Chefornak | Municipality | 371 | 97.5% | 362 | 9 | 4E | 1 |
| Gambell | Native Village of Gambell | Municipality | 628 | 96.2% | 604 | 24 | 4E | 1 |
| Mekoryak | Native Village of Mekoryak | Municipality | 212 | 99.4% | 211 | 1 | 4E | 1 |

Eligibility Suboption A. Members of Alaska Native Federally-Recognized Tribes with Customary and Traditional Use of Halibut and Other Permanent Rural Residents in Such Native Villages

Sources: Alaska Department of Fish and Game; Alaska Department of Labor

| <u>Rural Place*</u> | <u>Organized Tribal Entity**</u> | <u>Municipality or Census Designated Place</u> | <u>Population (1995)</u> | <u>Percent Alaska Native</u> | <u>Number Alaska Natives</u> | <u>Number Non-Natives</u> | <u>Halibut Coastal District</u> | <u>Use Pattern</u> 1 = regular 2 = periodic 3 = undocumented |
|---------------------|----------------------------------|--|--------------------------|------------------------------|------------------------------|---------------------------|---------------------------------|---|
| Newtok | Newtok Village | Census Designated Place | 275 | 93.2% | 256 | 19 | 4E | 1 |
| Nightmute | Native Village of Nightmute | Municipality | 189 | 95.4% | 180 | 9 | 4E | 1 |
| Nightmute | Umkumiute Native Village | Municipality | | | | | 4E | 1 |
| Savoonga | Native Village of Savoonga | Municipality | 604 | 95.2% | 575 | 29 | 4E | 1 |
| Toksook Bay | Native Village of Toksook Bay | Municipality | 485 | 95.5% | 463 | 22 | 4E | 1 |
| Tununak | Native Village of Tununak | Census Designated Place | 354 | 96.2% | 341 | 13 | 4E | 1 |
| Wales | Native Village of Wales | Municipality | 173 | 88.9% | 154 | 19 | 4E | 1 |
| Aleknagik | Native Village of Aleknagik | Municipality | 182 | 83.2% | 151 | 31 | 4E | 2 |
| Clark's Point | Village of Clark's Point | Municipality | 63 | 88.3% | 56 | 7 | 4E | 2 |
| Dillingham | Native Village of Dillingham | Municipality | 2,243 | 55.8% | 1,252 | 991 | 4E | 2 |
| Dillingham | Native Village of Ekuk | Municipality | | | | | 4E | 2 |
| Egegik | Egegik Village | Municipality | 143 | 70.5% | 101 | 42 | 4E | 2 |
| Egegik | Village of Kanatak | Municipality | | | | | 4E | 2 |
| King Salmon | **** | Census Designated Place | 539 | 15.5% | 84 | 455 | 4E | 2 |
| Kipnuk | Native Village of Kipnuk | Census Designated Place | 544 | 97.5% | 530 | 14 | 4E | 2 |
| Kongiganak | Native Village of Kongiganak | Census Designated Place | 336 | 97.3% | 327 | 9 | 4E | 2 |
| Levelock | Levelock Village | Census Designated Place | 116 | 82.9% | 96 | 20 | 4E | 2 |
| Manokotak | Manokotak Village | Municipality | 402 | 95.6% | 384 | 18 | 4E | 2 |
| Naknek | Naknek Native Village | Census Designated Place | 617 | 41.0% | 253 | 364 | 4E | 2 |
| Nome | King Island Native Community | Municipality | 3,576 | 52.1% | 1,863 | 1,713 | 4E | 2 |
| Nome | Nome Eskimo Community | Municipality | | | | | 4E | 2 |
| Pilot Point | Native Village of Pilot Point | Municipality | 74 | 84.9% | 63 | 11 | 4E | 2 |
| Port Heiden | Native Village of Port Heiden | Municipality | 126 | 72.3% | 91 | 35 | 4E | 2 |
| South Naknek | South Naknek Village | Census Designated Place | 146 | 79.4% | 116 | 30 | 4E | 2 |
| Alakanuk | Village of Alakanuk | Municipality | 604 | 95.8% | 579 | 25 | 4E | 3 |
| Bethel | Orutsararmuit Native Village | Municipality | 5,195 | 63.9% | 3,319 | 1,876 | 4E | 3 |
| Brevig Mission | Native Village of Brevig Mission | Municipality | 265 | 92.4% | 245 | 20 | 4E | 3 |
| Chevak | Chevak Native Village | Municipality | 682 | 92.9% | 634 | 48 | 4E | 3 |
| Council | Native Village of Council | Census Designated Place | 8 | 62.5% | 5 | 3 | 4E | 3 |

Eligibility Suboption A. Members of Alaska Native Federally-Recognized Tribes with Customary and Traditional Use of Halibut and Other Permanent Rural Residents in Such Native Villages

Sources: Alaska Department of Fish and Game; Alaska Department of Labor

| <u>Rural Place*</u> | <u>Organized Tribal Entity**</u> | <u>Municipality or Census Designated Place</u> | <u>Population (1995)</u> | <u>Percent Alaska Native</u> | <u>Number Alaska Natives</u> | <u>Number Non-Natives</u> | <u>Halibut Coastal District</u> | <u>Use Pattern</u> 1 = regular 2 = periodic 3 = undocumented |
|---------------------|-----------------------------------|--|--------------------------|------------------------------|------------------------------|---------------------------|---------------------------------|---|
| Eek | Native Village of Eek | Municipality | 283 | 95.7% | 271 | 12 | 4E | 3 |
| Elim | Native Village of Elim | Municipality | 281 | 91.7% | 258 | 23 | 4E | 3 |
| Emmonak | Chuloonawick Native Village | Municipality | 762 | 92.1% | 702 | 60 | 4E | 3 |
| Emmonak | Emmonak Village | Municipality | | | | | 4E | 3 |
| Golovin | Chinik Eskimo Community | Municipality | 148 | 92.9% | 137 | 11 | 4E | 3 |
| Goodnews Bay | Native Village of Goodnews Bay | Municipality | 253 | 95.9% | 243 | 10 | 4E | 3 |
| Hooper Bay | Native Village of Hooper Bay | Municipality | 996 | 95.9% | 955 | 41 | 4E | 3 |
| Hooper Bay | Native Village of Paimiut | Municipality | | | | | 4E | 3 |
| Kotlik | Native Village of Hamilton | Municipality | 543 | 96.9% | 526 | 17 | 4E | 3 |
| Kotlik | Village of Bill Moore's Slough | Municipality | | | | | 4E | 3 |
| Kotlik | Village of Kotlik | Municipality | | | | | 4E | 3 |
| Koyuk | Native Village of Koyuk | Municipality | 258 | 94.8% | 245 | 13 | 4E | 3 |
| Kwigillingok | Native Village of Kwigillingok | Census Designated Place | 326 | 95.0% | 310 | 16 | 4E | 3 |
| Napakiak | Native Village of Napakiak | Municipality | 326 | 94.3% | 308 | 18 | 4E | 3 |
| Napaskiak | Native Village of Napaskiak | Municipality | 404 | 94.8% | 383 | 21 | 4E | 3 |
| Oscarville | Oscarville Traditional Village | Census Designated Place | 42 | 91.2% | 38 | 4 | 4E | 3 |
| Platinum | Platinum Traditional Village | Municipality | 44 | 92.2% | 41 | 3 | 4E | 3 |
| Quinhagak | Native Village of Kwinhagak | Municipality | 549 | 93.8% | 515 | 34 | 4E | 3 |
| Scammon Bay | Native Village of Scammon Bay | Municipality | 434 | 96.5% | 419 | 15 | 4E | 3 |
| Shaktoolik | Native Village of Shaktoolik | Municipality | 199 | 94.4% | 188 | 11 | 4E | 3 |
| Sheldon Point | Native Village of Sheldon's Point | Municipality | 131 | 92.7% | 121 | 10 | 4E | 3 |
| Solomon | Village of Solomon | Census Designated Place | 6 | 100.0% | 6 | 0 | 4E | 3 |
| St. Michael | Native Village of Saint Michael | Municipality | 332 | 91.2% | 303 | 29 | 4E | 3 |
| Stebbins | Stebbins Community Association | Municipality | 475 | 94.8% | 450 | 25 | 4E | 3 |
| Teller | Native Village of Mary's Igloo | Municipality | 274 | 91.3% | 250 | 24 | 4E | 3 |
| Teller | Native Village of Teller | Municipality | | | | | 4E | 3 |
| Togiak | Traditional Village of Togiak | Municipality | 700 | 87.3% | 611 | 89 | 4E | 3 |
| Tuntutuliak | Native Village of Tuntutuliak | Census Designated Place | 340 | 96.7% | 329 | 11 | 4E | 3 |
| Twin Hills | Twin Hills Village | Census Designated Place | 75 | 92.4% | 69 | 6 | 4E | 3 |

Eligibility Suboption A. Members of Alaska Native Federally-Recognized Tribes with Customary and Traditional Use of Halibut and Other Permanent Rural Residents in Such Native Villages

Sources: Alaska Department of Fish and Game; Alaska Department of Labor

| <u>Rural Place*</u> | <u>Organized Tribal Entity**</u> | <u>Municipality or Census Designated Place</u> | <u>Population (1995)</u> | <u>Percent Alaska Native</u> | <u>Number Alaska Natives</u> | <u>Number Non-Natives</u> | <u>Halibut Coastal District</u> | <u>Use Pattern 1 = regular 2 = periodic 3 = undocumented</u> |
|------------------------|----------------------------------|--|--------------------------|------------------------------|------------------------------|---------------------------|---------------------------------|--|
| Ugashik | Ugashik Village | Census Designated Place | 5 | 85.7% | 4 | 1 | 4E | 3 |
| Unalakleet | Native Village of Unalakleet | Municipality | 764 | 81.8% | 625 | 139 | 4E | 3 |
| White Mountain | Native Village of White Mountain | Municipality | 209 | 87.8% | 184 | 25 | 4E | 3 |
| | <i>District 4E Communities</i> | <i>District 4E Communities</i> | 28,311 | 76.9% | 21,783 | 6,528 | | |
| Total Districts | | | 88,662 | 47.4% | 42,003 | 46,659 | | |

* Places where subsistence (wild food harvest and use) is a principal characteristic of the community's economy and way of life, as determined by the Alaska Joint Board of Fisheries and Game

** Indian entities recognized and eligible to receive services from the United States Bureau of Indian Affairs, cf., Federal Register, February 16, 1995, v. 60, no. 32, p. 9249-9255.

*** Indian entities that have applied for recognized status.

**** No Alaska Native tribe is headquartered in community.

AGREEMENT
between the
NATIONAL MARINE FISHERIES SERVICE
and the
ALASKA BELUGA WHALE COMMITTEE
for
CO-MANAGEMENT OF THE WESTERN ALASKA BELUGA WHALE POPULATION

I. PARTIES

This document constitutes an agreement between the National Marine Fisheries Service (NMFS) and the Alaska Beluga Whale Committee (ABWC), otherwise referred to as the Parties.

The ABWC is an association which represents Alaska Native beluga whale subsistence hunters within the State of Alaska who hunt from the Western Alaska beluga whale population and who are registered with the ABWC through registration with their Management Regions. It also includes Federal, State and local government representatives, and charter members as set forth in the ABWC Bylaws. The Western Alaska beluga population includes beluga whale stocks occurring in the Bering (including Bristol Bay), Chukchi and Beaufort seas and is referred to in this agreement as "Western Alaska beluga whales" or "the Western Alaska population."

II. AUTHORITIES

- A. NMFS has the authority to enter into this Agreement with the ABWC under Section 119 (16 U.S.C. 1388) of the Marine Mammal Protection Act of 1972, as amended (MMPA), and the Endangered Species Act of 1973, as amended (ESA) (16 U.S.C. 1531 *et seq.*). Additional guidance is provided by Executive Order #13084 of May 14, 1998 ("Consultation and Coordination with Indian Tribal Governments," 63 FR 27655), Presidential Memorandum of April 29, 1994 ("Government-to-Government Relations with Native American Tribal Governments," 59 FR No. 85). U.S. Department of Commerce Memorandum "American Indian and Alaska Native Policy of the U.S. Department of Commerce" of March 30, 1995, and the "Memorandum of Agreement for Negotiation of Marine Mammal Protection Act, Section 119 Agreements" of August, 1997.
- B. The ABWC has the authority to enter into this Agreement under authorizing resolutions from those tribes and tribally-authorized organizations listed in Appendix A.

III. PURPOSES

The purposes of this Agreement between NMFS and the ABWC are to conserve the Western Alaska beluga whale populations; protect Alaska Native beluga whale subsistence hunting traditions and culture; promote scientific research on beluga whales, whale stocks and their environment; and effectuate provisions of the Marine Mammal Protection Act that are relevant to aboriginal subsistence hunting of beluga whales.

To achieve these purposes, this Agreement provides for:

- A. Cooperation between members of the ABWC and NMFS in the conservation and management of Western Alaska beluga whales for the year 2000 and thereafter; and
- B. The development of Regional Beluga Whale Management Plans to be entered into under this Agreement between the ABWC and the ABWC Management Regions

IV. BACKGROUND

In 1972, the Marine Mammal Protection Act was passed by Congress and provided for an exemption on the taking of any marine mammal by Alaska Natives provided such taking is for subsistence purposes or done for purposes of creating and selling authentic Native articles of handicraft and clothing. Such taking may not be accomplished in a wasteful manner.

In 1988, the ABWC was established to facilitate cooperation and communication among beluga whale subsistence hunters, scientists, and the government regarding the conservation and management of beluga whales. The ABWC is composed of regional and village representatives from areas where hunting of the Western Alaska population of beluga whales takes place; beluga whale scientists; and members of Federal, State and local governments. On December 1, 1995, the ABWC adopted Bylaws and a Management Plan to conserve and manage the subsistence hunting of the Western Alaska beluga whale population. The Bylaws of the ABWC specify that only Alaska Native beluga hunters may vote on matters pertaining to hunting.

In April 1994, the Marine Mammal Protection Act was amended to include Section 119 "Marine Mammal Cooperative Agreements in Alaska." Section 119 formalizes the rights of Alaska Native Organizations to participate in conservation-related co-management of subsistence resources and their use. Section 119 also authorized the appropriation of funds to be transferred by NMFS to Alaska Native Organizations to accomplish these activities.

V. **MANAGEMENT OF WESTERN ALASKA BELUGAS WHALES WITHIN THE STATE OF ALASKA**

A. **RESPONSIBILITIES OF THE ABWC**

1. Management of the Western Alaska Beluga Whale Subsistence Hunt
The ABWC Management Plan sets forth principles governing conservation, subsistence harvesting, use, reporting and monitoring, research, public involvement, and enforcement as they relate to beluga whales. Under this Agreement, the ABWC, through the ABWC Management Regions and in cooperation with NMFS, will manage the beluga whale subsistence harvest conducted by all member beluga whale subsistence hunting villages within the State of Alaska who hunt from the Western Alaska population of beluga whales. Any necessary enforcement of ABWC or Regional Management Plans will be accomplished according to the provisions of these plans. The authority and responsibilities of the ABWC and of each ABWC Management Region are contained in and limited by this Agreement, the ABWC Management Plan and the Regional Management Plans, as amended from time to time, to the extent the ABWC Management Plan and the Regional Management Plans are not inconsistent with this Agreement.
2. Inspection and Reporting
The ABWC shall obtain accurate harvest information and biological samples from each Management Region in accordance with the Regional Management Plan and in overall agreement with the ABWC Management Plan. NMFS personnel may participate in such data collection. All information collected under this section shall be shared between the ABWC and NMFS.
3. Research
The ABWC, in consultation with NMFS, may conduct research on the biology, natural history and traditional knowledge of the Western Alaska population of beluga whales. NMFS personnel may participate in such data collection. All information collected under this section shall be shared between the ABWC and NMFS.
4. Funding
Pending the appropriation of Section 119 funds by Congress, the ABWC shall be responsible for costs incurred by its representatives participating in activities under this Agreement. Once Section 119 funds become available, ABWC may voluntarily, at its sole discretion, elect to support the goals of this Agreement by supplementing Section 119 funds with non-Section 119

funds that are available from other sources. No financial commitment on the part of the ABWC is authorized or required by this Agreement.

B. RESPONSIBILITIES OF NMFS

1. Management of the Western Alaska Beluga Whale Subsistence Hunt
NMFS has primary responsibility within the United States Government for management and enforcement of programs concerning beluga whales. NMFS may assert its federal management authority to enforce any existing provisions of the Marine Mammal Protection Act that are applicable to the Native harvest of beluga whales. Such assertion of federal management authority will be preceded by consultation with the ABWC as specified in V.B.2 below.
2. Research
NMFS, in consultation with the ABWC, may conduct research on the biology, natural history and traditional knowledge of the Western Alaska population of beluga whales. ABWC personnel may participate in such data collection. All information collected under this section shall be shared between the ABWC and NMFS.
3. Funding
NMFS shall provide funding, as available, pursuant to Section 119 of the Marine Mammal Protection Act, or in-kind support, for the beluga whale Inspection and Reporting and Research responsibilities identified in sections V.A.2 and V.A.3, and other co-management responsibilities of the ABWC as set forth in this Agreement. Pending the appropriation of Section 119 funds by Congress, NMFS shall be responsible for costs incurred by its representatives participating in activities under this Agreement. Once Section 119 funds become available, NMFS may voluntarily, at its sole discretion, elect to support the goals of this Agreement by supplementing Section 119 funds with non-Section 119 funds that are available from other sources. No financial commitment on the part of the NMFS is authorized or required by this Agreement.

VI. CONSULTATION

The ABWC and NMFS shall consult on an as-needed basis concerning matters related to the management of Western Alaska beluga whales which either party believes are suitable for such consultation. This will include matters which have the potential to affect any Western Alaska beluga whale stock or the Native subsistence hunting of Western Alaska beluga

whales. The Parties agree that they will consult on issues that may include but are not limited to any possible change in designation or status of Western Alaska beluga whales under any provision of the MMPA or the ESA, or any changes in regulations or agreements that are applicable to Western Alaska beluga whales.

VII. REGIONAL MANAGEMENT PLANS

Each Management Region within the ABWC shall have responsibility for preparing, in consultation with the ABWC, a Regional Management Plan for the management of the beluga whale subsistence hunt within that region. The Regional Management Plans shall be consistent with the provisions of the ABWC Management Plan and shall be submitted to the ABWC for approval. Any individual Regional Management Plan will be consistent with the Memorandum of Agreement for Negotiation of Marine Mammal Protection Act Section 119 Agreements.

VIII. REGULATION AND ENFORCEMENT

NMFS recognizes the existing tribal authority to regulate tribal members during the conduct of the subsistence harvest of beluga whales. The ABWC recognizes the Secretary of Commerce's authority to enforce the existing provisions of the MMPA applicable to the Native harvest of beluga whales.

IX. OTHER PROVISIONS

- A. Nothing in this Agreement shall be construed to support or contradict an extension of the jurisdiction of the International Convention for the Regulation of Whaling, 1946, or the Whaling Convention Act of 1949 with respect to aboriginal subsistence beluga whale hunting by Alaska Natives.
- B. Nothing herein is intended to conflict with current NOAA or NMFS directives. If the terms of this Agreement are inconsistent with existing laws, regulations, or directives of either of the Parties entering into this Agreement, then those portions of this Agreement which are determined to be inconsistent shall be invalid, but the remaining terms and conditions not affected by the inconsistency shall remain in full force and effect. At the first opportunity for review of the Agreement, all necessary changes will be accomplished by either an amendment to this Agreement or by a new Agreement, whichever is deemed expedient to the interest of both Parties.
- C. Should disagreements arise over the provisions of this Agreement, or amendments

or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each Party and presented to the other Party for consideration. If agreement on interpretation cannot be reached within a reasonable time, a special meeting or teleconference shall be held to resolve the issues. This meeting shall include representatives of NMFS, the ABWC Executive Committee and the affected Region(s) as appropriate.

X. ADOPTION, DURATION, AND MODIFICATION

This Agreement will become effective when signed by both Parties, and may be amended at any time by written agreement of both Parties. Either Party may terminate this agreement by giving 45 days prior written Notice of Termination to the other Party.

Agreement between the Alaska Beluga Whale Committee and the National Marine Fisheries Service Entered into Pursuant to Section 119 of the Marine Mammal Protection Act of 1972, As Amended

Appendix A

List of Tribally-authorized Organizations Providing Authorizing Resolutions to the Alaska Beluga Whale Committee. This list may be amended from time to time if additional authorizing resolutions are received from tribally authorized organizations representing villages with a history of hunting Western Alaska beluga whales, and with ABWC approval.

| <u>Tribally Authorized Organization</u> | <u>Resolution Date</u> |
|--|-------------------------------|
| Alakanuk Traditional Council | 20 October 1997 |
| Native Village of Barrow | 25 February 1997 |
| Buckland I.R.A. Council | 2 December 1996 |
| Chevak Traditional Council | 26 February 1997 |
| Native Village of Clarks Point | 14 January 1997 |
| Dillingham Native Village Council | 25 November 1996 |
| Native Village of Elim IRA Council | 27 November 1996 |
| Emmonak Tribal Council | 14 October 1997 |
| Native Village of Hooper Bay | 21 November 1996 |
| Kivalina City Council | 2 December 1996 |
| Native Village of Kotlik | 21 November 1996 |
| Kotzebue IRA Council | 25 November 1996 |
| Native Village of Koyuk IRA Council | 3 December 1996 |
| Native Village of Levelock | 18 November 1997 |
| Native Village of Manokotak | 26 November 1996 |
| Native Village of Noatak IRA Council | 29 November 1996 |
| North Slope Borough Fish and Game Management Committee | 14 July 1994 |
| Native Village of Point Hope | 17 October 1997 |
| Native Village of Point Lay IRA Village Council | 2 December 1996 |
| Native Village of Scammon Bay | 2 December 1996 |
| Native Village of Shaktoolik | 25 November 1996 |
| Native Village of Stebbins | 4 December 1996 |
| Native Village of St. Michael | 2 December 1996 |
| Traditional Council of Togiak | 10 February 1997 |
| Native Village of Unalakleet | 3 December 1996 |

**AGREEMENT BETWEEN
THE ALASKA NATIVE HARBOR SEAL COMMISSION
AND
THE NATIONAL MARINE FISHERIES SERVICE**

I. PURPOSES

- A. The primary purpose of this agreement is to set forth an operational structure for the conservation and management of harbor seals in Alaska between the Alaska Native Harbor Seal Commission (ANHSC) and the National Marine Fisheries Service (NMFS) (otherwise referred to as the Parties) in order to achieve the following goals:**
- 1. To develop an Annual Action Plan for the conservation of Alaska harbor seal populations and the co-management of subsistence uses of harbor seals in Alaska;**
 - 2. To promote the sustained health of harbor seals in order to protect the culture and way of life of Alaska Natives who rely on the harvest of harbor seals for subsistence uses;**
 - 3. To promote scientific research and the collection of data, including the traditional knowledge of Alaska Natives, in order to facilitate management decisions concerning harbor seals in Alaska;**
 - 4. To identify and resolve, as early as possible, through a consultative process, any management conflicts that may arise associated with Alaska harbor seals; and**
 - 5. To provide information to subsistence hunters and the public at large, as a means of increasing the understanding of the sustainable use, management and conservation of harbor seals.**

II. GUIDING PRINCIPLES

- A. As the primary consumptive users of Alaska harbor seals, Alaska Natives are committed to a long-term, sustainable harvest of harbor seals for food and handicrafts. Their long history of self-regulation coupled with their rich oral tradition and day-to-day contact with Alaska harbor seals gives them special insights into and knowledge of this important marine mammal.**
- B. The National Marine Fisheries Service has expertise in biological, ecological and resource management science. Under the Marine Mammal Protection Act, as amended, NMFS is mandated to prevent marine mammal stocks from diminishing beyond the point at which they cease to be a significant functioning element in the ecosystem, and to maintain population levels that will allow sustainable subsistence harvests by Alaska Natives.**
- C. The best way to conserve and provide stewardship of marine mammal**

- C. The best way to conserve and provide stewardship of marine mammal populations that are critical to the subsistence lifestyle of Alaska Natives is through a partnership between the federal agency with management authority and the Alaska Natives using that resource, and by providing for full and equal participation by Alaska Native tribes in decisions affecting the subsistence management of marine mammals to the maximum extent allowed by law.
- D. A key to the success of this partnership is to incorporate the spirit and intent of co-management by building trust and by establishing close cooperation and communication between the two Parties and their constituents. Shared decision-making shall be through consensus, based on mutual respect and understanding of each Party's cultural perspective.

III. AUTHORITIES

- A. The National Marine Fisheries Service has the authority to enter into this Agreement with the Alaska Native Harbor Seal Commission under Section 119 (16 U.S.C. § 1388) of the Marine Mammal Protection Act of 1972, as amended (MMPA), the Endangered Species Act of 1973, as amended (ESA) (16 U.S.C. § 1531 *et seq.*), and the Department of Commerce Joint Project Authority (15 U.S.C. § 1525). Guidance is provided by Executive Order #13084 of May 14, 1998 ("Consultation and Coordination with Indian Tribal Governments," 63 FR 27655), Presidential Memorandum of April 29, 1994 ("Government-to-Government Relations with Native American Tribal Governments," 59 FR No. 85). U.S. Department of Commerce Memorandum "American Indian and Alaska Native Policy of the U.S. Department of Commerce" of March 30, 1995, and the Memorandum of Agreement for Negotiation of Marine Mammal Protection Act, Section 119 Agreements" of August, 1997.

This agreement implements the goals of the Memorandum of Agreement for Negotiation of Marine Mammal Protection Act, Section 119 Agreements of August, 1997.

- B. The Alaska Native Harbor Seal Commission has the authority to enter into this Agreement under authorizing resolutions from those tribes and tribally-authorized organizations listed in Appendix A.

IV. SCOPE

- A. This Agreement is intended to cover the species *Phoca vitulina*, referred to as the harbor seal (English), x'ut (Haida), tsaa (Tlingit), ge'ita'k (Eyak), Quiqyaq (Alutiiq-Chugach), Taquka'aq (Alutiiq-Koniag), Isux or Isugix (Aleutian Aleut), and arnat (Yu'pik) throughout its range in Alaska.
- B. The Alaska Native Harbor Seal Commission represents the conservation and co-management interests of harbor seal hunters and subsistence users in a geographic area that extends along the Pacific coast from southeast Alaska to the western tip of the Aleutian Island Chain, and north to Cape Newenham, which encompasses six distinct coastal areas: Southeast Alaska, Chugach, Cook Inlet, Kodiak, the Aleutian Islands, and Bristol Bay.
- C. This Agreement encompasses the entire region as described above. However, specific actions taken or recommendations made pursuant to this Agreement may be limited to certain regions or sub-areas, as deemed appropriate.

V. OPERATIONAL STRUCTURE

- A. Harbor Seal Co-Management Committee. Recognizing the need for a joint effort to conserve the harbor seal population in Alaska and to maintain a sustainable harvest for subsistence uses, the Parties agree to establish a Harbor Seal Co-Management Committee. The Co-Management Committee will develop a management action plan for harbor seals as set out in Section VI (Annual Action Plan).
 1. **Composition.** The ANHSC and NMFS shall each appoint 3 members to the Co-Management Committee upon the signing of this Agreement. The Committee shall be comprised solely of Federal and Tribal government representatives. The members of the Committee shall serve at the pleasure of the Party by which they were appointed. The Committee shall select its Chair(s) by consensus.
 2. **Meetings.** The Co-management Committee shall hold an annual meeting and may hold other meetings, as necessary, at the request of either Party. The Chair(s) shall circulate a draft agenda for comment in advance of each meeting. A quorum of four members is required for a meeting to be held. Decisions of the Committee shall be through consensus, based on mutual respect. Meetings of the Co-management Committee shall be open to the public. The Committee may also hold executive sessions.
 3. **Actions.** The Co-management Committee shall develop an Annual

Action Plan for harbor seals in Alaska. The Annual Action Plan will be the guiding document for joint and separate management actions by the ANHSC and NMFS related to the conservation and management of subsistence uses of harbor seals. In developing and revising the Annual Action Plan, the Committee shall consider technical information, and such non-technical information including cultural, ethical, policy and legal concerns, as it deems appropriate. The Committee will evaluate the success of its Annual Action Plan and will update it annually.

VI. ANNUAL ACTION PLAN

- A. The Co-management Committee shall prepare and/or update an Annual Action Plan describing relevant information, specifying mutually agreed upon actions to be implemented by NMFS and the ANHSC, and setting forth recommendations for additional activities that would promote harbor seal conservation. Annual Action Plans will be comprised of the following five sections:**
- 1. Population monitoring;**
 - 2. Harvest management;**
 - 3. Education;**
 - 4. Research recommendations; and**
 - 5. Other recommendations.**
- B. Under each of these sections, the Annual Action Plan will summarize past activities and describe anticipated activities, including the following:**
- 1. Summary of recent progress and new information; and**
 - 2. Outline of future goals and activities.**
- C. The Annual Action Plan will be developed in a step-wise fashion along the following lines:**
- 1. Recent progress and new information pertaining to population monitoring, harvest management, and education activities will be reviewed;**
 - 2. The Co-management Committee, through an integrative discussion of the aforementioned three items will identify information and conservation needs (e.g., information gaps, threats to healthy populations, and potential conservation measures);**
 - 3. Identified needs will be prioritized and considered on a case-by-case basis for sharing responsibility between NMFS and the ANHSC by implementing them as action items; and**

4. These needs can be transformed to action items in one of three ways as part of the Annual Action Plan:
 - a) If either Party is prepared to voluntarily commit its resources to implement an action item (e.g., conduct a survey, develop a monitoring plan, initiate an educational program), then the Parties will agree on who is to be responsible for undertaking that work during the forthcoming year (and the action item will be incorporated into the population monitoring, harvest management, and education sections of the Annual Action Plan);
 - b) If the action item pertains to gathering information, and neither Party is in a position to commit sufficient resources at that time to undertake the needed research, then the action item will be incorporated into the Annual Action Plan under "Research Recommendations;" and
 - c) If the action item pertains to something other than gathering information, and neither Party is in a position to commit sufficient resources to it, then the action item will be incorporated into the Annual Action Plan under "Other Recommendations."

D. Population Monitoring

1. To achieve its conservation goals, it is fundamentally important that the Co-management Committee have access to accurate information on harbor seal populations throughout Alaska. There are several sources for such information, including scientific information as well as local and traditional knowledge.
2. Effective population monitoring involves evaluating the best available information on the following topics:
 - a) Population abundance and trends by stock and, as possible, by sub-areas within those stocks;
 - b) Habitat use and seasonal movements (including information on preferred haul-out sites, foraging areas, and prey composition);
 - c) Sources of mortality to harbor seals (including the nature, extent, timing, and location of such mortality); and
 - d) Population status by stock and, as possible, by sub-areas within those stocks (including aspects such as age structure, vital rates, and indices of physical condition).

E. Harvest Management

1. To ensure that harbor seals are conserved for subsistence and other uses, the Annual Action Plan will include means for accurately monitoring the number of harbor seals harvested each year, the age and sex composition of those harvests, and the condition of animals taken in the harvest. The Annual Action Plan also will include an assessment of local and/or regional take levels, composition of take, and harvest practices and their influence on population health.
2. The Annual Action Plan shall also make provisions for a biosampling program.
3. Effective harvest management will also include measures to encourage the development of local and/or regional harvest management plans that incorporate local harvest practices and to ensure that harbor seals are used for subsistence in a sustainable and non-wasteful manner.

F. Education

1. NMFS and the ANHSC will mutually develop ways to educate and promote understanding about harbor seal issues among users, resource managers, and other groups. This effort will include:
 - a) providing education on ways to improve hunting and harvest methods, resource utilization and harvest reporting;
 - b) developing a training and internship program to directly involve local people in harvest monitoring, sample collecting, and research;
 - c) involving hunters and subsistence users in planning, prioritizing, and conducting research, and in making regulations and management decisions;
 - d) improving public understanding of Native cultural uses of harbor seals and MMPA provisions regarding subsistence harvest and conservation of harbor seals; and
 - e) serving as a contact for exchange of information about harbor seals.

G. Training: cross-cultural/technical

1. The Annual Action Plan shall include provisions for orientation workshops and other programs for the exchange of cross-cultural information and perspectives. The perspectives may include Alaska Native ways of life, traditional ways of knowing, local concerns, and

issues regarding harbor seals and their use by Alaska Natives (i.e., medicinal, handicraft and spiritual uses) as well as agency policies, legal and administrative constraints, and scientific approaches.

2. **Research Ethics.** The Parties agree to encourage all scientists who plan to conduct research that will occur in Alaska Native villages to advise Native People who are to be affected by the study of the purpose, goals, and time-frame of the research, the data gathering techniques, and possible impacts of the research, and to obtain the informed consent of the appropriate governing body. The Co-management Committee shall assist researchers in identifying appropriate governing bodies.

H. Research Recommendations

1. For conservation and management efforts to succeed, it is vitally important that accurate, reliable, and timely information about harbor seals be available for consideration. Having access to such information is central to whether or not the Parties will succeed or fail in meeting this Agreement's objectives. Therefore, under this Agreement, the term "research" is used in reference to all relevant forms of information gathering, and includes both conducting scientific studies as well as making local and traditional knowledge available for consideration.
2. The Annual Action Plan will identify relevant information gaps that need to be filled to help achieve the Agreement's goals. These information gaps will consequently describe research needs that the Co-management Committee recommends be addressed as a matter of priority. The purpose of outlining research recommendations in the Annual Action Plan is to help raise the profile of particular information gaps, and thereby to assist researchers in securing and allocating the funds necessary to undertake such work.

I. Other recommendations

1. Under the Annual Action Plan's sections on population monitoring, harvest management, and education, it is expected that the Parties to this Agreement will identify a variety of future activities that they can commit to implementing uni- or bi-laterally (i.e., by NMFS and/or the ANHSC). However, given the wide range of environmental features and human activities that may impact harbor seal conservation, it is likely that the Co-management Committee may identify additional actions that could be helpful to harbor seals, but that are outside the scope of this Agreement.

2. Therefore, a list of "other recommendations" will be included in the Annual Action Plan. The purpose of these recommendations will be to highlight various conservation and management needs, and to encourage the appropriate persons or entities to take action as recommended in order to assist in the long-term conservation of harbor seals and to promote the sustainability of the harbor seal subsistence harvest by Alaska Natives.

VII. CONSULTATIONS

- A. Routine communications. NMFS and the ANHSC shall consult on a routine basis as set forth in this Agreement. In addition, the ANHSC Executive Director and the NMFS Harbor Seal Program Coordinator shall communicate on an as-needed basis concerning matters related to Alaska harbor seals which either Party believes are suitable for such consultation.
- B. Regulation and enforcement. NMFS recognizes the existing tribal authority to regulate their members during the conduct of the subsistence harvest of harbor seals. The ANHSC recognizes the Secretary of Commerce's authority to enforce the existing provisions of the MMPA applicable to the Native harvest of harbor seals.
- C. As concern about any Alaska harbor seal stock arises (i.e., prior to listing as strategic or depleted under the MMPA and/or as threatened or endangered under the ESA) the Parties agree that the co-management committee shall:
 1. Consult and recommend about a possible need to list;
 2. Consult and recommend about management strategies to avoid a possible listing;
 3. After listing, consult and recommend about possible regulations; and
 4. After listing, consult and recommend about possible arrangements for ensuring compliance and enforcement.
- D. Media contacts. Both Parties shall strive to support a policy of "no surprises" concerning contact with the media on potentially sensitive issues pertaining to harbor seals in Alaska. Each Party shall endeavor to consult with the other prior to initiating contact with the media on topics contained within this Agreement. Under circumstances in which the media initiate contact with one Party, the contacted Party shall inform the other Party and provide details on the nature of the information communicated. In addition, when a Party is contacted by the media concerning issues relevant to this Agreement, that Party shall provide the other Party's contact information to the media

representative, and encourage them to contact the other Party.

VIII. FUNDING

- A. Both Parties agree that long-term funding for sustained co-management and conservation programs is important for the health of harbor seals in Alaska. No financial commitment on the part of any Party is authorized or required by this Agreement.
- B. This Agreement does not replace the need for a financial assistance award in accordance with 16 U.S.C. § 1388. Until those funds become available, each Party shall bear its own costs in participating in this Agreement (e.g., for travel, consultations, training sessions, and population and harvest monitoring).
- C. This agreement is subject to the availability of funds.

IX. OTHER PROVISIONS

- A. Nothing in this Agreement is intended or shall be construed to authorize any expansion or change in the respective jurisdiction of Federal, State, or Tribal Governments over fish and wildlife resources, or alter in any respect the existing political or legal status of Alaska Native entities.
- B. Nothing herein is intended to conflict with current NOAA or NMFS directives. If the terms of this Agreement are inconsistent with existing laws, regulations, or directives of either of the Parties entering into this Agreement, then those portions of this Agreement which are determined to be inconsistent shall be invalid, but the remaining terms and conditions not affected by the inconsistency shall remain in full force and effect. At the first opportunity for review of the Agreement, all necessary changes will be accomplished by either an amendment to this Agreement or by a new Agreement, whichever is deemed expedient to the interest of both Parties.
- C. Should disagreements arise over the provisions of this Agreement, or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each Party and presented to the other Party for consideration. If agreement on interpretation is not reached within thirty days, the disagreement will be referred to the Co-management Committee for appropriate resolution.

X. ADOPTION, DURATION, AND MODIFICATION

- A. This Agreement shall take effect upon the date of signature of the respective Parties and shall remain in effect until terminated by either of the Parties in accordance with the termination provisions of this Agreement.

- B. Modifications of this agreement may be proposed at any time by either Party and shall become effective upon approval by both Parties.**
- C. Termination clause: This Agreement may be terminated by either Party by giving 45 days prior written Notice of Termination to the other Party. Such Notice shall be addressed to the principal contact for the receiving Party.**

XI. SIGNATORIES

In Witness Whereof, the Parties hereto have executed this Agreement as of the last written date below:

Harold P. Martin 4/28/99 Steven Pennoyer 4-28-99

Harold P. Martin

Date

Steven Pennoyer

Date

Chairman
Alaska Native Harbor Seal Commission
320 West Willoughby Ave., Suite 300
Juneau, Alaska 99801

Administrator, Alaska Region
National Marine Fisheries Service
U.S. Department of Commerce
P.O. Box 21668
Juneau, Alaska 99801

Agreement between the Alaska Native Harbor Seal Commission and the National Marine Fisheries Service Entered into Pursuant to Section 119 of the Marine Mammal Protection Act of 1972, As Amended

Appendix A

List of Tribes and Tribally-authorized Organizations Providing Authorized Resolutions to the Alaska Native Harbor Seal Commission.

| <u>Tribe</u> | <u>Resolution Date</u> |
|---------------------------------------|-------------------------------|
| Akhiok Tribal Council | 10-19-95 |
| Akutan Traditional Council | 10-29-96 |
| Aleknagik Traditional Council | 05-21-95 |
| Aleutian Pribilof Islands Association | 07-09-97 |
| Bristol Bay Native Association | 05-01-98 |
| Chenega Bay IRA Council | 04-24-98 |
| Cook Inlet Marine Mammal Council | 06-19-98 |
| Kenaitze Indian Tribe, IRA | 05-05-95 |
| Native Village of Atka | 01-17-97 |
| Native Village of Chignik Lake | 01-26-96 |
| Native Village of Eyak | 04-25-95 |
| Native Village of Nanwalek | 05-09-96 |
| Native Village of Old Harbor | 03-20-98 |
| Native Village of Ouzinkie | 04-20-95 |
| Native Village of Port Graham | 04-24-96 |
| Tribe of Unalaska | 11-26-96 |
| Qutekcak Native Tribe | 10-27-97 |
| Seldovia Village Tribe | 10-19-95 |
| Tatitlek Village IRA Council | 04-11-95 |
| Unga Tribal Council | 11-07-96 |
| Valdez Native Tribe | 10-26-95 |
| Yakutat Tlingit Tribe | 04-29-98 |

COMMISSIONERS:

RICHARD J. BEAMISH
NANAIMO, B.C.

RALPH G. HOARD
SEATTLE, WA

KATHLEEN PEARSON
SKIDEGATE, HAIDA GWAI

STEVEN PENNOYER
JUNEAU, AK

ANDREW P. SCALZI
HOMER, AK

JOHN SECORD
VANCOUVER, BC

INTERNATIONAL PACIFIC HALIBUT COMMISSION

ESTABLISHED BY A CONVENTION BETWEEN CANADA

AND THE UNITED STATES OF AMERICA

March 30, 2000

AGENDA C-6

APRIL 2000

Supplemental

SEATTLE, WA 98145-2009

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RECEIVED

APR - 3 2000

N.P.F.M.C

Dr. Clarence Pautzke, Executive Director
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Re: April 2000 Meeting, Agenda Item C-6 - Halibut Subsistence

Dear Clarence:

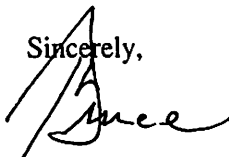
At the IPHC 2000 Annual Meeting, the Commission and staff discussed the Council's proposed Halibut Subsistence regulatory amendment. As we understand the eligibility requirements of this subsistence amendment, it would probably apply to only a small number of IFQ halibut fishers. We see potential for problems in enforcement and monitoring in two of the sub-options, and suggest the following solutions:

(1) **Allow retention of subsistence halibut using commercial gear while IFQ/CDQ fishing (Alternative 2, Option 3, Sub-option D).** Under this proposal, subsistence fishers would be permitted to retain any size of halibut for subsistence while simultaneously possessing IFQ halibut, which by IPHC regulation must be greater than 32 inches. Enforcement of IFQ regulations during at-sea boardings will be more difficult unless these fishers are (a) required to keep the subsistence fish separate or otherwise distinguishable from IFQ halibut, and (b) provide identification which shows their legal basis for the retention. If this sub-option is adopted, we recommend the Council require that IFQ and subsistence halibut be kept separate in a vessel's hold while at sea, that all subsistence halibut be offloaded and weighed, and that halibut subsistence fishers be issued appropriate licenses for monitoring purposes.

(2) **Customary and traditional trade through non-monetary exchange is allowed with:** (3) **any Alaska resident,** and (4) **anyone (Alternative 2, Option 4, Sub-option 2, Items 3 & 4).** Trade of subsistence-caught halibut should be limited to those groups/individuals eligible for the subsistence fishery, as defined in Option 2 of Alternative 2. We believe that opportunities for non-reporting and misuse would increase substantially when non-subsistence users enter the picture. We recommend that items 3 (any Alaska resident) and 4 (anyone) be dropped.

Gregg Williams from our staff will be attending the April meeting and will address any questions the Council may have about our position.

Sincerely,



Bruce M. Leaman
Executive Director

cc: Commissioners
GHW/cc

**Recommendations of the
Native Halibut Subsistence Working Group
On
Eligibility**

The following are the recommendations of the Native Halibut Subsistence Working Group to the North Pacific Fishery Management Council on ALTERNATIVE 2, OPTION 2 on the Halibut Subsistence EA/RIR/IRFA. The date of submittal is April 17, 2000.

Suboption A:

Members of Alaska Native federally-recognized tribe with customary and traditional use of Halibut are eligible. Also, other permanent rural residents of communities with customary and traditional use of Halibut are eligible.

Suboption C:

Members of Alaska Native federally-recognized tribes with customary and traditional use of Halibut are eligible. Also, other permanent rural residents who have legitimate subsistence needs in communities with customary and traditional use of Halibut are eligible.



Alaska Outdoor Council

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C-6

April 9, 2000

Mr. Richard B. Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Dear Mr. Lauber,

This letter regarding the creation of a new subsistence halibut fishery is provided to the North Pacific Council on behalf of the Alaska Outdoor Council (AOC) and the Territorial Sportsmen (TSI). As president of AOC, I have been appointed the spokesperson for both organizations at this meeting as I was at the April 1997 meeting.

The AOC is an association of 45 outdoor recreation clubs with a combined membership of approximately 10,000 members statewide. AOC has been actively involved with fish and wildlife conservation, allocation, and public access fish and wildlife issues since 1983. The TSI sportsmen group is based in Juneau, endorses the same conservation, allocation, and public access policies for fish and wildlife and has actively supported good management and for allocation of these resources since formation in 1945.

First, I would like to thank the North Pacific Council for their patience and sensitivity in accommodating the State since 1997 while a solution to the subsistence issue was sought by the Alaska legislature. Every member of the legislature worked to assure that consumptive use opportunities remained available to rural and urban Alaskans. They were not however willing to simply extend the existing federal law (ANILCA) with all of its demonstrated problems to state and private lands and waters. Following three regular sessions and three special sessions called by the Governor since 1997, no solution could be arrived at. With subsistence hunting on federal lands under federal management and subsistence fishery management now being implemented by the same Federal Subsistence Board, public confusion, controversy between communities, and racism is on the rise in Alaska. We understand that the council is not bound by ANILCA, however the alternative you are considering is a template of the discriminatory provisions that are creating so much social havoc in Alaska today.

I wish to make it clear that AOC and TSI strongly support the maintenance of subsistence life styles in the State of Alaska, however we just as strongly oppose further separation of Alaskans predicated on discriminatory standards of race or geographic area of residence. We indicated in 1997 that our review of the Halibut Treaty, the North Pacific Halibut Act as amended and the Magnuson-Stevens Fishery Conservation and Management Act has failed to provide us with the legal authority for discriminatory regulations. We continue to believe that the original subsistence committee seemed to recognize this as a barrier as they recommended that the Halibut Treaty be amended to provide for a specific subsistence fishery. The RIR authors simply states that you can do it, but has a legal analysis been accomplished on this issue? If so, we would appreciate seeing it.

The entire RIR document appears to be an over reaction to a couple of minor enforcement issues that occurred in the middle 90's. We support good law enforcement of fish and wildlife regulations but in reviewing the RIR. I couldn't help but wonder what the enforcement agents priorities were that created this mess. I thought it was interesting that apparently someone got caught with a rag tag long line out of season fishing for personal use in Southeast and some poor old fellow was ticketed for some undersized fish up on the North West Coast to be used for personal use but I ask you where was enforcement on the individuals reported to be selling subsistence harvests within other villages as a standard method of distributing personal use halibut. It seems to me that a little common sense would have gone a long way without creating a misguided regulatory program that will further deepen the Alaska population rift that ANILCA has created over subsistence.

In the Executive summary the simple statement is made that no "significant regulatory action" as defined in E.O. 12866 is expected. If one reviews E.O. 12866 it seems to me that standard 4 is certainly met in view of Alaska's problem with resolving the entire subsistence mess.

I was impressed by the statement on page 92 about the eligibility criteria having to be "fair and equitable" but when I got to page 96 the most fair sub-option C is virtually dismissed out of hand. Sub-option C requires a determination of "who has legitimate subsistence needs." The final statement reads; "In either case the most important consideration is that objective criteria be established to avoid individual determinations. After reading that I am not sure what "fair and equitable" means.

Other than Alternative 1, the "no action" alternative, the Council is being led down the "customary and traditional" standard route called for by ANILCA. That has proven to be a slippery standard. A possible scenario the Council could face based on the R.I.R. data could be possible changes in the halibut IFQ program. The data indicates that slightly over 20% of subsistence halibut has in the past been taken from commercial harvest. I believe that poundage now would count against the I.F.Q. holders harvest quota. I would also wager that halibut are still going home and the full IFQ poundage is going into commercial channels. The documents says nothing about how that 20% of customary and traditional harvest might be accommodated.

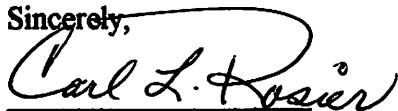
You have before you estimates of personal use or subsistence halibut based on one year of data for the individual communities. Some of the interviews on use, date back to 1982 and most of the information was collected in 1987 and the early 90,s. The most recent being collected in 3 Westward communities in 1994. The document (RIR) is then jazzed up by including recent commercial and non commercial data from the halibut commission. It may be the best information you have but we seriously question its use as a basis for allocating the halibut resource fairly and equitably as the document states. It further doesn't pass muster when you consider the effect of a race and zip code standard on 80% of Alaska citizens and their equal protection rights guaranteed by the Alaska State Constitution

This issue in our view, points to the importance of having recreational representation on the Council. If the Council moves into the subsistence regulatory mode, over time you will find yourself making more and more allocation decisions among commercial, sport, and subsistence user groups. The stated RIR purpose of limiting subsistence growth cannot be accomplished based on the customary and traditional use standard. As long as the council is making those allocation decisions, the recreational fishermen and other users want direct participation in the final council decision process.

The halibut resource is in good shape from all indications, no one is starving, and the present information base on which the resource is managed is also good so why are we going through this process?

We are pleased that the Council gave relief to the people in 4-E by a simple regulation that excluded the ban on retention of short halibut taken for subsistence while commercial fishing. It seems that a good move might be to adopt regs that permit the use of short long line gear in areas where that gear is the predominant subsistence harvesting method and leave the rest of the state with harvesting by hand line or rod and reel. All sale of fish taken for subsistence should be prohibited but exchange between individuals for their own use under barter conditions should be ignored. I really don't believe that its the governments place to be regulating that activity unless the resource is threatened. Don't go to the "customary and traditional" standard. Use a standard such as "need" to qualify if the Council decides to really become involved in subsistence. The data base you are working from is weak and flimsy and substantially more work lies ahead to define the subsistence parameters. If you are going to get a true picture, the "need" standard in conjunction with a "resource shortage" would insure that the allocation among users is fair. Thank you for the opportunity to comment.

Sincerely,



Carl L. Rosier, President
Alaska Outdoor Council

Alaska State Legislature

C-6

Senator Drue Pearce
President of the Senate



Representative Brian Porter
Speaker of the House

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April 13, 2000

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

Dear Mr. Lauber:

We have only recently become aware that the North Pacific Fishery Management Council (NPFMC) is once again considering the adoption of subsistence halibut regulations along racial lines. As you and many of the other members of the Council are aware, the Alaska State Legislature has previously taken a position strongly opposed to discriminatory resource allocations based on race. We once again request that you reject adoption of this type of regulation.

Enclosed is a copy of Legislative Resolve No. 33 which passed in 1997 dealing with this identical subject. Although a previous resolution does not bind the current legislature, we encourage you to take seriously the concerns raised and the recommendations included. Time just does not permit us to revisit this issue during the final days of this legislative session.

Testimony previously presented by the Legislative leadership expressed concerns including: the legal authority for the NPFMC to adopt racially discriminatory regulations, the expansion of this type of regulation into other fisheries, the potential for the establishment of commercial markets and the obvious attempt to extend subsistence provisions of ANILCA into marine waters. The issue of extra-territorial extension of federal authority into state navigable waters is presently being litigated. Concerns were also raised about the direct conflicts with Alaska's Constitution and the potential inability of the state to cooperate in any enforcement effort.

We are sure you are aware that many legislators have participated in a variety of forums to search for a permanent solution to the "subsistence" conflict which has developed in Alaska. At present, we are embroiled in critical litigation over the precise

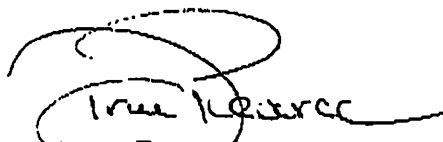
interpretation of the federal subsistence law. We truly question that it is advisable to pour additional fuel onto this fire and further complicate the development of permanent workable solutions by adopting confrontational regulations such as the NPFMC is proposing.

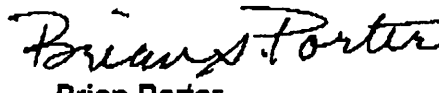
There might be some logical reason for adopting something similar to what is being proposed if there was no other reasonable and less volatile way to accomplish the same objective. For instance, the Council can and has adopted regulations providing for personal use of under sized halibut taken during commercial operations. Regulations could also be considered providing limited and tightly controlled taking for personal use by seasons, area limitations, bag limits and methods and means.

In closing we wish to encourage the Council to carefully weigh this decision. As volatile as this issue is, the adoption of racially crafted preferences may well work against our efforts to eventually adopt a political solution that is truly workable and acceptable to most Alaskans.

We would appreciate it if this letter could be entered into the hearing record and provided to members of the Council for their consideration. Thank you for considering our recommendations.

Sincerely,


Drue Pearce
Senate President


Brian Porter
Speaker of the House


Rick Halford
Senate Resources Committee Chairman


Bill Hudson
House Resources Committee Co-chair


Beverly Masek
House Resources Committee Co-chair

Attachment

1997

Source
HIR 34Legislative
Resolve No.
33

Relating to proposed regulations of the North Pacific Fishery Management Council creating a new discriminatory halibut fishery in Alaska.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS the North Pacific Fishery Management Council (NPFMC) has recently been urged to initiate a regulatory amendment outlining options for addressing certain unlawful practices in the conduct of personal consumption halibut fisheries in Alaska; and

WHEREAS the NPFMC Halibut Subsistence Committee has developed proposed regulatory options that include the creation of discriminatory qualifications based on race and residency; and

WHEREAS there is questionable legal authority for the NPFMC to adopt discriminatory regulations, especially those that are racially constructed; and

WHEREAS the proposed regulatory options provide the potential for an expanding new fishery on a resource that is currently fully allocated; and

WHEREAS the proposed regulatory options include possible commercial sale of subsistence caught halibut in violation of existing state law; and

WHEREAS the passage of the proposed special interest regulations will create major enforcement problems for federal and state enforcement officials throughout the coastal areas

of Alaska; and

WHEREAS the Twentieth Alaska State Legislature is supportive of providing adequate legal means for Alaska residents to harvest fish and wildlife to meet their personal consumption needs; and

WHEREAS the Twentieth Alaska State Legislature is equally concerned about its constitutional responsibilities to provide for the "sustained yield" of Alaska's renewable resources by assuring that the first basic concern is the protection of the resource base; and

WHEREAS the proposed regulations discriminate against many major coastal communities and will create serious racial, social, and economic conflicts within the coastal communities of Alaska; and

WHEREAS all Alaskans have a personal use catch limit of two halibut a day, and the creation of this type of new fishery is not needed to meet the personal consumption needs of Alaskans; and

WHEREAS alternative regulatory options for personal consumption should be considered, such as special seasons, special methods and means, and special areas for harvesting halibut for personal consumption; and

WHEREAS the Alaska delegation in Congress, the Governor's office, and the Alaska State Legislature are already working hard to find common ground and permanent solutions to the already serious conflicts existing between state and federal laws over fish and wildlife management in Alaska; and

WHEREAS the passage of this type of new fishery as proposed under all identified options will result in the further polarization of positions regarding state and federal jurisdictional conflicts;

BE IT RESOLVED that the Alaska State Legislature respectfully requests the North Pacific Fishery Management Council and the Secretary, United States Department of Commerce, to provide for personal use fisheries for halibut by all Alaskans through modification of existing regulations, such as special seasons and special methods and means, to provide a reasonable opportunity to meet personal consumption needs; and be it

FURTHER RESOLVED that the Alaska State Legislature respectfully requests that the North Pacific Fishery Management Council reject regulations designed to divide Alaskans along ethnic or other discriminatory lines.

COPIES of this resolution shall be sent to the Honorable William M. Daley, Secretary, United States Department of Commerce; Rick Lauber, Chair, North Pacific Fishery Management Council; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.