

**KODIAK VESSEL OWNERS' ASSOCIATION**  
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May 27, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, #306  
Anchorage, Alaska 99501

RE: Staff Tasking – Agenda Item E-1  
IFQ Vessel Harvest Caps

Chairman Olson:

After nearly two years of discussion and with testimony provided to the Council at three meetings, the Council approved a motion at the February 2014 meeting to begin the process of review and consideration for a change to the statewide halibut and sablefish vessel harvest caps. This would not include Southeast for sablefish or 2C for halibut.

In order to maintain the program design and goals, we are not asking for the percentage cap to be changed. Rather, to consider the creation of a minimum vessel harvest cap for halibut that would provide some relief to vessel owners, skippers and crewmembers at low harvest limits, such as are being experienced at this time.

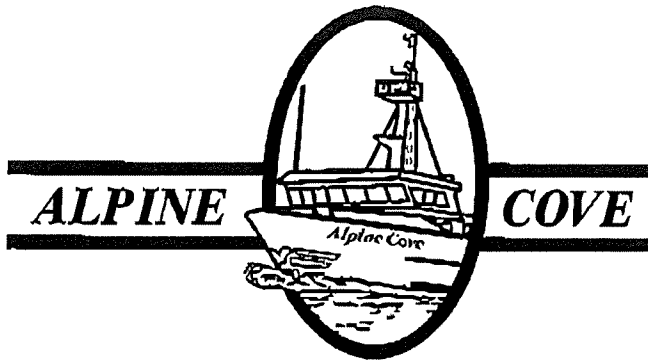
As you are aware, the average statewide halibut vessel cap for the period 1997-2013 was 241,871 pounds and the five-year average for 2009-2013 was 160,041 pounds. The last year that vessel owners believed they had some flexibility was in 2011, when the cap was 151,910 pounds. When the program was created, the halibut vessel cap was 255,580 and no one ever predicted that we would see a cap as low as 2014, which is 79,772 pounds. This is creating hardship for the commercial fishery and needs to be addressed as soon as possible.

At the February meeting, the Council requested that staff begin work on this issue as time permits. Following the April meeting, the IFQ vessel harvest cap issue was tentatively scheduled for an initial scoping/discussion document to be presented to the Council at the October 2014 meeting.

**We are asking the Council to confirm with staff during the staff tasking agenda discussion that this issue be placed on the October 2014 agenda.** We would also ask for your consideration in looking for ways to address this in a timely fashion, in order to have a decision on this important issue as soon as possible.

Thank you for your consideration of this request.

Linda Kozak



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5/27/14

Mr. Eric Olson  
North Pacific Fishery Management  
Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, Ak. 99501-2253

Re: Agenda Items E-1 Staff Tasking

**Dear Chairman Olson:**

The Problem,

If there was ever a proper place to utilize Sideboards or a greater need to protect small players from rich companies made powerful from special anti-trust exemptions bestowed upon them by a federal process, this is it.

1. Prowler and the rest of the FLC membership entered into co-op negotiations in the BSAI and apparently in the GOA.
  - a. In the BSAI an FCMA co-op was formed which created de facto fishing rights for all of the eligible BSAI HAL CP entities (including Prowler Fisheries).
  - b. In the GOA no FCMA style co-op was ever formed. None could be formed without 100% agreement of all GOA HAL CP LLP holders (including Alpine Cove)
  - c. However, it is recognized anecdotally that Prowler did agree to the BSAI FCMC style co-op as long as they received large allocations in the GOA.
  - d. Prowler purchased the Jubilee fisheries. Combined their estimated holdings of potential GOA Co-op shares of 50%.
  - e. Prowler bought the assets of Jubilee fisheries without doing sufficient Due diligence.
    - i. They failed to note that the Alpine Cove did qualify for a WGOA HAL CP LLP.
2. FLC initiated a co-op of sorts (not a legally recognized FMCA co-op) in the GOA

- a. The WGOA HAL CP fishery remains what was dubbed in several iterations of NPFMC staff analyses, a "limited access derby fishery". Not an FMCA co-op which allows some very specific exemptions to anti-competitive operating procedures. Such as leasing of "quota" to affect harvest rates and catch. In other words to improve efficiency at the expense of non-members of the informal co-op agreement.
  - b. This informal co-op has entered into lease agreements between members (and in the case of the CGOA, non-members as well). These agreements have been utilized to increase efficiencies and accelerate the harvest of the TAC in the WGOA and in the CGOA.
    - i. These efforts have damaged the Alpine Cove Fisheries, LLC.
    - ii. Outside FLC boats were able to lease WGOA co-op pseudo quota shares from a number of FLC members including Alaska Longline (Prowler).
    - iii. One of these companies was able to deploy a new vessel a Super Long-liner that entered Western Gulf for the first time in 2014 and greatly increase the harvest intensity. What is real scary is the two more super longliners are entering or about to enter the BS freezer long-line fishery in 2014-2015 which effort is inevitable going to spill over into Western Gulf with all the new capacity.
  - c. Alpine Cove had testified during the NPFMC deliberation to eliminate the MLOA size restriction for BSAI qualified HAL CP LLP holder's vessels. They consistently noted their concern that the lifting of the MLOA restrictions would accelerate the race for fish in the WGOA. In 2014 fishing was curtailed early due to the entry of much bigger BSAI eligible vessels. The Alpine Cove was financially damaged. If this situation is left uncorrected the Alpine Cove will be bankrupted.
  - d. The MLOA restriction was only lifted for BSAI eligible HAL CP holders, so only they have the enhanced ability to carry vastly more fish and to fish in significantly worse weather. This is an extreme example of using rationalized fishing rights and vessel length exemptions in anti-competitive behavior.
3. The result of the 2014 fishery was amplified with the ability of FLC vessels to lease pseudo quota and deploy it on substantially bigger new boats which resulted in a curtailed fishing season for the Alpine cove.
- a. **Alpine Cove caught 450,000 finished pounds less than their 5 year average.**
  - b. A single newly constructed vessel that had not fished in the WGOA for the prior 6 years was able to harvest a significant portion of Western Gulf TAC very efficiently. All within the frame work of an informal coop agreement that has included all but Alpine Cove.
  - c. For the prior 6 years FLC had assured NMFS and Alpine Cove that they would not impinge on Alpine Cove's business plan, by curtailing their fishing.
    - i. 450,000 finished pounds lost ( approximately 1000 mt round) is sufficient to destabilize and destroy the Alpine Cove business model
  - d. Alpine Cove has been notified in meetings and in writing, of the following,

- e. Alaska Longline claims that it owns the WGOA quota because they bought and paid for it.
- f. That Alaska Longline WGOA ownership was agreed to by FLC members during BSAI FCMA Co-op negotiations.
- g. Ak Longline intends to continue to take more fish in the WGOA in the future
  - i. They intend leverage their new vessel and enhanced fleet capacity in Western Gulf. Vessels that were constructed utilizing the NPFMC approved exemption to the MLOA restrictions granted only to BSAI qualified HAL CP endorsed LLP holders.
- h. Alaska Longline, with FLC approval, agreed after the 2014 A season, to give Alpine Cove 10% of the WGOA HAL CP TAC, which is 25% of their average harvest during the 2008-2013 time period.
  - i. The entire WGOA HAL CP TAC is approximately 4000mt, 10% as offered by FLC and Ak Longline is approximately 400mt round.
  - ii. The Alpine Cove 6 year average has been approximately 1600 mt round.

FLC and Ak Longline will give Alpine Cove this 10% allocation within a formal Co-op structure, but

- iii. If any transfer of Co-op granted quota were to occur, then it would revert back to FLC members and Ak Longline

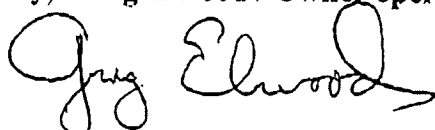
Alpine Cove has repeatedly brought concerns to the NPFMC. Council directed staff to analyze their concerns. Every time the staff did identify, verify, and validate their concerns. Yet each time the FLC members pleaded to the Council that they were intent on resolving this issue with AC. Over and over they stated that this issue was best resolved contractually in house. Possibly because AC had not been heavily damaged prior to 2014, the Council chose not to initiate a sideboard action to protect them. Instead significant council record was established admonishing the FLC to resolve this issue fairly with AC.

- 4. Now, in 2014, significant damage has been inflicted onto the AC by FLC members. It was done overtly and without any attempt to notify or mitigate the bully behavior in any way whatsoever. This is a clear abuse of the extremely valuable rights and anti-trust exemptions bestowed on the BSAI HAL CP sector. They have used their federally allocated rights to damage other fishermen who do not enjoy the same privileges.

The Alpine Cove is forced to share a small Limited Access Derby Fishery in the WGOA with much larger BSAI eligible vessels, all of whom hold extensive valuable quota rights to the vastly larger BSAI cod resource. In 2014 these vessels did, and will likely continue to, operate deliberately in a manner that will ruin the AC.

When they finish scooping up the fish that AC needs to survive in the WGOA, they will move back to their private fishery in the Bering Sea. The fish they take from the AC represent less than 6/10's of 1% of the total available harvest for the FLC members.

Sincerely, Greg Elwood / Owner operator Alpine Cove





NPFMC comments - NOAA Service Account &lt;npfmc.comments@noaa.gov&gt;

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## Black cod Pot

2 messages

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**Dane Caldwell** <dane.caldwell@gmail.com>

Tue, May 27, 2014 at 2:17 PM

To: "npfmc.comments@noaa.gov" <npfmc.comments@noaa.gov>

I wish to state my support for the proposed use of pots for harvesting Sablefish in the GOA. I have been fishing for the last six seasons in central and western gulf and seen first hand the hardships fisherman are facing with significant scale of whale predation.

Sent from my iPhone

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**NPFMC comments - NOAA Service Account** <npfmc.comments@noaa.gov>

Tue, May 27, 2014 at 2:17 PM

To: dane.caldwell@gmail.com

Thank you for your comment, if this comment was received after May 27, 2014 5:00pm, it is considered a late comment and will not be posted/copied for June meeting.



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## Proposed GOA Sablefish Pot Fishery

2 messages

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**Samuel Hutchens** <sthutchens1@gmail.com>

Tue, May 27, 2014 at 2:23 PM

To: "npfmc.comments@noaa.gov" <npfmc.comments@noaa.gov>

Hello, my name is Sam Hutchens. I'm a commercial Sablefish and Halibut fisherman working in the Gulf of Alaska and I'm writing to express my support of the proposed Sablefish pot fishery in the gulf. It only makes sense, speaking as a working fisherman, to eliminate or significantly decrease the amount of whale predation experienced by the fleet by switching to a pot-based fishery. I have experienced first hand the devastating effects a pod of Orcas and groups or even single Sperm whales can inflict on strings of gear. Enacting a pot fishery could in theory eliminate or severely decrease the amount of heartbreaking predation we experience on a day to day basis, leading to a much more effective and manageable fishery, not to mention reducing bycatch and decreasing our personal expenses incurred spending more and more time trying to catch a given amount of quota. As a devoted fisherman looking to preserve our valuable resource we all depend on for a living, I say it only makes sense!

Sincerely,

Samuel T. Hutchens

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**NPFMC comments - NOAA Service Account** <npfmc.comments@noaa.gov>

Tue, May 27, 2014 at 2:23 PM

To: sthutchens1@gmail.com

Thank you for your comment, if this comment was received after May 27, 2014 5:00pm, it is considered a late comment and will not be posted/copied for June meeting.



NPFMC comments - NOAA Service Account &lt;npfmc.comments@noaa.gov&gt;

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## Support for GOA Sablefish Pots

2 messages

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**Garrett Elwood** <gelwood15@gmail.com>

Tue, May 27, 2014 at 2:42 PM

To: npfmc.comments@noaa.gov

Name: Garrett Elwood

FV Western Freedom

I wish to state my support for the proposed use of SableFish pots in the GOA IFQ Fishery. Orca and Sperm whale predation gets worse every year and we wonder why the Sablefish stocks are on a decline. After talking with some observers on my vessel during Sablefish trips, it has become even more clear that the estimated loss from whale predation is grossly underestimated. I have a smaller 58 foot longline vessel and would be so happy to rig it up to fish pots in order to harvest our resource in a more responsible and sustainable manner. I understand that some smaller vessels might feel threatened by the use of pots but this can be largely resolved by requiring that all vessels return to port with their pot gear. Also I would like to mention that I have a friend who is fishing longline Al Sablefish and they have found a beneficial relationship by communicating with the pot fishermen. The Orcas still come over and eat the heads from the pot haul, when distracted, the pot boat radio's over to the longliners to start hauling, often a successful distraction. I believe that after a few years of pot use, whales may become disinterested in both pot and longline forms of longline vessels.

It makes no sense to limit our fishery to a form of gear that produces higher by catch, lower catch rates, and constant whale interaction. Please move this process along so that we can all benefit from Sablefish Pots.

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**NPFMC comments - NOAA Service Account** <npfmc.comments@noaa.gov>

Tue, May 27, 2014 at 2:42 PM

To: gelwood15@gmail.com

Thank you for your comment, if this comment was received after May 27, 2014 5:00pm, it is considered a late comment and will not be posted/copied for June meeting.