

Chairman Hull, members of the Council, thank you for the opportunity to provide public comment. For the record, I'm **Annika Saltman with Fishermen's Finest**.

Fishermen's Finest has two Amendment 80 Catcher Processors that fish in the Bering Sea Aleutian Islands, and both platforms have also acted as motherships for catcher vessels targeting Limited Access Yellowfin Sole and Pacific cod.

We ask for the following analysis regarding yesterday's TLAS action and future restrictions on competition and participation in the TLAS and Pcod fisheries.

1. An analysis of the anticompetitive aspects of these restrictions, including legal analysis by the Justice Department antitrust division of the restriction or elimination of competitors under the Sherman and Clayton antitrust acts and AFA section 211 of the AFA,
2. Analysis to include legal analysis as to whether the MSA grants the council and NMFS the authority to create regulations that eliminate or restrict competition in order to protect politically favored participants, especially ones with representation on the council at the expense of participants who do not have representation on the council.
3. Analysis to include legal analysis as to whether MSA or other statute grants the authority to NMFS or council to create regulations that intentionally eliminate competitors in a market, down to a number that can effectively subdivide the competitive harvest market with private agreements to allocate market share;
4. Analysis of Whether participants in a competitive market like Tlas or Pcod, may legally execute private agreements between themselves to allocate harvest share and thus eliminate competition between the remaining market participants.
5. Analysis of Whether the MSA or other statutory authority grants NMFS or the council the authority to draft regulations to intentionally eliminate competitors and participants for reasons other than those specifically set out in the MSA.

We would request that this analysis is completed before any further decisions are made by this council regarding trawl limited access fisheries.

**Letter to Andy Mezirow and the North Pacific Fishery Management Council from *Alaska Halibut Forever*, June 2017**

Dear Mr. Mezirow:

Our group in Gustavus, now called *Alaska Halibut Forever*, has been writing to the NPFMC concerning the problem of self-guided sport fishing businesses for at least 10 years. Even when directing our comments to other issue at hand, some of us would also mention our concern about the self-guided industry. In 2013, the Council took up this issue and attempted to deal with it by revising the “definition of a fishing guide.” The proposed solution assumed that only about three sport fishing businesses were doing “self-guided” operations, an extreme underestimate that was based on using the charter logbooks as the information source (!). We recognized that the proposed solution would be inadequate, so we wrote letters and sent a representative to that Council meeting to explain and protest the inadequacy. We’ve continued until now to message the Council about this growing problem. If archives are kept of comment and testimony, a large number of such messages could be found.

At the December 2016 NPFMC meeting, there was an encouraging development: the self-guided industry was to be included as a topic in Staff Tasking. We wrote in support of that, supplying background information including a report by one of our members, Larry Landry, that listed many self-guided operations in IPHC Area 2C. Now, somehow, yet another letter is needed to keep this topic on the Staff Tasking list. Therefore, this letter.

Self-guided sport fishing operations dispense with the charter halibut permits (CHPs), the charter client daily bag and size limits, and logbook reporting. Self-guided operators tell their clients that they are entitled to the same daily limits as the private sport fishermen, currently two fish a day of any size. They tell them that’s a great reason to go self-guided.

Some of these operators received one or several CHPs and then proceeded to run both guided and self-guided operations. This seems extra-ordinary, a phenomenon not seen in the Alaska commercial fisheries with regard to permits, IFQs, or harvest regulations. It is astonishing that the NPFMC would permit this to occur and persist. For an example of this pattern, see Whaler’s Cove Lodge (near Angoon) website, under “Fishing Packages” for self-guided. Note the extensive assistance offered to self-guided clients. This lodge received a half dozen CHPs, then started a self-guided operation in addition.

Some self-guided operations never had CHPs. For an example, see Water’s Edge (in Elfin Cove) website. The owners bought two former charter lodges in Elfin Cove and operate them as a unit, all self-guided.

Self-guided operations are not popular in our community. Gustavus residents are concerned about local depletions of halibut, actual and potential. Even some people who don’t fish themselves are concerned about the level of fishing pressure on areas near us from charter operations and self-guided operations.

Our primary concern is with local depletions near rural communities. Both charter and self-guided sport fishing tend to operate out of communities, often out of rural communities, fishing in the same areas where local residents fish for household food. As you know, halibut is a very important food in many such communities. The “Addendum to C3 RQE Public Review Draft – Section 6.2.3 of the Environmental Analysis” for the NPFMC December 2016 meeting has maps that show areas of harvest and effort concentration for the commercial halibut setline fleet and, separately in a different color, for the charter halibut fleet. Those maps and accompanying text support our contention that the charter harvest is taken closer to communities. Not shown are areas fished by the self-guided fleet, but those would be

the same as for the charter fleet (sometimes even closer to the communities) and thus greatly increase the total harvest taken by sport fishing businesses near communities.

The overlap of these fleets fishing the same areas is especially a concern given the halibut management system for Alaska does not attempt to prevent local depletions. All halibut regulations – total harvest allocations, IFQs, CHPs, charter daily bag and size limits, etc. – are only on the basis of large regions like Area 2C and 3A. The single exception is a 1990s-era regulation establishing the Sitka Sound Local Area Management Plan (LAMP), created because of – guess what! – Sitka residents’ distress about local depletion of halibut near their community.

Data on the self-guided sector’s effort and harvest is poor and cannot be distinguished from data for genuine private sport fishermen. The only source is the Alaska Dept. of Fish & Game’s annual mail-out survey sent in the fall to a sample of people who bought Alaska sport fishing licenses: the Statewide Harvest Survey, or SWHS. This data situation is a concern - as one of our members says, “If you can’t measure it, or are unwilling to measure it, you can’t manage it.” Nevertheless, some SWHS data is interesting because it shows the total “non-guided” sector (includes self-guided and private) to be large and growing in Area 2C (but not in 3A) and because information is available for subareas of Area 2C.

1) For Area 2C the “non-charter (unguided)” sector by 2015 had grown to almost double the charter harvest in terms of weight, annually exceeding the charter harvest after 2010 (halibut size restrictions began to apply to charter clients in 2007 and became more restrictive over time). Remember that non-guided sport fishing harvest comes off the top, before the Catch Sharing Plan allocations for commercial and charter fishermen.

2) Our subarea, called “Glacier Bay” (consisting of Icy Strait, Glacier Bay, and Cross Sound – equivalent to commercial fishery statistical catch areas 181, 182 and 184) in 2015 had the largest “Non-charter” catch in Area 2C, larger than any other of the six sub-areas, even though the human population of this entire area is less than 1,400 (population data for 2012 from “Southeast by the Numbers”). Much of the catch would be by the “self-guided” sector, but it is also true that more boats out of Juneau and more summer-only residents of Gustavus are adding to the non-guided fishing pressure in the “Glacier Bay” subarea. **By 2015, sport harvest of halibut in the “Glacier Bay” area had become 22% charter/78% non-charter. Also by 2015 the total sport harvest (charter + non-charter) approximately equaled the commercial halibut harvest in this area.**

Growth in self-guided operations and boats in our area It is difficult for us to quantify the growth in these operations, in number of operations and in numbers of boats or clients. It is especially difficult for lodges that do both types of operations, guided and self-guided, and may wish to keep the situation unclear, e.g. by claiming that “these are just friend and family.” Taking “our area” to be Icy Strait, Glacier Bay, and Cross Sound, here is a shot at it:

10 years ago (2006): One operation, Doc Warner’s in Excursion Inlet

5 years ago (2011): 7 to 9 operations

1 year ago (2016): 9 operations - but some differences compared to 2011 in size and manner of operating. In 2011, only one Elfin Cove charter lodge had been bought and converted to self-guided (using 4 boats), but by 2016 the owners had bought a second charter lodge, operating it as self-guided jointly with the one bought earlier and steadily increasing the number of boats used. For 2017 they have 15 boats (22 ft. boats, 150 hp motors, GPS and sonar, 4-person occupancy). An Allen Marine catamaran now comes in at the end of each week to pick up the lodge’s clients and their fish. If the lodge was run as a charter operation, it would have needed many CHPs.

In 2016, Alaskan Angler's Inn, the largest charter lodge in Gustavus spent about \$90,000 on two robust skiffs to "test the waters" for self-guided trips. One of the owners reportedly said, "It's the wave of the future."

The 2013 regulatory change in "definition of a fishing guide" (effective summer of 2015?) caused changes in some ways of operating – it was no longer legal to use skiffs towed by a bigger boat, or off-loaded from a bigger boat to effect "self-guiding" and operators devised other strategies to achieve the same end. Among the example of "compensation" dodges observed in the Icy Strait area there is 1) sending young men who do not have CHPs out on the boats to help the "self-guided" clients, their compensation being building up sea time to qualify themselves for 6-pack vessel operator permits; 2) theoretically charging people for lodging only, then taking them sport fishing as "friends." 3) Catch-and-release fishing - a boat operator from another town who does not have a CHP told one of us that he has clients that do catch-and-release only halibut fishing. This is a consumptive activity because the release mortality is likely substantial.

A reliable observer of the scene in Elfin Cove says that very few regular sport fishermen come to Elfin Cove except for some Canadians out of Whitehorse. The rest are either charter fishermen or self-guided fishermen, and these are much more successful than the private fishermen. The Alaska Dept. of Fish & Game employs people to conduct sport fish creel censuses in at least two Glacier Bay subarea ports, and that person must designate whether a boat is private or charter. It would be useful if they also designated a third category, "self-guided" clients. That would help management agencies see how large this sector's harvest is, and see growth of the sector. Creel census people are required to work only certain hours and days, so they're not present at all times. Some ports don't have creel census people. Excursion Inlet, where Doc Warner's lodge is, and Hoonah have no creel census, while Elfin Cove and Gustavus have them. In Gustavus the creel census worker is at the local dock but a few vessels disembark elsewhere. It would be helpful if NPFMC/NOAA staff got permission from ADF&G to talk with their creel census employees about their field observations.

See the attached report by Larry Landry that lists self-guided operations both here and in other parts of Southeast, which he found by searching the internet. Interestingly, in Sitka little of the self-guided phenomenon seems to be occurring, possibly due to local attitudes there.

Other concerns Self-guided operations raise concerns for safety. Some are fishing in fairly challenging areas, like immediately west of South Inian Pass, which is famous for strong tides, and Cross Sound.

Release mortality is probably higher absent experienced guides.

Disrespect for fisheries regulatory systems is promoted by this system.

We see nothing to prevent many more self-guiding operations from developing.

Thank you for your attention. Please contact us if you have any questions.

Judy Brakel and Jim Mackovjak

Attachments: - 1) Report by Larry Landry; 2) "Final 2015 Sport Halibut Estimates for 2C and 3A," Alaska Dept. of Fish & Game.

Dear Chairman Hull and council members,

My name is Miron Basargin, Black Pearl Fisheries with f/v Black Pearl and Alaskan Pearl.

On may 25th the Black Pearl left to area 4d halibut fishing.

This could be a VERY long letter, story, of what was happening to them when they got to the Fishing grounds. Orca Whales were just anywhere they went! At times 6-7 pods were counted with about 7 whales per pod. Leaving gear in the water while running away is equally pointless now for they pick through the gear from the bottom of the sea floor, leaving just some bitten and Damaged halibut. The boat ran hundreds of miles up to nw of Zhemchug canyon and even further, while having started at the border! Thousands of dollars of fuel burnt for only several thousand pounds of halibut for 10 says now. They've called it quits now.!

I strongly urge the council with respect to do something like allowing longlining with pots for halibut just like was done for Sablefish. I heard great success stories from some of the fishermen that risked this massive investment with the new gear type. It would only makes sense for my small business to invest into such great sustainable option if I could catch Sablefish and halibut with pots, not to have to keep changing gear types.

I cannot stress enough on the benefits of sustainability and preservation of our Fishery with by NOT feeding the killer whales and other whales. I believe we're not even accounting accurately on what is being scavenged.

I would be happy to respond via email or phone if any follow up questions. Thank you.

Miron Basargin

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