

**Subject:** scallop letter  
**From:** george hutchings <geor@gci.net>  
**Date:** 3/7/2013 5:20 PM  
**To:** npfmc.comments@noaa.gov  
**CC:** franklinashllc@yahoo.com

i wanted to state that i am unhappy with the action taken by the council in staff tasking in support of the scallop fishery.

there was no chance to give public comment on it as it was not on the agenda. after spending a large sum of money to attend the meeting in portland i would of stayed for the scallops had it been on the agenda, once again i feel betrayed by the council takeing this action with no public input other then jim stone whom pretty much is the only player in the game, wich in itself should be ilegal. for the council to do this in a back door fashion once again diminishes the council in not only public trust, yet also credibility.

i have read the letter and disagree with most of it, there should be a parrel fishery inside state waters as well. i often wish i had the resources of these larger entities like green peace or trident so i could sue the outcomes of your actions, as well as practices in the council.

we are on a trend here that is unconstitutianl, imoral and plane wrong. i would suport catch shares in a non privitized , non monitary form, but as emil christionson stated the fish caught by fisherman and boats in the past, those enityys were paid for those fish, that does not constitute a future give away right.

sincerly george hutchings

po 8242 kodiak ak, 99615

March 26, 2013

George Hutchings, President  
Americans for Equal Access  
P.O. Box 8242  
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Chairman Eric Olson  
North Pacific Fishery Management Council  
605 West 4th Avenue, Suite 306  
Anchorage, AK 99501

Via: email at [npfmc.comments@noaa.gov](mailto:npfmc.comments@noaa.gov).

**RE: Comments for Council Notebooks, C-4 Scallop SAFE.**

Dear Chairman Olson:

On behalf of myself and Americans For Equal Access (AFEA), thank you for this opportunity to provide comments for inclusion in the April Council meeting notebooks under Agenda Item C-4, review and discussion of the Scallop SAFE and harvest specifications. I would like to take this opportunity to strongly state—for the administrative record and to you, Chairman Olson, specifically—that I object to and am disappointed by the recent unilateral action taken by the North Pacific Fishery Management Council in support of the State scallop fishery as it is currently managed and continuing the vessel-based limited entry program.

During staff tasking at the February meeting in Portland, Oregon, the Council moved to fulfill a personal request made by one member of the public, Mr. Jim Stone, that the Council write a letter in support of continuing to manage the highly controversial and heavily consolidated State scallop fishery under an anomalous vessel-based limited entry program. During the meeting, there was no notice to the public, no opportunity for the public to comment on the Council's proposed action, nor any opportunity for stakeholders to provide necessary input to the Council regarding the State and Federal scallop fisheries. Discussions on the scallop fishery were never on the Council's meeting agenda.

After spending a large sum of money to travel from Kodiak to personally attend the Council's away-meeting in Portland and provide public testimony on an unrelated Agenda item, I would have gladly given up a few more invaluable days of fishing to stay through the end of the meeting if any discussion of the scallop fishery had been on the Council's meeting Agenda. Though the Council has clearly stated it may take action as necessary on all matters on the Agenda, it also states that those matters must be *listed* on the Agenda, and the scallop fishery was not.

In fact, Commissioner Ben Brown with the Commercial Fisheries Entry Commission (CFEC) was himself forced to concede to the Senate Resources Committee during public testimony that there was no advance notice the Council would consider drafting a letter regarding the State scallop fishery and continuing the vessel-based limited entry program at the away-meeting in Portland last February.

#### Consolidation and constitutionality

There has been unconscionable consolidation in the scallop fishery since the last extension of the vessel-based limited entry program. The Council was not informed by Mr. Stone that there have been at least four federal license transfers since 2007, which is when the Council last authored and sent in a letter to

the State Legislature. Mr. Stone conceded to the Alaska Journal of Commerce that he “misspoke” before the Council regarding license transfers, though claimed it was because he did not have that information in front of him at the time. Mr. Stone, however, was personally involved in three of those four transfers and it is unlikely that he would not be able to recall such lucrative and essential business actions inherent to the success of his scallop fishery endeavors.

State House Representative Paul Seaton (R-Homer), Chair of the House Fisheries Committee, has voiced such consolidation—and constitutional—concerns to the CFEC. Rep. Seaton has stated: “I’m concerned, I have been concerned for a long time, about the vessel entry permits ... They don’t require a person to participate in the fishery at all. I’m fearful that consolidation that has taken place in that fishery has reached a point where we may be running afoul of the constitutional prohibition on a special right of fisheries.”

In 2007/2008, the time of the last extension of this vessel-based limited entry program, as Rep. Seaton states, “there wasn’t consolidation to a very few select people ... which may run afoul of other parts of the constitution and a special right of fishery.” Participation by the individual fisherman is inherent to the success and fairness of any limited entry permit system, but consolidation in the scallop fishery has rendered any opportunity for new participants to enter the fishery economically infeasible.

### Controversy

The Alaska Scallop Association (ASA), based out of Mr. Stone’s Lakewood, Washington residence, has hired lobbyists such as former CFEC Chairman Frank Homan, Gerald McCune, Thomas Meiners, and former United Fishermen of Alaska President Bobby Thorstenson, paying out more than \$47,000 to make its case for extension or even permanence of the vessel-based limited entry program to the Alaska State Legislature. Mr. Stone and ASA would not hire these men nor pay out significant funds to lobby State law-makers were there “no other issues” surrounding this anomalous and overly-exclusive vessel-based limited entry program, as Mr. Stone stated to the Council in response to a direct question from Councilman Duncan Fields during the February meeting.

### Continued communication, comments, and legal challenges

The Council has stated that it believes a good public, transparent, and responsive process is critically important to help ensure that the best, scientifically-based management decisions are made. To that end, I have provided similar comments to Senator Cathy Giessel, Chair of the Senate Resources Committee, which was quoted by the Alaska Journal of Commerce. I will continue to provide such testimony and comments on this proposed legislation as it moves through the House and its Special Committees on Fisheries and on Resources. I assure you that objections to this vessel-based limited entry program and the Council’s misguided actions during staff tasking in February will not go away, nor will Mr. Stone’s efforts to make permanent his fishery permit windfall, unnoticed.

Revealingly, Mr. Brown with the CFEC has stated during discussions on the State vessel-based limited entry scallop fishery that, in his opinion “as an attorney, if this were unconstitutional somebody would have challenged it by now.” I assure you that had I the financial resources of Mr. Stone, the ASA, and their multiple lobbyists, or any of the larger fishing-processing entities or associations, I would already be engaged in legal challenges to the constitutionality of this fishery, as well as the unilateral and ill-informed actions of the Council. This vessel-based limited entry program has created, in effect, an exclusive fishery that ensures the continuing wealth of Mr. Stone and his business partners while exceeding the constitutional purposes of “limited entry.”

Again, on behalf of myself and members of Americans For Equal Access, thank you for your consideration of these comments. I look forward to attending the April Council meeting and reviewing the Scallop SAFE report and harvest specifications.

Sincerely,  
(signed)  
George Hutchings  
Commercial Fisherman  
President, Americans for Equal Access