

MEMORANDUM

TO: Council, SSC and AP Members  
FROM: Chris Oliver  
Executive Director  
DATE: November 30, 2011  
SUBJECT: Protected Resources Report

*DO*  
*for*

|  |
|--|
| ESTIMATED TIME<br>4 HOURS<br>All B Items |
|--|

**ACTION REQUIRED**

Receive report on Protected Resources issues and take action as necessary.

**BACKGROUND**

**A. Western DPS Steller sea lions BSAI FMP BiOp CIE Review Terms of Reference**

In October, the Council passed a motion that directed the Council Chairman and Executive Director to meet with NOAA and representatives of the States of Alaska and Washington to develop the process (Scope of Work, SOW) and Terms of Reference (TOR) for a review of the BSAI Groundfish FMP BiOp by the Center for Independent Experts (CIE). This meeting took place in Juneau, AK on November 8, 2011. In attendance were Eric Olson (Council Chairman), Chris Oliver (Council ED), Bill Tweit (WDFW), Doug Vincent-Lang (ADFG), Jim Balsiger (NMFS), Doug DeMaster (NMFS), Kaja Brix (NMFS), Glenn Merrill (NMFS), Melanie Brown (NMFS), Pete Jones (NMFS), Dana Seagars (NMFS, on phone) and Steve MacLean (Council staff). These discussions led to cooperative development of a new set of TOR to be implemented by a two-step SOW (attached as item B-7(a)(1)).

The SOW would result in the production of a report with two chapters: (1) a CIE desk review of the Final BiOp using data and materials available to NMFS as of the close of public comment (9/3/11), and (2) a review of the BiOp following a one day public panel, including public testimony and information available to NMFS after publication of the Final BiOp. Due to contracting timelines and ongoing litigation, the review would likely occur in the second quarter of 2012. The October Council motion called for the agreed TOR to be reviewed by the Council at this meeting. At this meeting the Council may choose to endorse or reject the attached draft TOR for the two-step CIE review.

**B. Eastern DPS Steller sea lions**

The 12-month finding on the petition to delist the Eastern DPS of Steller sea lions, originally due on 8-31-2011, is not yet completed. NOAA Fisheries is proceeding with the preparation of the Status Review and 12-month finding, and remains committed to completing them as soon as practicable.

**C. State of Alaska v. Lubchenko et al.**

Oral arguments for the State of Alaska's lawsuit against NMFS over the 2010 BiOp for the federal and state parallel groundfish fisheries is scheduled for 12/21/2011 at 1:00 PM in the U.S. District Court in Anchorage.

#### D. 2011 Steller sea lion surveys

Dr. Doug DeMaster will provide a report on the Steller sea lion surveys conducted by NOAA in 2011.

#### E. Ringed Seals

In recent months, a number of sick or dead pinnipeds with skin lesions have been discovered in the Arctic. Ringed seals with skin lesions and higher than normal mortality were first documented in July along the North Slope of Alaska. Recently similar cases of affected ringed seals have been reported from Canada and Russia. Walrus in Alaska have also been reported with skin lesions, but it appears that mortality is less in walrus than in ringed seals.

Diseased ringed seals exhibit hair loss, delayed molting, and skin ulcers; some exhibit lethargy and labored breathing. Necropsies of dead seals have shown significant lesions in the skin, respiratory system, liver, lymphoid system, heart, and brain. Because of the numbers of affected animals are higher than usual, this is considered an outbreak.

No single cause for this outbreak has yet been identified, although samples have been collected and analyzed for bacterial, viral, fungal, and toxic agents. Laboratory results are inconclusive, but samples have tested negative for poxvirus, herpesvirus, papillomavirus, and calcivirus.

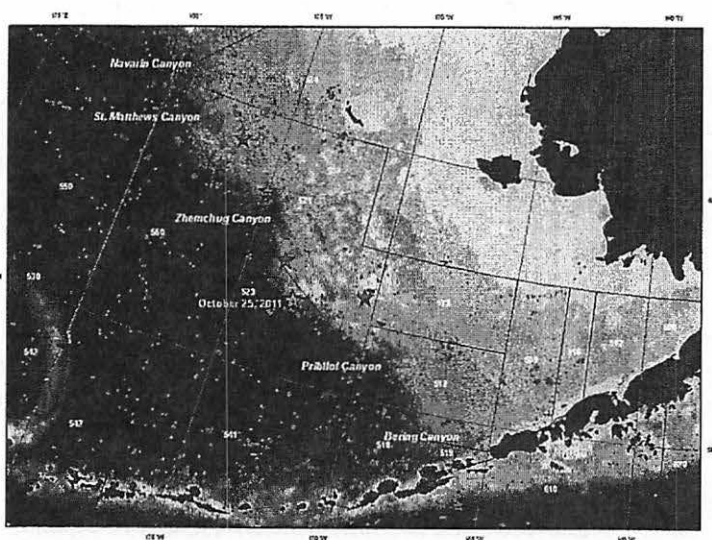
It is not yet known if the skin lesions in ringed seals are the result of a zoonotic (diseases passed from animals to humans) agent, but the public and hunting communities are advised to take precautions if they see or come into contact with a seal that has skin lesions or otherwise appears sick. Observations of sick animals or carcasses should be reported as quickly as possible to the NOAA Fisheries Marine Mammal Stranding Hotline at 1-877-925-7773.

#### F. Cook Inlet Beluga Whales

On November 21, 2011 Federal Judge, Royce, C. Lembreth upheld the endangered species listing for Cook Inlet beluga whales.

#### G. Short-Tailed Albatross

A short-tailed albatross (STAL) was taken incidentally in the hook-and-line groundfish fishery in the Bering Sea on October 25, 2011. The bird was banded on Toroshima Island, Japan, in 2010. This is the third STAL taken in Alaska fisheries since August, 2010. This most recent take is the first in the two-year reporting period that began on September 26, 2011. The short-tailed albatross population has been increasing rapidly, at approximately 7 percent per year (Zador et al., in review), increasing the potential for interactions with longline fisheries.



Draft – November 29, 2011

## Statement of Work

### External Independent Peer Review by the Center for Independent Experts

#### Biological Opinion on the Effects of the Federal Groundfish Fisheries and State Parallel Fisheries on listed species in Alaska, including Steller sea lions

**Scope of Work and CIE Process:** The National Marine Fisheries Service's (NMFS) Office of Science and Technology coordinates and manages a contract providing external expertise through the Center for Independent Experts (CIE) to conduct independent peer reviews of NMFS scientific projects. The Statement of Work (SoW) described herein was established by the NMFS Project Contact and Contracting Officer's Technical Representative (COTR), and reviewed by CIE for compliance with their policy for providing independent expertise that can provide impartial and independent peer review without conflicts of interest. CIE reviewers are selected by the CIE Steering Committee and CIE Coordination Team to conduct the independent peer review of NMFS science in compliance with the predetermined Terms of Reference (ToRs) for the peer review. Each CIE reviewer is contracted to deliver an independent peer review report to be approved by the CIE Steering Committee and the reports to be formatted with content requirements as specified in Annex 1. This SoW describes the work tasks and deliverables of the CIE reviewer for conducting an independent peer review of the following NMFS project. Further information on the CIE process can be obtained from [www.ciereviews.org](http://www.ciereviews.org).

**Project Description:** NMFS Alaska Region has issued a Final Biological Opinion (November 24, 2010) under the ESA on the effects of the current fishery management regime for federal groundfish fisheries on listed species. The main listed species of concern is the endangered western distinct population segment (WDPS) of the Steller sea lion; the threatened eastern distinct population segment (EDPS) of Steller sea lions was also considered. In addition, the effects on listed humpback whales (Central Pacific and Western Pacific populations), fin whales and sperm whales were considered. The basis for the consultation is the new information available to the agency as a result of almost 10 years of intensive research on Steller sea lions in Alaska. The new information pertains to the status of the species, population and sub-regional trends in abundance, and the impacts of the existing conservation measures as well as the prosecution of the federal fisheries and the State of Alaska parallel groundfish fisheries. The focus species for this CIE review is the western distinct population segment of the Steller sea lion.

The review will consist of two parts: (1) conducting a desk review of the Final BiOp including information available to NMFS through the end of the public comment period (September 3, 2010) and (2) convening as a panel to consider new information (e.g. available subsequent to issuance of the Final BiOp) and to hold one public session (in ----, AK?) to receive presentations regarding the BiOp analysis and related scientific information from the public, including experts in environmental organizations, scientific groups, the fishing industry, and affected communities. The reviewers will produce a report consisting of two chapters: Chapter 1 will describe findings based on the desk audit and will be produced prior to the public panel session; Chapter 2 will evaluate new scientific and commercial information, describe findings from the public panel

session, and provide commentary on the Final Biological Opinion, its findings, and potential next steps as described in Annex 2. The completed report will be issued as a single document at the end of the review process.

In Chapter 1 (the desk review), the panel shall be specifically tasked to review and comment on the rationale, and subsequent findings contained in the Biological Opinion regarding factors affecting Steller sea lion population status, their critical habitat, and recovery including, in particular, the findings regarding the effects of fisheries on Steller sea lion population status, vital rates, and critical habitat. The reviewers are asked to comment on the adequacy of the best available science and of the appropriate use of that science to reach the conclusions presented in the BiOp.

In Chapter 2, reviewers shall, as practicable, review, evaluate, and consider the Final Biological Opinion, its findings, and scientific and commercial information made available since issuance of the Final BiOp through the date of the panel session. As they construct Chapter 2, reviewers shall, as practicable, provide additional commentary on the findings of Chapter 1 that arises from input received through the public panel session. The Terms of Reference (ToRs) of the peer review are attached in **Annex 2**.

**Requirements for CIE Reviewers:** Three CIE reviewers shall be provided with adequate time to conduct a thorough, impartial and independent peer review in accordance with the SoW and ToRs herein. Each CIE reviewer's duties shall not exceed a maximum of 20 days to complete all tasks of the desk peer review and an additional 20 days to conduct the panel peer review public session and evaluate new information provided through that process, as described herein. CIE reviewers shall have the expertise, background, and experience to complete an independent peer review in accordance with the SoW and ToRs herein. CIE combined reviewer expertise should strive to include marine fisheries management, marine fish biology, ecology and stock assessments, marine mammal population biology and foraging ecology, and familiarity with the standards of the Endangered Species Act section 7 in relation to conservation biology.

**Location of Peer Review:** Each reviewer shall conduct the peer review as a desk review and will participate in a public meeting in Alaska. Therefore travel will be required.

**Statement of Tasks:** Each CIE reviewer shall complete the following tasks in accordance with the SoW and Schedule of Milestones and Deliverables herein.

Prior to the Peer Review: Upon completion of the CIE reviewer selection by the CIE Steering Committee, the CIE shall provide the CIE reviewer information (full name, title, affiliation, country, address, email) to the COTR, who forwards this information to the NMFS Project Contact no later the date specified in the Schedule of Milestones and Deliverables. The NMFS will provide the list of proposed CIE reviewers to the North Pacific Fishery Management Council (Council) for comment within 7? days. Should the Council or NMFS, AKR, have any comments on reviewers proposed, they will be provided to AKR for forwarding to the CIE within 7? days. The CIE is responsible for providing the SoW and ToRs to the CIE reviewers. The NMFS Project Contact is responsible for providing the CIE reviewers with the background

documents, reports, and other pertinent information. Any changes to the SoW or ToRs must be made through the COTR prior to the commencement of the peer review.

Pre-review Background Documents: Two weeks before the peer review, the NMFS Project Contact will send (by electronic mail or make available at an FTP site) to the CIE reviewers the necessary background information and reports for the peer review. In the case where the documents need to be mailed, the NMFS Project Contact will consult with the CIE Lead Coordinator on where to send documents. CIE reviewers are responsible only for the pre-review documents that are delivered to the reviewer in accordance to the SoW scheduled deadlines specified herein. The CIE reviewers shall read all documents in preparation for the peer review. A list of specific background documents that should either be reviewed or may provide additional information is provided at the end of the ToR.

Peer Review: Each CIE reviewer shall conduct the independent peer review in accordance with the SoW and ToRs, and shall not serve in any other role unless specified herein. **Modifications to the SoW and ToRs cannot be made during the peer review, and any SoW or ToRs modifications prior to the peer review shall be approved by the COTR and CIE Lead Coordinator.** The CIE Lead Coordinator can contact the Project Contact to confirm any peer review arrangements.

Panel Review Meeting: Each CIE reviewer shall conduct the independent peer review in accordance with the SoW and ToRs, and shall not serve in any other role unless specified herein. **Modifications to the SoW and ToRs cannot be made during the panel review, and any SoW or ToRs modifications prior to the panel review shall be approved by the COTR and CIE Lead Coordinator.** Each CIE reviewer shall actively participate in a professional and respectful manner as a member of the meeting review panel, and their peer review tasks shall be focused on the ToRs as specified herein. Working with the Council, the NMFS Project Contact is responsible for any facility arrangements (e.g., conference room for panel review meetings or teleconference arrangements). The NMFS Project Contact is responsible for ensuring that the Chair understands the contractual role of the CIE reviewers as specified herein. The CIE Lead Coordinator can contact the Project Contact to confirm any peer review arrangements, including the meeting facility arrangements.

*[From CIE guidance (?): Please provide a brief description of the CIE peer reviewer's role on the panel. Briefly describe or provide a link of the established guidelines for conducting the panel review meeting. Describe if and how a panel Chair will be selected/identified, the role of the panel Chair in relation to the CIE reviewer's responsibilities in the peer review. Describe any additional roles (e.g., contribution to an Executive Summary report) of the CIE reviewers ](Note: This section will require a bit more work as we get greater clarity and agreement in the process.)*

#### Contract Deliverables - Independent CIE Peer Review Reports:

*Desk review:* Each CIE reviewer shall complete an independent peer desk review report in accordance with the SoW. Each CIE reviewer shall complete the independent peer review

according to required format and content as described in Annex 1. Each CIE reviewer shall complete the independent peer review addressing each ToR as described in Annex 2 pertinent to Chapter 1. The desk review will be produced prior to the onset of the public panel review.

*Public panel review:* Each CIE reviewer shall complete an independent peer review report subsequent to the desk review and the public panel session in accordance with the SoW. Each CIE reviewer shall complete the independent peer review according to required format and content as described in Annex 1. Each CIE reviewer shall complete the independent peer review addressing each ToR as described in Annex 2 as specified for Chapter 2.

Other Tasks – Contribution to Executive Summary: In addition to each reviewer’s individual peer review reports, CIE reviewers may assist the Chair with contributions to an Executive Summary to the Report (see Annex I). CIE reviewers are not required to reach a consensus and should provide a brief summary of the reviewer’s views on the summary of findings and conclusions reached by the review panel in accordance with the ToRs.

**Specific Tasks for CIE Reviewers:** The following chronological list of tasks shall be completed by each CIE reviewer in a timely manner as specified in the **Schedule of Milestones and Deliverables**.

- 1) Conduct necessary pre-review preparations, including the review of background material and reports provided by the NMFS Project Contact in advance of the peer review;
- 2) Conduct an independent peer desk review in accordance with the ToRs (Annex 2, Chapter 1);
- 3) No later than \_\_\_\_\_, each CIE reviewer shall submit an independent Desk Review report addressed to the “Center for Independent Experts,” and sent to Mr. Manoj Shivlani, CIE Lead Coordinator, via email to [shivlanim@bellsouth.net](mailto:shivlanim@bellsouth.net), and CIE Regional Coordinator, via email to Dr. David Die [ddie@rsmas.miami.edu](mailto:ddie@rsmas.miami.edu). Each CIE report shall be written using the format and content requirements specified in Annex 1, and address each ToR in Annex 2;
- 4) Participate during the panel review meeting at the {insert location} during {insert date}. LOCATION and DATE as specified herein, and conduct an independent peer review based on the information obtained through the public panel process in accordance with the ToRs (Annex 2, Chapter 2).
- 5) No later than \_\_\_\_\_, each CIE reviewer shall submit an independent Panel Review report addressed to the “Center for Independent Experts,” and sent to Mr. Manoj Shivlani, CIE Lead Coordinator, via email to [shivlanim@bellsouth.net](mailto:shivlanim@bellsouth.net), and CIE Regional Coordinator, via email to Dr. David Die [ddie@rsmas.miami.edu](mailto:ddie@rsmas.miami.edu). Each CIE report shall be written using the format and content requirements specified in Annex 1, and address each ToR in Annex 2;

**Schedule of Milestones and Deliverables:** CIE shall complete the tasks and deliverables described in this SoW in accordance with the following schedule.

|             |   |
|-------------|---|
| Month/DD/Yr | CIE sends reviewer contact information to the COTR, who then sends this to the NMFS Project Contact |
|-------------|---|

|                        |   |
|------------------------|---|
|                        | NMFS Project Contact sends the CIE Reviewers the BiOp and background documents  |
|                        | Each reviewer conducts an independent peer review as a desk review.   |
|                        | CIE reviewers submit CIE independent peer review reports (Chapter 1) to the CIE Lead Coordinator and CIE Regional Coordinator.  |
| A few days/weeks later | CIE reviewers convene as a panel in a public session  |
|                        | CIE reviewers prepare and submit additional reviews based on the information received in the public panel session, along with their analysis of information subsequent to the BiOp and recommendations (Chapter 2). |
|                        | CIE compiles Chapters 1 and 2 and submits CIE independent peer review reports to the COTR   |
|                        | The COTR distributes the final CIE reports to the NMFS Project Contact and Administrator, Alaska Region.  |

**Modifications to the Statement of Work:** Requests to modify this SoW must be made through the Contracting Officer's Technical Representative (COTR) who submits the modification for approval to the Contracting Officer at least 15 working days prior to making any permanent changes. The Contracting Officer will notify the CIE within 10 working days after receipt of all required information of the decision on substitutions. The COTR can approve changes to the milestone dates, list of pre-review documents, and Terms of Reference (ToR) of the SoW as long as the role and ability of the CIE reviewers to complete the SoW deliverable in accordance with the ToRs and deliverable schedule are not adversely impacted. The SoW and ToRs cannot be changed once the peer review has begun.

**Acceptance of Deliverables:** Upon review and acceptance of the CIE independent peer review reports by the CIE Lead Coordinator, NMFS Regional Coordinator, and Steering Committee, these reports shall be sent to the COTR for final approval as contract deliverables based on compliance with the SoW. As specified in the Schedule of Milestones and Deliverables, the CIE shall send via e-mail the contract deliverables (the CIE independent peer review reports) to the COTR (William Michaels, via [William.Michaels@noaa.gov](mailto:William.Michaels@noaa.gov)).

**Applicable Performance Standards:** The contract is successfully completed when the COTR provides final approval of the contract deliverables. The acceptance of the contract deliverables shall be based on three performance standards: (1) each CIE report shall have the format and content in accordance with Annex 1, (2) each CIE report shall address each ToR as specified in Annex 2, (3) the CIE reports shall be delivered in a timely manner as specified in the schedule of milestones and deliverables.

**Distribution of Approved Deliverables:** Upon notification of acceptance by the COTR, the CIE Lead Coordinator shall send via e-mail the final CIE reports in \*.PDF format to the COTR.

The COTR will distribute the approved CIE reports to the NMFS Project Contact and will notify the Executive Director, North Pacific Fishery Management Council of availability of the report.

**Support Personnel:**

William Michaels, Program Manager, COTR  
NMFS Office of Science and Technology  
1315 East West Hwy, SSMC3, F/ST4, Silver Spring, MD 20910  
[William.Michaels@noaa.gov](mailto:William.Michaels@noaa.gov) Phone: 301-713-2363 ext 136

Manoj Shivlani, CIE Lead Coordinator  
Northern Taiga Ventures, Inc.  
10600 SW 131<sup>st</sup> Court, Miami, FL 33186  
[shivlanim@bellsouth.net](mailto:shivlanim@bellsouth.net) Phone: 305-383-4229

**Key Personnel:**

Dana J. Seagars NMFS Project Contact:  
Protected Resources Division  
NMFS, Alaska Region, 222 West 7<sup>th</sup> Avenue, Anchorage, AK, 99513-7577  
[Dana.Seagars@noaa.gov](mailto:Dana.Seagars@noaa.gov) Phone: 907-271-5005

Melanie Brown, Action Agency Contact:  
Sustainable Fisheries Division  
NMFS, Alaska Region, 709 W.9<sup>th</sup> Street, Juneau, AK 99802  
[Melanie.brown@noaa.gov](mailto:Melanie.brown@noaa.gov) Phone: 907-586-7006

Douglas DeMaster, Director  
Alaska Fisheries Science Center  
National Marine Fisheries Service,  
17109 Pt Lena Loop Road, Juneau, AK 99801  
[Douglas.Demaster@noaa.gov](mailto:Douglas.Demaster@noaa.gov) Phone: 206-399-1431



## **Annex 1: Format and Contents of CIE Independent Peer Review Report**

1. The CIE independent report (Report) shall be prefaced with an Executive Summary providing a concise summary of the findings and recommendations.
2. The Report will include two chapters. The first chapter will be based on each reviewer's independently conducted desk review. The second chapter will be based on each reviewer's evaluation of the full scientific record including scientific information available after September 3, 2010 through information presented at the public session conducted by the review panel process.
3. The main body of each chapter shall consist of a Background, Description of the Individual Reviewer's Role in the Review Activities, Summary of Findings for each ToR, and Conclusions and Recommendations in accordance with the Terms of Reference (ToRs).
  - a. Reviewers should describe in their own words the review activities completed during the panel review meeting, including providing a brief summary of findings, of the science, conclusions, and recommendations.
  - b. Reviewers should discuss their independent views on each ToR even if these were consistent with those of other panelists, and especially where there were divergent views.
  - c. Reviewers should elaborate on any points raised in the Summary Report that they feel might require further clarification.
  - d. The CIE independent report shall be a stand-alone document for others to understand the weaknesses and strengths of the science reviewed, regardless of whether or not they read the summary report. The CIE independent report shall be an independent peer review of each ToRs, and shall not simply repeat the contents of the summary report.
4. The reviewer report shall include as separate appendices as follows:
  - Appendix 1: Bibliography of materials provided for review
  - Appendix 2: A copy of the CIE Statement of Work
  - Appendix 3: A list of persons and organizations participating in the public panel session and other pertinent information from the panel review meeting.

## Annex 2: Terms of Reference

### Background and Context:

The purpose of this CIE Review is to evaluate a Final Biological Opinion issued by NOAA Fisheries November 24, 2010. The Endangered Species Act (ESA) requires the NOAA Fisheries Service to consult with federal agencies proposing actions that may affect ESA listed species. The consultation results in a Biological Opinion that describes the action, reviews species biology, and makes a conclusion as to whether or not the action is likely to jeopardize the continued existence of the listed species or to adversely modify its designated critical habitat. Adverse modification is determined to occur when the direct or indirect effects of an action "appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species" (FWS/NMFS 1998). The consultation process is not required to employ a "prove-disprove" or statistical evaluation process, but instead may evaluate the best available information in a "weight of evidence approach" to make a determination. The process follows the ESA statute, related regulations, and case law, and, as guidance, the 2008 NMFS Steller Sea Lion Recovery Plan; with guidance to authors provided within the Endangered Species Consultation Handbook (FWS/NMFS 1998).

### Tasks specific to developing Chapter 1 (conducting the desk review):

1. Read the Final Biological Opinion (November 24, 2010) on the BSAI and GOA groundfish fisheries; and state waters parallel fisheries for groundfish fisheries, and as needed, review the related background documents (list of documents provided is attached).
2. Provide peer review and comment on the final BiOp, including information available to NMFS through the end of the public comment period (Sept. 3, 2010) for the Draft BiOp, evaluate the rationale developed, and the subsequent findings regarding factors potentially affecting Steller sea lion population status, vital rates, critical habitat, risk of extinction, and recovery including in particular the findings regarding the effects of fisheries on Steller sea lion population status, vital rates, and critical habitat. Address the following:
  - a. Does the Biological Opinion thoroughly and accurately (i.e. using the best available scientific information) describe what is known about the status of the listed species?
  - b. Does the Biological Opinion thoroughly and accurately describe what is known about groundfish fishery practices and catch statistics under the current ongoing "status quo" action, as defined in the Biological Opinion?
  - c. While the agency is directed to evaluate the effects of the action on listed species and critical habitat, does the Biological Opinion also adequately address alternative scientific explanations to the apparent population dynamics of the WDPS of Steller sea lion, such as explanations involving, but not limited to, predation, disease, ecosystem/carrying capacity, or emigration?
  - d. Does the Biological Opinion thoroughly and accurately assess the effects (direct and indirect) of the action on the listed species and its critical habitat?
  - e. Evaluate the scientific weight of the evidence presented in the BiOp (e.g., does the evidence provide strong, moderate or weak support for the discussion, findings and conclusions made in the document?).

3. Reviewers shall evaluate the quality and completeness of the scientific and commercial information used in the BiOp analysis, and identify if the BiOp analysis is comprehensive or if there are relevant scientific or commercial data or information that was not used in the BiOp analysis.
4. Reviewers are specifically asked to evaluate the scientific basis for the nutritional stress findings of the final 2010 BiOp. Reviewers shall evaluate and comment on the strength of the linkages among fish biomass estimates, fishery removals, Steller sea lion reproductive rates, and recovery of the WDPS. Does the Biological Opinion accurately evaluate the inter-relationships between Steller sea lion population status and trends, foraging ecology, and groundfish fisheries effects across broad geographic areas (ecosystems to highly localized regions) and temporal scales (years to seasons)?
5. Reviewers will determine if there is any additional literature, assessments, or analyses that should have been considered in this Biological Opinion (as of the end of the public comment period for the Draft BiOp, September 3, 2010).
6. In making these evaluations, reviewers shall consider and address the following questions:
  - a. Are the findings of the BiOp contradicted by any scientific information available as of Sept 3, 2010 presented in, or omitted from, the BiOp?
  - b. As part of this consideration, reviewers shall also assess the scientific record to determine whether adequate consideration has been given to the likelihood that factors other than fishing are negatively affecting the population status, critical habitat or recovery of the WDPS including predation, changes in the ecosystem/carrying capacity, emigration, exposure to contaminants, or other factors.

**Tasks specific to Chapter 2:**

1. Reviewers will convene as a Panel and will hold a one-day public session in Alaska to receive presentations (presentations shall constitute half of this day) regarding the BiOp analysis and related scientific information including presentations by experts from environmental organizations, the fishing industry, and affected communities. The Panel will consider all relevant information available up to the date of the Panel meeting.
2. Following the ToR identified above for Chapter 1, the reviewers shall, as practicable, reexamine the Final BiOp, its scientific record, and any new information available subsequent to the issuance of the Final BiOp and shall, as practicable, provide additional commentary on the findings they made in Chapter 1 based on information that arises from public input. This re-visitation of Chapter 1 shall be, as practicable, part of Chapter 2 of the report. As part of this commentary the reviewers are tasked to reevaluate, as practicable, the scientific basis for the conclusions of the final 2010 BiOp, including the linkages among

reproductive rates, nutritional stress, fishery removals, and the recovery of the western distinct population segment of Steller sea lions.

3. The Reasonable Prudent Alternative (RPA) presented in the BiOp and implemented through an Interim Final Rule (75FR77535; December 13, 2010) may present an opportunity for an adaptive management experiment. Reviewers will be asked to (1) evaluate the utility of this opportunity, (2) evaluate the metrics identified in the BiOp (e.g., trends in Steller sea lion abundance, trends in biomass of Atka mackerel and other groundfish, etc.) and (3) suggest other metrics not described in the BiOp that could be used to evaluate the efficacy of the RPA in ensuring the groundfish fisheries are not likely to adversely affect the survival and recovery of the western distinct population segment of the Steller sea lion.

**DRAFT**

LIST of DOCUMENTS TO BE PROVIDED to the reviewers by NMFS prior to the review.

Key Documents

1. Final Biological Opinion on the authorization of Groundfish Fisheries under the Fishery Management Plans for the Bering Sea and Aleutian Islands Management Area and the Gulf of Alaska, November 2010. 472p + 224p. Available at:  
<http://www.alaskafisheries.noaa.gov/protectedresources/stellers/esa/biop/final/1210.htm>

Background Documents

2. Fisheries of the Exclusive Economic Zone off Alaska: Steller sea lion protection measures for the Bering Sea and Aleutian Islands Groundfish fisheries off Alaska. Interim Final Rule (75FR77535; December 13, 2010). 26p.
3. Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Areas. North Pacific Fishery Management Council. April 2009.  
<http://alaskafisheries.noaa.gov/npfmc/fmp/bsai/bsai.htm>. 165p.
4. Fishery Management Plan for Groundfish of the Gulf of Alaska. North Pacific Fishery Management Council. April 2009. Available at:  
<http://alaskafisheries.noaa.gov/npfmc/fmp/goa/goa.htm>. 149p.
5. Aleutian Islands Fishery Ecosystem Plan. North Pacific Fishery Management Council. December 2007. Available at:  
<http://www.fakr.noaa.gov/npfmc/currentissues/ecosystem/AIFEPbrochure1207.pdf>. 24p.
6. 2000 Endangered Species Act Section 7 Consultation Biological and Incidental take Statement. Authorization of Bering Sea/Aleutian Islands groundfish fisheries based on the Fishery Management Plan for the Bering Sea/Aleutian Islands Groundfish; and Authorization of Gulf of Alaska groundfish fisheries based on the Fishery Management Plan for Groundfish of the Gulf of Alaska. November 2000. National Marine Fisheries Service. 2000. Available at: <http://fakr.noaa.gov/protectedresources/stellers/section7.htm>. 588p.
7. 2001 Biological Opinion and Incidental Take Statement. October 2001. Authorization of Bering Sea/Aleutian Islands groundfish fisheries based on the Fishery Management Plan for the Bering Sea/Aleutian Islands Groundfish as modified by amendments 61 and 70; and Authorization of Gulf of Alaska groundfish fisheries based on the Fishery Management Plan for Groundfish of the Gulf of Alaska as modified by amendments 61 and 70. Parallel fisheries for pollock, Pacific cod, and Atka mackerel, as authorized by the State of Alaska within 3 nm of shore, plus selected supporting documents. National Marine Fisheries Service. 2001. available at:  
<http://fakr.noaa.gov/protectedresources/stellers/section7.htm>. 201p.

8. 2003 Supplement to the Endangered Species Action Section 7 Biological Opinion and Incidental take statement of October 2001, plus appendices. National Marine Fisheries Service. 2003. available at: <http://fakr.noaa.gov/protectedresources/stellers/section7.htm>. 183p.
9. Endangered Species Act (available at: <http://www.nmfs.noaa.gov/pr/pdfs/laws/esa.pdf>) and implementing regulations (available at: <http://www.alaskafisheries.noaa.gov/protectedresources/esa/>).
10. Endangered Species Consultation Handbook. US Fish and Wildlife Service and the National Marine Fisheries Service. Final 1998. Available at: [http://www.fws.gov/endangered/esa-library/pdf/esa\\_section7\\_handbook.pdf](http://www.fws.gov/endangered/esa-library/pdf/esa_section7_handbook.pdf)
11. Historical and current fishery stock assessment data relevant to wDPS Steller sea lion prey species including but not limited to pollock, Atka mackerel, and Pacific cod, population assessment data for Steller sea lion predators by area, Steller sea lion population survey data for the entire wDPS, the portion of the wDPS in US waters, and by sub-region and RCA in US waters.
12. Additional scientific and commercial information relevant to this review, including scientific information presented to the Council's Steller sea lion Mitigation Committee, pertinent scientific comments received as part of the review process for the BiOp, and the review prepared by the States of Alaska and Washington (Bernard et al. 2011).
13. Recovery Plan for Eastern and Western Distinct Population Segments of Steller Sea Lion *Eumetopias jubatus*. March 2008. (add full reference). 325p.

NOTE: A listing of all background documents and information provided to the reviewers by NMFS shall be made available to the public at the time the documents are made available to the CIE reviewers.

# PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: B Reports

| NAME (PLEASE PRINT)                                  | TESTIFYING ON BEHALF OF:     |
|--|------------------------------|
| X1 <del>Alfred Alverson</del> <del>Sock Nelson</del> | FVUA-Seattle                 |
| X2 <del>Dan Teerhusen</del>                          | Fishermen                    |
| X3 <del>Don Malcom</del>                             | Fisherman                    |
| X4 <del>Kenny Down</del>                             | Frozen Longline Coalition    |
| X5 <del>Merrick Burden</del>                         | Marine Conservation Alliance |
| 6 Carl Grauvogel                                     | Palmer Alaska                |
| X7 Julie Penny, Ed Richards, John                    | Habitat working group        |
| X8 Gaurin, Brent Paris, Glenn Tued                   |                              |
| X9 Stephanie Madsen                                  |                              |
| 10 Dave Fraser                                       | #CDC                         |
| 11   |                              |
| 12   |                              |
| 13   |                              |
| 14   |                              |
| 15   |                              |
| 16   |                              |
| 17   |                              |
| 18   |                              |
| 19   |                              |
| 20   |                              |
| 21   |                              |
| 22   |                              |
| 23   |                              |
| 24   |                              |
| 25   |                              |

NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

**FISHING VESSEL OWNERS' ASSOCIATION  
INCORPORATED**

ROOM 232, WEST WALL BUILDING • 4005 20TH AVE. W.  
SEATTLE, WASHINGTON 98199-1290  
PHONE (206) 284-4720 • FAX (206) 283-3341

SINCE 1914

September 28, 2011

Mr. Eric Olson, Chairman  
North Pacific Fishery Management Council  
605 West 4th Street, Suite 36  
Anchorage, AK 99501-2252

**RE: *NPFMC March 2011 Adoption of Amendment to the Halibut and Sablefish Quota Share Program to Restrict Initial QS Recipients***

Dear Chairman Olson:

The Fishing Vessel Owners' Association ("FVOA") requests that the North Pacific Fishery Management Council ("Council") reconsider and clarify a previously adopted final action. We request that the control date of February 12, 2010, which is part of the Amendment adopted by the Council, referenced above, be effective no earlier than the date on which the Council actually adopted the amendment in March 2011. We are asking the Council to take this action before the regulatory process of NMFS begins to finalize the Council's action. The members of FVOA respect the Council process and wish this date to be the choice of the Council. We intend to provide comments to the Council at the December meeting under NMFS B reports regarding this issue.

In March 2011, the Council adopted an amendment to the halibut and sablefish Individual Fishing Quota ("IFQ") plan prohibiting the use of hired skippers for certain catcher vessel quota share ("QS") transferred after February 12, 2010 ("Amendment"). The effect of the Amendment is to require that the IFQ owner be aboard the vessel when it is fishing for halibut or sablefish QS acquired after February 12, 2010. The FVOA believes that applying the Amendment to existing and valid contracts for the sale and purchase of QS entered into before the Amendment was actually adopted violates existing law on the retroactive application of rules and is unfair and inequitable. Therefore, we urge the Council to clarify that the effective date of the Amendment is no earlier than the date on which the Council actually adopted the Amendment.

In February 2010, the Council stated its intent to consider February 12, 2010 as the control date on which to apply any owner on board ("OOB") rule the Council might later adopt regarding the acquisition of additional QS. The Council did not actually adopt the Amendment and the control date until 13 months later in March 2011.

This series of events creates two general categories of people. First, there is the category of people who had entered into contracts for the sale and purchase of QS before the February 2010 Council action but who had not completed performance of the contract by



February 12, 2010. These contracts often contained penalty clauses for non-performance. Second, there are people who initiated contract negotiations for the sale of QS after February 12, 2010, which contracts closed before March 2011. Many of these contracts also had penalty clauses for non-performance.

In 1988, the Supreme Court clarified the law concerning the power of agencies to make rules with retroactive effect. *Bowen v. Georgetown*, 488 U.S. 204 (1988). In that case, the Court unanimously held that the Department of Health and Human Services lacked the statutory authority to issue retroactive legislative rules to implement the Medicare program. The Department of Health and Human Services had promulgated a rule retroactively changing the formula by which hospitals received Medicare reimbursement. The Court held:

Retroactivity is not favored in the law.... [A] statutory grant of legislative rulemaking authority will not, as a general matter, be understood to encompass the power to promulgate retroactive rules unless that power is conveyed by Congress in express terms.

*Id.* at 208. The Court noted “[t]he statutory provisions establishing the Secretary’s general rulemaking power contain no express authorization of retroactive rulemaking.” *Id.* at 213. In other words, *Bowen v. Georgetown* prohibits an agency from issuing a retroactive legislative rule such as the Amendment unless Congress has expressly authorized the agency to issue retroactive legislative rules. *Id.* at 208. See also *Kankamalage v. INS*, 335 F.3d 858 (9th Cir. 2003).

Nowhere does the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §1801 *et seq.* (“MSA”), expressly authorize the retroactive application of rules. Not only does the MSA contain no such express authorization, but the issues in *Bowen v. Georgetown* are analogous to the Amendment in that the Medicare reimbursement costs at issue were determined by a formula akin to a contract between the government and the providing hospitals. The Court held that the contract could not be changed retroactively. Here, initial IFQ recipients had lawful contracts for the sale or purchase of QS that were entered into before the Council adopted the Amendment in March 2011. Indeed, the Council admits the actions the Amendment now seeks to proscribe were legal. Public Review Draft of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis for the Proposed Regulatory Amendment to the Halibut and Sablefish Individual Fishing Quota Program to Prohibit Use of Hired Skippers for Future Transfers of Halibut and Sablefish B, C, and D Class Quota Shares After Control Date of February 12, 2010, dated March 2011 (“Draft RIR/IRFA”) at 3. It is these legal contracts that would be improperly changed by the Amendment in violation of the standards set out by the Supreme Court in *Bowen v. Georgetown*.

A recent decision, *Sierra Forest Legacy v. Sherman*, 646 F.3d 1161 (9th Cir. 2011), is instructive. In that case, plaintiffs asserted the United States Forest Service (“Service”) had violated the National Forest Management Act (“NFMA”) by failing to comply with monitoring requirements in a 2004 forest management plan. The Service asserted the 2004 requirement was mooted by a 2007 amendment to the forest management plan that retroactively eliminated the monitoring requirement. In holding that retroactive application of the 2007 amendment was unlawful, the Ninth Circuit reasoned that the 2007 amendment could not apply retroactively without statutory authority in the NFMA because the Service would only have the authority to

“change the legal consequences of completed acts ... if Congress conveys such authority in an express statutory grant.” *Id.* at 1188, citing *Friends of Southeast's Future v. Morrison*, 153 F.3d 1059, 1070 (9th Cir. 1998). The court held the NFMA did not provide the Service with such authority. *Id.* at 1188. The analogy to the control date in the Amendment is that the Amendment changes the legal consequences of valid contracts without express statutory authorization to take such retroactive actions.

The Amendment also violates the Administrative Procedure Act (“APA”). A fundamental purpose of the APA is to provide due process to persons affected by new rulemaking. In that regard, the critical point is that the Council did not adopt the February 12, 2010 control date in February 2010. The Council's only action before March 2011 was to state an intent to consider February 12, 2010 as a control date. The Council did not, in fact, adopt February 12, 2010 as a control date until thirteen months later. Thus, there was no legal requirement of which the public could be aware until March 2011 at the earliest. In taking this action, the Council violated the principles and requirements of the APA. See *U.S. v. Mowat*, 582 F.2d 1194 (9th Cir. 1978); *Paulsen v. Daniels*, 413 F.3d 999 (9th Cir. 2005); *Riverbend Farms, Inc. v. Madigan*, 958 F.2d 1479 (9th Cir. 1992); *Service Employees International Union Local 102 v. County of San Diego*, 60 F.3d 1346 (9th Cir. 1995); *Bohner v. Daniels*, 243 F.Supp.2d 1171, 1174-1175 (D. Or. 2003), *aff'd* 413 F.3d 999 (9th Cir. 2005).

FVOA recognizes that control dates are typical in fishery management plans and plans containing such dates have withstood judicial challenge. That may be true but those cases involve management plans conferring future rights based on past performance. Such future management plans differ significantly from the Amendment. The fundamental distinction is that the Amendment retroactively changes existing and legal contractual rights and obligations. NMFS' regulations authorize the contracts affected by the Amendment's control date and the Council admits the contracts are legal. Retroactively applying new rules to invalidate previously legal behavior is contrary to the APA.

In sum, FVOA believes the Amendment violates the Supreme Court's prohibition on retroactive rulemaking. The MSA does not expressly grant to the Council or NMFS the authority to issue retroactive rules. Even if such authority existed, the earliest time the Council can be said to have actually adopted the February 12, 2010 control date was March 2011. Before that, the Council's only action was a statement of an intent to consider a date, hardly the adoption of a legally binding standard. The Council's action violates the intent and standards of the APA.

For all of these reasons, we urge the Council to clarify that the effective date of the Amendment is no earlier than the date on which the Council actually adopted the Amendment.

Sincerely,



Robert D. Alverson  
Manager

RDA:cmb

Cc: Eric Schwaab

10/31/2011  
 nmfs/ak/ram/gharrett  
 Qry\_QS\_Trans\_To\_lis\_Alverson\_103111.xls

List of All Initial Issues who Received Catcher Vessel QS by Transfer on or After February 12, 2010  
 with self-reported business mailing addresses  
 in order by date\_QS\_Received (reverse order), Transfer\_Type, Company or Last\_Name  
 IFQ weight includes only pounds received in transfers, including adjustments

| DATE_QS_REC<br>EIVED | TRANSFER_TYP<br>E | PERSON_T<br>YPE | COMPANY_OR_L<br>AST NAME | FIRST_NAME | SPECIES   | IFQ_TRANS | QS_TRANS | BUSINESS_ADD_1            | BUSINESS_ADD_2 | CITY       | STATE | ZIP     |
|----------------------|-------------------|-----------------|--------------------------|------------|-----------|-----------|----------|---------------------------|----------------|------------|-------|---------|
| On 2/12/2010         | QS Transfer       | Individual      | JOHNSON                  | KARL       | Halibut   | 40        | 490      | PO BOX 821                |                | HAINES     | AK    | 99827   |
| On 2/12/2010         | Transfer-Sweep    | Individual      | CALDWELL                 | GLENN      | Halibut   | 23        | 287      | PO BOX 2308               |                | HOMER      | AK    | 99603   |
| On 2/12/2010         | Transfer-Sweep    | Individual      | GRAUVOGEL                | CARL       | Halibut   | 257       | 2146     | PO BOX 1062               |                | PALMER     | AK    | 99645   |
| After 2/12/2010      | QS Transfer       | Individual      | ANDREWS                  | JON        | Halibut   | 5,074     | 65339    | PO BOX 1034               |                | SEWARD     | AK    | 99664   |
| After 2/12/2010      | QS Transfer       | Individual      | AYERS                    | ROBERT     | Halibut   | -54       | 60358    | 5214 WEBER RD             |                | SNOHOMISH  | WA    | 98290   |
| After 2/12/2010      | QS Transfer       | Individual      | BAHRT                    | JOHN       | Sablefish | 43,801    | 452956   | PO BOX 1654               |                | SITKA      | AK    | 99835   |
| After 2/12/2010      | QS Transfer       | Individual      | BAKOVIC                  | RICHARD    | Sablefish | 8,687     | 90757    | 1840 S GAFFEY ST #510     |                | SAN PEDRO  | CA    | 90731   |
| After 2/12/2010      | QS Transfer       | Individual      | BALDWIN                  | ROBERT     | Halibut   | 16,149    | 301234   | PO BOX 1757               |                | PETERSBURG | AK    | 99833   |
| After 2/12/2010      | QS Transfer       | Individual      | BARBER                   | SAM        | Halibut   | 2,793     | 38464    | 7175 OLIVE CIR            |                | ANCHORAGE  | AK    | 99507   |
| After 2/12/2010      | QS Transfer       | Individual      | BARKHAU                  | KENT       | Halibut   | 4,923     | 62570    | 123 RIGGS RD              |                | SITKA      | AK    | 99835   |
| After 2/12/2010      | QS Transfer       | Individual      | BARTELD                  | DALE       | Sablefish | 15,245    | 207811   | 301 WORTMAN LOOP          |                | SITKA      | AK    | 99835   |
| After 2/12/2010      | QS Transfer       | Individual      | BASARGIN                 | IVAN       | Halibut   | 17,727    | 117223   | PO BOX 324                |                | HOMER      | AK    | 99603   |
| After 2/12/2010      | QS Transfer       | Individual      | BASARGIN                 | NIKITA     | Sablefish | 35,467    | 255468   | PO BOX 1788               |                | HOMER      | AK    | 99603   |
| After 2/12/2010      | QS Transfer       | Individual      | BEAM                     | MARTIN     | Sablefish | 3,712     | 40683    | 35628 WHITNAH LANE        |                | RICHLAND   | OR    | 97870   |
| After 2/12/2010      | QS Transfer       | Individual      | BELL VI                  | ORLANDO    | Halibut   | 11,763    | 119655   | PO BOX 1609               |                | PETERSBURG | AK    | 99833   |
| After 2/12/2010      | QS Transfer       | Individual      | BENTON                   | HUGH       | Halibut   | 7,781     | 97860    | PO BOX 62                 |                | ELFIN COVE | AK    | 99825   |
| After 2/12/2010      | QS Transfer       | Individual      | BOCCI                    | JOHN       | Halibut   | 0         | 67760    | PO BOX 1312               |                | CORDOVA    | AK    | 99574   |
| After 2/12/2010      | QS Transfer       | Individual      | BODDING                  | JIM        | Sablefish | 0         | 42123    | 1911 8TH ST               |                | ANACORTES  | WA    | 98221   |
| After 2/12/2010      | QS Transfer       | Individual      | BOWEN                    | DOUGLAS    | Halibut   | 573       | 3775     | PO BOX 1642               |                | HOMER      | AK    | 99603   |
| After 2/12/2010      | QS Transfer       | Individual      | BOWEN                    | DOUGLAS    | Sablefish | 775       | 10108    | PO BOX 1642               |                | HOMER      | AK    | 99603   |
| After 2/12/2010      | QS Transfer       | Individual      | BOYCE                    | RICHARD    | Halibut   | 794       | 17501    | PO BOX 84                 |                | HAINES     | AK    | 99827   |
| After 2/12/2010      | QS Transfer       | Individual      | CALDWELL                 | GLENN      | Halibut   | 1,206     | 13018    | PO BOX 2308               |                | HOMER      | AK    | 99603   |
| After 2/12/2010      | QS Transfer       | Individual      | CALDWELL                 | GLENN      | Sablefish | 270       | 3490     | PO BOX 2308               |                | HOMER      | AK    | 99603   |
| After 2/12/2010      | QS Transfer       | Individual      | CARLSON                  | ROBERT     | Halibut   | 7,100     | 73688    | 9010 SHAUN LANDING CIRCLE |                | ANCHORAGE  | AK    | 99502   |
| After 2/12/2010      | QS Transfer       | Individual      | CARSON                   | LAWRENCE   | Halibut   | 286       | 3869     | 11 POTTER RD NTG          |                | KETCHIKAN  | AK    | 99901   |
| After 2/12/2010      | QS Transfer       | Individual      | CASTILLO                 | JOSE RAUL  | Halibut   | 3,557     | 18892    | PO BOX 568                |                | UNALASKA   | AK    | 99685   |
| After 2/12/2010      | QS Transfer       | Individual      | CHARTIER                 | DAVID      | Halibut   | 0         | 37001    | PO BOX 153                |                | SELDOVIA   | AK    | 99663   |
| After 2/12/2010      | QS Transfer       | Individual      | CLAMPITT                 | PAUL       | Sablefish | -1,842    | 491062   | 7721 168TH PL SW          |                | EDMONDS    | WA    | 98026   |
| After 2/12/2010      | QS Transfer       | Individual      | CLARKE                   | DAVID      | Halibut   | 171       | 16031    | 1225 E SUNSET DR #727     |                | BELLINGHAM | WA    | 98226   |
| After 2/12/2010      | QS Transfer       | Individual      | COOPER                   | DARRYL     | Halibut   | 2,612     | 24166    | PO BOX 4566               |                | PALMER     | AK    | 99645   |
| After 2/12/2010      | QS Transfer       | Individual      | CRAIG                    | JOE        | Halibut   | 0         | 20979    | PO BOX 1939               |                | PAHOA      | HI    | 96778   |
| After 2/12/2010      | QS Transfer       | Individual      | CRESAP                   | KIM        | Halibut   | 9,186     | 69492    | 5300 DEARMOUN ROAD        |                | ANCHORAGE  | AK    |         |
| After 2/12/2010      | QS Transfer       | Individual      | CURRAN                   | RICHARD    | Sablefish | 319       | 141697   | PO BOX 1336               |                | SITKA      | AK    | 99835   |
| After 2/12/2010      | QS Transfer       | Individual      | CUSHING                  | DANIEL     | Halibut   | 758       | 16346    | 703 PRIEST POINT DRIVE NW |                | TULALIP    | WA    | 98271   |
| After 2/12/2010      | QS Transfer       | Individual      | DARIENZO                 | JOSEPH     | Halibut   | 903       | 12215    | 2219 SAWMILL CREEK HWY    |                | SITKA      | AK    | 99835   |
| After 2/12/2010      | QS Transfer       | Individual      | DAVIS                    | STEVEN     | Halibut   | 6,795     | 91043    | PO BOX 1554               |                | PETERSBURG | AK    | 99833   |
| After 2/12/2010      | QS Transfer       | Individual      | DOCHTERMANN              | LUDGER     | Halibut   | 6,409     | 31046    | PO BOX 714                |                | KODIAK     | AK    | 99815   |
| After 2/12/2010      | QS Transfer       | Individual      | DRENNAN                  | THOMAS     | Halibut   | 350       | 7322     | PO BOX 823                |                | PETERSBURG | AK    | 99833   |
| After 2/12/2010      | QS Transfer       | Individual      | DRENNAN                  | THOMAS     | Sablefish | 17        | 166      | PO BOX 823                |                | PETERSBURG | AK    | 99833   |
| After 2/12/2010      | QS Transfer       | Individual      | ECKLEY                   | ROBERT     | Halibut   | -65       | 92502    | PO BOX 1274               |                | CORDOVA    | AK    | 99574   |
| After 2/12/2010      | QS Transfer       | Individual      | ENDERLE                  | DENNIS     | Halibut   | 706       | 21052    | PO BOX 10                 |                | ELFIN COVE | AK    | 99825   |
| After 2/12/2010      | QS Transfer       | Individual      | FELLOWS                  | ROBERT     | Halibut   | 11,628    | 69492    | 266 E BAYVIEW             |                | HOMER      | AK    | 99603   |
| After 2/12/2010      | QS Transfer       | Individual      | FINDLEY                  | KEITH      | Halibut   | 4,133     | 53218    | 805 NW BUCKEYE AVE        |                | EARLHAM    | IA    | 50072   |
| After 2/12/2010      | QS Transfer       | Individual      | FISH                     | STEVEN     | Sablefish | 15,338    | 211905   | PO BOX 6448               |                | SITKA      | AK    | 99835   |
| After 2/12/2010      | QS Transfer       | Individual      | FROLOV                   | FRED       | Sablefish | 6,000     | 80159    | PO BOX 720                |                | PLAMONDON  | AB    | TOA 2TO |
| After 2/12/2010      | QS Transfer       | Individual      | GRAUVOGEL                | CARL       | Halibut   | 34,058    | 188003   | PO BOX 1062               |                | PALMER     | AK    | 99645   |
| After 2/12/2010      | QS Transfer       | Individual      | GRAUVOGEL                | CARL       | Sablefish | 49,182    | 361855   | PO BOX 1062               |                | PALMER     | AK    | 99645   |

|                 |             |            |             |          |           |         |         |                          |                  |                |    |            |
|-----------------|-------------|------------|-------------|----------|-----------|---------|---------|--------------------------|------------------|----------------|----|------------|
| After 2/12/2010 | QS Transfer | Individual | GRAY        | STEVE    | Halibut   | 2,272   | 27805   | PO BOX 209               |                  | KODIAK         | AK | 99615      |
| After 2/12/2010 | QS Transfer | Individual | GROSS       | ROGER    | Halibut   | 1,739   | 41226   | 172 LIBBY ST             |                  | SEQUIM         | WA | 98382-9532 |
| After 2/12/2010 | QS Transfer | Individual | GRUNERT     | MICHAEL  | Halibut   | 649     | 5418    | PO BOX 1165              |                  | SEWARD         | AK | 99664      |
| After 2/12/2010 | QS Transfer | Individual | GRUTTER     | THEODORE | Halibut   | 1,205   | 14641   | 106 OCEAN VIEW ST        |                  | SITKA          | AK | 99835      |
| After 2/12/2010 | QS Transfer | Individual | GRUTTER     | THEODORE | Sablefish | 4,338   | 50428   | 106 OCEAN VIEW ST        |                  | SITKA          | AK | 99835      |
| After 2/12/2010 | QS Transfer | Individual | HANSON      | ROBERT   | Halibut   | 18,491  | 79140   | PMB 2086                 | 3705 ARCTIC BLVD | ANCHORAGE      | AK | 99503      |
| After 2/12/2010 | QS Transfer | Individual | HARRIGAN    | JAMES    | Halibut   | 699     | 8497    | 1610 DAVIDOFF            |                  | SITKA          | AK | 99835      |
| After 2/12/2010 | QS Transfer | Individual | HARVEY      | DENNIS   | Halibut   | 5,366   | 47497   | 3707 OLD HIGHWAY 95      |                  | WHITE BIRD     | ID | 83554      |
| After 2/12/2010 | QS Transfer | Individual | HARVEY      | DENNIS   | Sablefish | 0       | 22342   | 3707 OLD HIGHWAY 95      |                  | WHITE BIRD     | ID | 83554      |
| After 2/12/2010 | QS Transfer | Individual | HERZOG      | LEONARD  | Halibut   | 101,390 | 892189  | 916 DELANEY ST           |                  | ANCHORAGE      | AK | 99501      |
| After 2/12/2010 | QS Transfer | Individual | HERZOG      | LEONARD  | Sablefish | 205,591 | 2018039 | 916 DELANEY ST           |                  | ANCHORAGE      | AK | 99501      |
| After 2/12/2010 | QS Transfer | Individual | HOBLET      | TOM      | Halibut   | 6,826   | 39557   | 108 HILLSIDE ROAD        |                  | FALSE PASS     | AK | 99583      |
| After 2/12/2010 | QS Transfer | Individual | HOFMANN     | MARK     | Halibut   | 8,637   | 79891   | 1120 E HUFFMAN RD 24-306 |                  | ANCHORAGE      | AK | 99515      |
| After 2/12/2010 | QS Transfer | Individual | HOFMANN     | MARK     | Sablefish | 4,989   | 168860  | 1120 E HUFFMAN RD 24-306 |                  | ANCHORAGE      | AK | 99515      |
| After 2/12/2010 | QS Transfer | Individual | HOGAN       | THOMAS   | Halibut   | 12,146  | 112353  | PO BOX 1648              |                  | HOMER          | AK | 99603      |
| After 2/12/2010 | QS Transfer | Individual | IVANOFF     | STEVEN   | Halibut   | 8,865   | 100203  | 1327 MOUNTAIN VIEW DR    |                  | KODIAK         | AK | 99615      |
| After 2/12/2010 | QS Transfer | Individual | IVANOFF     | STEVEN   | Sablefish | 1,266   | 16905   | 1327 MOUNTAIN VIEW DR    |                  | KODIAK         | AK | 99615      |
| After 2/12/2010 | QS Transfer | Individual | IVANOV      | GREGORY  | Halibut   | 0       | 46703   | 2789 BROOKLAKE RD N.E.   |                  | SALEM          | OR | 97303-9423 |
| After 2/12/2010 | QS Transfer | Individual | JENSEN      | JAMES    | Sablefish | 12,247  | 212723  | PO BOX 402               |                  | PETERSBURG     | AK | 99833      |
| After 2/12/2010 | QS Transfer | Individual | JOHNSON     | RICHARD  | Sablefish | 15,345  | 249609  | 1414 SE OAK STREET       |                  | PORTLAND       | OR | 97214      |
| After 2/12/2010 | QS Transfer | Individual | JOHNSON     | KARI     | Halibut   | 1,379   | 35240   | PO BOX 6448              |                  | SITKA          | AK | 99835      |
| After 2/12/2010 | QS Transfer | Individual | JONES       | STANLEY  | Halibut   | 0       | 54730   | PO BOX 1249              |                  | HAINES         | AK | 99827-1249 |
| After 2/12/2010 | QS Transfer | Individual | JONES       | STANLEY  | Sablefish | 73      | 14791   | PO BOX 1249              |                  | HAINES         | AK | 99827-1249 |
| After 2/12/2010 | QS Transfer | Individual | KOHLHASE    | ERNEST   | Halibut   | 4,318   | 55448   | PO BOX 240524            |                  | DOUGLAS        | AK | 99824-0524 |
| After 2/12/2010 | QS Transfer | Individual | KOJIN       | PETER    | Halibut   | 2,190   | 12361   | PO BOX 3264              |                  | HOMER          | AK | 99603      |
| After 2/12/2010 | QS Transfer | Individual | KOJIN       | PETER    | Sablefish | 11,014  | 75061   | PO BOX 3264              |                  | HOMER          | AK | 99603      |
| After 2/12/2010 | QS Transfer | Individual | KUBIAK      | DAVID    | Halibut   | 7,923   | 43237   | PO BOX 193               |                  | KODIAK         | AK | 99615      |
| After 2/12/2010 | QS Transfer | Individual | KUZMIN      | ALEXEI   | Halibut   | 2,999   | 13005   | PO BOX 27                |                  | DELTA JUNCTION | AK | 99737      |
| After 2/12/2010 | QS Transfer | Individual | KUZMIN      | PAVEL    | Halibut   | 2,900   | 37976   | PO BOX 1669              |                  | KODIAK         | AK | 99615      |
| After 2/12/2010 | QS Transfer | Individual | KUZMIN      | VASILY   | Halibut   | 4,371   | 52866   | 16727 LEARY RD           |                  | WOODBURN       | OR | 97071      |
| After 2/12/2010 | QS Transfer | Individual | KUZMIN      | VASILY   | Sablefish | 3,004   | 41620   | 16727 LEARY RD           |                  | WOODBURN       | OR | 97071      |
| After 2/12/2010 | QS Transfer | Individual | LANG        | MICHAEL  | Halibut   | 49,324  | 685212  | PO BOX 192               |                  | MONTESANO      | WA | 98563      |
| After 2/12/2010 | QS Transfer | Individual | LANG        | MICHAEL  | Sablefish | 33,871  | 394875  | PO BOX 192               |                  | MONTESANO      | WA | 98563      |
| After 2/12/2010 | QS Transfer | Individual | LARSEN      | NORMAN   | Sablefish | 5,054   | 57814   | PO BOX 52                |                  | SAND POINT     | AK | 99661      |
| After 2/12/2010 | QS Transfer | Individual | LEWIS       | TED      | Halibut   | 0       | 109350  | PO BOX 2103              |                  | VASHON         | WA | 98070      |
| After 2/12/2010 | QS Transfer | Individual | LINDOW      | ERIK     | Halibut   | 2,081   | 19250   | 51315 SEA QUEST DRIVE    |                  | KENAI          | AK | 99611      |
| After 2/12/2010 | QS Transfer | Individual | LITTLETON   | ROCKY    | Halibut   | -1      | 80836   | PO BOX 1373              |                  | PETERSBURG     | AK | 99833      |
| After 2/12/2010 | QS Transfer | Individual | MACINKO     | JOE      | Halibut   | 6,779   | 88578   | 2625 SPRUCE CAPE RD      |                  | KODIAK         | AK | 99615      |
| After 2/12/2010 | QS Transfer | Individual | MALCOLM     | DONALD   | Halibut   | 24,981  | 130915  | 2038 E END RD            |                  | HOMER          | AK | 99603      |
| After 2/12/2010 | QS Transfer | Individual | MALCOLM     | DONALD   | Sablefish | 14,475  | 121348  | 2038 E END RD            |                  | HOMER          | AK | 99603      |
| After 2/12/2010 | QS Transfer | Individual | MARTUSHEV   | JOSIPH   | Halibut   | 4,609   | 59349   | 35944 S KROPP RD         |                  | WOODBURN       | OR | 97071      |
| After 2/12/2010 | QS Transfer | Individual | MARTUSHEV   | PETR     | Sablefish | 5,037   | 276880  | PO BOX 452               |                  | ANCHOR POINT   | AK | 99556      |
| After 2/12/2010 | QS Transfer | Individual | MASON       | CHARLES  | Sablefish | 0       | 510343  | 9342 STEPHEN RICHARDS DR |                  | JUNEAU         | AK | 99801      |
| After 2/12/2010 | QS Transfer | Individual | MCCAY       | RODERICK | Halibut   | 6,392   | 86509   | PO BOX 161               |                  | PETERSBURG     | AK | 99833      |
| After 2/12/2010 | QS Transfer | Individual | MCCLEAN     | KRISTI   | Halibut   | 0       | 163986  | 4285 TRIAS ST            |                  | SAN DIEGO      | CA | 92103      |
| After 2/12/2010 | QS Transfer | Individual | MELLING     | CLEO     | Halibut   | 4,741   | 64381   | 5001 OAKES AVE           |                  | ANACORTES      | WA | 98221      |
| After 2/12/2010 | QS Transfer | Individual | MONKIEWICZ  | EDWARD   | Halibut   | 1,988   | 24335   | 1110 PURTOV ST           |                  | KODIAK         | AK | 99615      |
| After 2/12/2010 | QS Transfer | Individual | MULLAN      | NORMAN   | Halibut   | 13,413  | 106670  | PO BOX 92                |                  | KODIAK         | AK | 99615      |
| After 2/12/2010 | QS Transfer | Individual | NAKADA      | MICHAEL  | Sablefish | 2,089   | 40735   | PO BOX 1838              |                  | HOMER          | AK | 99603      |
| After 2/12/2010 | QS Transfer | Individual | NASH        | DONALD   | Halibut   | 4,250   | 54730   | PO BOX 1167              |                  | HAINES         | AK | 99827      |
| After 2/12/2010 | QS Transfer | Individual | NASH        | DONALD   | Sablefish | 4,606   | 43716   | PO BOX 1167              |                  | HAINES         | AK | 99827      |
| After 2/12/2010 | QS Transfer | Individual | NESS        | DARELL   | Halibut   | 18,397  | 112011  | PO BOX 240454            |                  | DOUGLAS        | AK | 99824-0454 |
| After 2/12/2010 | QS Transfer | Individual | NESS        | DARELL   | Sablefish | 35,636  | 475547  | PO BOX 240454            |                  | DOUGLAS        | AK | 99824-0454 |
| After 2/12/2010 | QS Transfer | Individual | NOGGLE      | CHARLES  | Sablefish | 0       | 209762  | 10724 167TH AVE SE       |                  | SNOHOMISH      | WA | 98290      |
| After 2/12/2010 | QS Transfer | Individual | OTNESS      | ALAN     | Sablefish | 9,383   | 127912  | PO BOX 317               |                  | PETERSBURG     | AK | 99833      |
| After 2/12/2010 | QS Transfer | Individual | PERENSOVICH | TERRY    | Halibut   | 2,358   | 31910   | 506 BARANOF ST           |                  | SITKA          | AK | 99835      |
| After 2/12/2010 | QS Transfer | Individual | PETERSON    | PAUL     | Halibut   | 1,914   | 48425   | PO BOX 23649             |                  | KETCHIKAN      | AK | 99901      |
| After 2/12/2010 | QS Transfer | Individual | PFUNDT      | BRYON    | Halibut   | 968     | 21548   | PO BOX 1162              |                  | PETERSBURG     | AK | 99833      |

|                 |             |               |                        |          |           |        |        |                        |  |              |    |            |
|-----------------|-------------|---------------|------------------------|----------|-----------|--------|--------|------------------------|--|--------------|----|------------|
| After 2/12/2010 | QS Transfer | Individual    | PIKUS                  | PATRICK  | Halibut   | 38,367 | 205218 | PO BOX 2843            |  | KODIAK       | AK | 99615      |
| After 2/12/2010 | QS Transfer | Individual    | POLUSHKIN              | ANDREY   | Halibut   | 5,225  | 28609  | PO BOX 2458            |  | HOMER        | AK | 99603      |
| After 2/12/2010 | QS Transfer | Individual    | POLUSHKIN              | DAVID    | Halibut   | 12,692 | 69492  | PO BOX 449             |  | WILLOW       | AK | 99688      |
| After 2/12/2010 | QS Transfer | Individual    | PORTER                 | HENRY    | Halibut   | 6,076  | 70017  | PO BOX 121             |  | YAKUTAT      | AK | 99689      |
| After 2/12/2010 | QS Transfer | Individual    | POWERS                 | SANDRA   | Halibut   | 0      | 25688  | PO BOX 1496            |  | SOLDOTNA     | AK | 99669      |
| After 2/12/2010 | QS Transfer | Individual    | REIMNITZ               | ARMIN    | Halibut   | 5,500  | 70822  | 9004 191ST PL SW       |  | EDMONDS      | WA | 98026      |
| After 2/12/2010 | QS Transfer | Individual    | REUTOV                 | CORNILY  | Sablefish | 3,154  | 101032 | PO BOX 3523            |  | HOMER        | AK | 99603      |
| After 2/12/2010 | QS Transfer | Individual    | REUTOV                 | DAVID    | Halibut   | 168    | 1075   | PO BOX 2847            |  | HOMER        | AK | 99603-2847 |
| After 2/12/2010 | QS Transfer | Individual    | REUTOV                 | DIONICI  | Halibut   | 4,347  | 55350  | PO BOX 4251            |  | HOMER        | AK | 99803      |
| After 2/12/2010 | QS Transfer | Individual    | REUTOV                 | DIONICI  | Sablefish | 17,497 | 231869 | PO BOX 4251            |  | HOMER        | AK | 99603      |
| After 2/12/2010 | QS Transfer | Individual    | REUTOV                 | NIKOLAI  | Halibut   | 2,601  | 24060  | PO BOX 2342            |  | HOMER        | AK | 99603      |
| After 2/12/2010 | QS Transfer | Individual    | REUTOV                 | TRIFILYI | Halibut   | 7,288  | 36578  | PO BOX 793             |  | HOMER        | AK | 99603      |
| After 2/12/2010 | QS Transfer | Individual    | REUTOV                 | YAKOV    | Halibut   | 7,369  | 39531  | PO BOX 2956            |  | HOMER        | AK | 99603      |
| After 2/12/2010 | QS Transfer | Individual    | RHODES                 | WILLIAM  | Halibut   | 1,107  | 9239   | PO BOX 2215            |  | GEARHART     | OR | 97138      |
| After 2/12/2010 | QS Transfer | Individual    | ROSENBERGER            | GARY     | Halibut   | 1,792  | 24433  | 2760 DOUGLAS HWY       |  | JUNEAU       | AK | 99801      |
| After 2/12/2010 | QS Transfer | Individual    | ROSS                   | TIMOTHY  | Halibut   | 3,326  | 27756  | 23522 62ND AVE S L-101 |  | KENT         | WA | 98032      |
| After 2/12/2010 | QS Transfer | Individual    | ROSTAD                 | PAUL     | Halibut   | 4,292  | 57580  | PO BOX 183             |  | KAKE         | AK | 99830      |
| After 2/12/2010 | QS Transfer | Individual    | ROSVOLD                | ERIC     | Sablefish | 6,712  | 210493 | PO BOX 1144            |  | PETERSBURG   | AK | 99833      |
| After 2/12/2010 | QS Transfer | Individual    | RUTTER                 | SIGURD   | Sablefish | 0      | 65761  | 310 TILSON STREET      |  | SITKA        | AK | 99835      |
| After 2/12/2010 | QS Transfer | Individual    | SARGENT                | STAN     | Sablefish | 0      | 76051  | PO BOX 574             |  | KODIAK       | AK | 99615      |
| After 2/12/2010 | QS Transfer | Individual    | SAVONEN                | LYNN     | Sablefish | 1,953  | 20405  | PO BOX 172             |  | GUSTAVUS     | AK | 99826      |
| After 2/12/2010 | QS Transfer | Individual    | SCHWARTZ               | ROBERT   | Halibut   | 4,362  | 61113  | PO BOX 1533            |  | PETERSBURG   | AK | 99833      |
| After 2/12/2010 | QS Transfer | Individual    | SEE                    | CHARLES  | Halibut   | -891   | 44152  | PO BOX 1412            |  | KENAI        | AK | 99611      |
| After 2/12/2010 | QS Transfer | Individual    | SHADLE                 | MATTHEW  | Sablefish | 8,687  | 90756  | PO BOX 312             |  | HOMER        | AK | 99603      |
| After 2/12/2010 | QS Transfer | Individual    | SHORT                  | JOSEPH   | Halibut   | 3,700  | 47657  | PO BOX 1224            |  | PETERSBURG   | AK | 99833      |
| After 2/12/2010 | QS Transfer | Individual    | SHORT                  | JOSEPH   | Sablefish | 135    | 122755 | PO BOX 1224            |  | PETERSBURG   | AK | 99833      |
| After 2/12/2010 | QS Transfer | Individual    | SIMPSON                | KENNETH  | Halibut   | 0      | 92503  | 13238 KONRAD DRIVE     |  | EAGLE RIVER  | AK | 99577      |
| After 2/12/2010 | QS Transfer | Individual    | SINZ                   | HARRY    | Halibut   | 58,442 | 401449 | PO BOX 110985          |  | ANCHORAGE    | AK | 99511      |
| After 2/12/2010 | QS Transfer | Individual    | SINZ                   | HARRY    | Sablefish | 48,903 | 770342 | PO BOX 110985          |  | ANCHORAGE    | AK | 99511      |
| After 2/12/2010 | QS Transfer | Individual    | SKEELE                 | JOHN     | Halibut   | 2,349  | 28541  | 262 KAAGWAANTAN ST     |  | SITKA        | AK | 99835      |
| After 2/12/2010 | QS Transfer | Individual    | SKEENS                 | RONALD   | Halibut   | 209    | 4499   | 27720 315 AVE          |  | WINNER       | SD | 57580      |
| After 2/12/2010 | QS Transfer | Individual    | SMATLAN                | JOSEPH   | Halibut   | 7,485  | 40981  | PO BOX 69              |  | COLBERT      | WA | 99005      |
| After 2/12/2010 | QS Transfer | Individual    | SMITH                  | PHILLIP  | Halibut   | 221    | 17664  | 13273 CENTERVILLE RD   |  | CHICO        | CA | 95928      |
| After 2/12/2010 | QS Transfer | Individual    | SOHRAKOFF              | WAYNE    | Halibut   | 4,184  | 46383  | 20 SILVERTIP LANE      |  | EUREKA       | CA | 95503      |
| After 2/12/2010 | QS Transfer | Individual    | SOMERVILLE             | DAVID    | Halibut   | 1,423  | 19469  | PO BOX 163             |  | PETERSBURG   | AK | 99833      |
| After 2/12/2010 | QS Transfer | Individual    | SONEN                  | WALTER   | Halibut   | 2,111  | 27183  | PO BOX 107             |  | SELDOVIA     | AK | 99663      |
| After 2/12/2010 | QS Transfer | Individual    | THOMPSON               | PETER    | Halibut   | 0      | 39562  | PO BOX 3037            |  | KODIAK       | AK | 99615      |
| After 2/12/2010 | QS Transfer | Individual    | THOMPSON               | PETER    | Sablefish | 1,301  | 17796  | PO BOX 3037            |  | KODIAK       | AK | 99615      |
| After 2/12/2010 | QS Transfer | Individual    | TURNER                 | PEDR     | Halibut   | -27    | 40877  | PO BOX 217             |  | GUSTAVUS     | AK | 99826      |
| After 2/12/2010 | QS Transfer | Individual    | TVENSTRUP              | STEVE    | Halibut   | 5,784  | 74479  | 4928 BEAVER LOOP       |  | KENAI        | AK | 99611      |
| After 2/12/2010 | QS Transfer | Individual    | VEERHUSEN              | DANIEL   | Halibut   | 8,121  | 123627 | PO BOX 971             |  | HOMER        | AK | 99603      |
| After 2/12/2010 | QS Transfer | Individual    | WAGNER                 | MARK     | Halibut   | 8,898  | 43899  | PO BOX 326             |  | SAND POINT   | AK | 99661      |
| After 2/12/2010 | QS Transfer | Individual    | WALLING                | JAY      | Halibut   | 524    | 149565 | 16785 LENA LOOP RD     |  | JUNEAU       | AK | 99801      |
| After 2/12/2010 | QS Transfer | Individual    | WELSH                  | RAY      | Sablefish | 11,569 | 141630 | 70309 ORIGINAL DR.     |  | ANCHOR POINT | AK | 99556      |
| After 2/12/2010 | QS Transfer | Individual    | WILKIE                 | TIMOTHY  | Halibut   | 11,539 | 44173  | PO BOX 1726            |  | SEWARD       | AK | 99664      |
| After 2/12/2010 | QS Transfer | Individual    | WILL                   | CRAIG    | Halibut   | 7,717  | 105032 | 3545 INDIAN CLIFF DR   |  | HOOD RIVER   | OR | 97031      |
| After 2/12/2010 | QS Transfer | Individual    | WILSON                 | RILEY    | Halibut   | 858    | 7954   | 17701 SPAIN DR         |  | ANCHORAGE    | AK | 99516      |
| After 2/12/2010 | QS Transfer | Individual    | WILSON                 | DANNY    | Halibut   | 647    | 5400   | PO BOX 2697            |  | KODIAK       | AK | 99615      |
| After 2/12/2010 | QS Transfer | Individual    | WOLLIN                 | KIRK     | Sablefish | 2,315  | 23613  | 18356 6TH AVENUE NE    |  | POULSBO      | WA | 98370      |
| After 2/12/2010 | QS Transfer | NonIndividual | BIG BLUE, INC.         |          | Sablefish | 5,692  | 76051  | 3103 MILL BAY ROAD     |  | KODIAK       | AK | 99615      |
| After 2/12/2010 | QS Transfer | NonIndividual | DECADE, INC.           |          | Halibut   | 5,309  | 190890 | PO BOX 572             |  | PETERSBURG   | AK | 99833      |
| After 2/12/2010 | QS Transfer | NonIndividual | DECADE, INC.           |          | Sablefish | 1,693  | 30725  | PO BOX 572             |  | PETERSBURG   | AK | 99833      |
| After 2/12/2010 | QS Transfer | NonIndividual | FAIRWEATHER FISH, INC. |          | Halibut   | 2,361  | 11675  | PO BOX 1729            |  | GIG HARBOR   | WA | 98335      |

|                 |                |               |                            |          |           |        |        |                       |  |              |    |            |
|-----------------|----------------|---------------|----------------------------|----------|-----------|--------|--------|-----------------------|--|--------------|----|------------|
| After 2/12/2010 | QS Transfer    | NonIndividual | FAIRWEATHER FISH, INC.     |          | Sablefish | 17,710 | 218692 | PO BOX 1729           |  | GIG HARBOR   | WA | 98335      |
| After 2/12/2010 | QS Transfer    | NonIndividual | GULF MAIDEN CORP.          |          | Halibut   | 20,000 | 109502 | PO BOX 17913          |  | SEATTLE      | WA | 98127-1913 |
| After 2/12/2010 | QS Transfer    | NonIndividual | GULF MAIDEN CORP.          |          | Sablefish | 0      | 140165 | PO BOX 17913          |  | SEATTLE      | WA | 98127-1913 |
| After 2/12/2010 | QS Transfer    | NonIndividual | HAIDA WARRIOR, INC.        |          | Halibut   | 80     | 918    | 3401 W LAWTON ST      |  | SEATTLE      | WA | 98199      |
| After 2/12/2010 | QS Transfer    | NonIndividual | LONGRICH ENTERPRISES, INC. |          | Sablefish | 27,602 | 393773 | PO BOX 2494           |  | KODIAK       | AK | 99615      |
| After 2/12/2010 | QS Transfer    | NonIndividual | MAR DEL SUD, LTD.          |          | Halibut   | 6,927  | 89195  | PO BOX 1573           |  | KODIAK       | AK | 99615      |
| After 2/12/2010 | QS Transfer    | NonIndividual | RIEDERER ENTERPRISES, INC. |          | Halibut   | 2,000  | 18500  | 22928 SE 406TH ST     |  | ENUMCLAW     | WA | 98022      |
| After 2/12/2010 | QS Transfer    | NonIndividual | RUFF & REDDY, INC.         |          | Sablefish | 13,558 | 189190 | PO BOX 69             |  | KODIAK       | AK | 99615      |
| After 2/12/2010 | Transfer-Sweep | Individual    | ARAKELIAN                  | ALBERT   | Halibut   | 217    | 2454   | PO BOX 1014           |  | HOMER        | AK | 99603      |
| After 2/12/2010 | Transfer-Sweep | Individual    | BOWEN                      | DOUGLAS  | Halibut   | -4     | 19100  | PO BOX 1642           |  | HOMER        | AK | 99603      |
| After 2/12/2010 | Transfer-Sweep | Individual    | BOWEN                      | DOUGLAS  | Sablefish | 256    | 4042   | PO BOX 1642           |  | HOMER        | AK | 99603      |
| After 2/12/2010 | Transfer-Sweep | Individual    | BUNESS                     | MICHAEL  | Halibut   | 541    | 6580   | PO BOX 217            |  | WRANGELL     | AK | 99929      |
| After 2/12/2010 | Transfer-Sweep | Individual    | CLEMENT                    | CHARLES  | Halibut   | 0      | 6950   | PO BOX 302            |  | METLAKATLA   | AK | 99926      |
| After 2/12/2010 | Transfer-Sweep | Individual    | ECKLEY                     | ROBERT   | Halibut   | 841    | 7780   | PO BOX 1274           |  | CORDOVA      | AK | 99574      |
| After 2/12/2010 | Transfer-Sweep | Individual    | GRUTTER                    | THEODORE | Halibut   | 1,374  | 18601  | 106 OCEAN VIEW ST     |  | SITKA        | AK | 99835      |
| After 2/12/2010 | Transfer-Sweep | Individual    | HARVEY                     | DENNIS   | Sablefish | 45     | 481    | 3707 OLD HIGHWAY 95   |  | WHITE BIRD   | ID | 83554      |
| After 2/12/2010 | Transfer-Sweep | Individual    | HOLCOMB                    | LES      | Halibut   | 262    | 24904  | PO BOX 143            |  | YAKUTAT      | AK | 99689      |
| After 2/12/2010 | Transfer-Sweep | Individual    | JOHNSON                    | JEAN     | Halibut   | 248    | 2069   | 9121 NOBLE CIRCLE     |  | ANCHORAGE    | AK | 99502      |
| After 2/12/2010 | Transfer-Sweep | Individual    | LAPPETITO                  | TODD     | Halibut   | 670    | 8152   | 2083 PINE ISLE LANE   |  | NAPLES       | FL | 34112      |
| After 2/12/2010 | Transfer-Sweep | Individual    | LINDOW                     | ERIK     | Halibut   | -112   | 16954  | 51315 SEA QUEST DRIVE |  | KENAI        | AK | 99611      |
| After 2/12/2010 | Transfer-Sweep | Individual    | MALCOLM                    | DONALD   | Halibut   | 145    | 1647   | 2038 E END RD         |  | HOMER        | AK | 99603      |
| After 2/12/2010 | Transfer-Sweep | Individual    | MALCOLM                    | DONALD   | Sablefish | 763    | 8057   | 2038 E END RD         |  | HOMER        | AK | 99603      |
| After 2/12/2010 | Transfer-Sweep | Individual    | MARTUSHEV                  | PETR     | Sablefish | 904    | 11921  | PO BOX 452            |  | ANCHOR POINT | AK | 99556      |
| After 2/12/2010 | Transfer-Sweep | Individual    | MONKIEWICZ                 | EDWARD   | Halibut   | 1,084  | 21067  | 1110 PURTOV ST        |  | KODIAK       | AK | 99615      |
| After 2/12/2010 | Transfer-Sweep | Individual    | NESS                       | DARELL   | Halibut   | 369    | 4767   | PO BOX 240454         |  | DOUGLAS      | AK | 99824-0454 |
| After 2/12/2010 | Transfer-Sweep | Individual    | POLUSHKIN                  | ANDREY   | Halibut   | 2,009  | 14516  | PO BOX 2458           |  | HOMER        | AK | 99603      |
| After 2/12/2010 | Transfer-Sweep | Individual    | PORTER                     | HENRY    | Halibut   | 2,585  | 46809  | PO BOX 121            |  | YAKUTAT      | AK | 99689      |
| After 2/12/2010 | Transfer-Sweep | Individual    | TURNER                     | PEDR     | Halibut   | 56     | 22400  | PO BOX 217            |  | GUSTAVUS     | AK | 99826      |

JAY INSLEE  
1ST DISTRICT, WASHINGTON

COMMITTEE ON ENERGY AND COMMERCE  
ENERGY AND POWER



**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-4701

SHORELINE CENTER  
18560 1st Avenue, NE, Suite E-800  
Shoreline, WA 98155-2150  
(206) 361-0233  
Fax: (206) 361-3959

17791 FJORD DRIVE, NE, DOOR 112  
POULSBO, WA 98370  
(360) 598-2342  
Fax: (360) 598-3650

2329 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-4701  
(202) 225-6311  
Fax: (202) 226-1606

[www.house.gov/inslee](http://www.house.gov/inslee)

November 29, 2011

Eric C. Schwaab  
Assistant Administrator for Fisheries  
NOAA Fisheries Service  
1315 East West Highway  
Silver Spring, MD 20910

Dear Mr. Schwaab:

I write to you concerning an issue that has caused uncertainty for Washington state's fishing industry and threatens to impact local jobs. In March 2011, the North Pacific Management Council approved an amendment to the Halibut and Sablefish Individual Fishing Quota program regarding changes to the owner-on-board provisions as well as the rights of initial quota holders. The approved amendment retroactively applied to all quota shares transferred after February 12, 2010, nearly a year before the amendment was passed.

Prior to passage of the amendment, the Council allowed initial quota shareholders in the Alaska fleet to purchase additional quota shares without requiring an owner-on-board provision. This amendment makes changes to that provision now requiring initial quota holders to meet the owner-on-board requirement should they purchase any additional shares. The amendment was backdated to February 12, 2010, meaning that any transactions between that date and the passage of the amendment in March 2011 will now be subject to the new requirements of the amendment.

It is my understanding that the backdating of the amendment could threaten Washington state-based quota shareholders engaged in business transactions during the backdating period that now exist in legal limbo, with possible financial penalties to owners for deconstructing those contracts. Further, the retroactive application may introduce a factor of uncertainty into the market for quota shares; parties seeking to trade their shares in the future could find transactions more difficult to arrange and complete if the regulations are viewed as unpredictable.

I respectfully ask that you consider striking the retroactive dating clause from the approved amendment in order to bring certainty to Washington state-based businesses. Fishing is a vital industry for Washington state's economy and the potential disruption produced by backdating this amendment could impair Washington state fisheries and cost local jobs. By aligning the effective date with the date on which the amendment is adopted, consistency can be maintained in the quota shares market and the legal quandary for existing transactions can be prevented.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Inslee".

JAY INSLEE  
Member of Congress

**NPFMC/IPHC Workshop on Halibut Bycatch Management  
November, 2011 DRAFT**

**Background**

The North Pacific Fishery Management Council (Council) is evaluating proposed reductions to the halibut prohibited species catch (PSC) limits for trawl/longline fisheries in the Gulf of Alaska (GOA). The evaluation needs to consider the impacts of halibut bycatch mortality on stock yield (CEY), exploitable and spawning biomass, and the dynamics of the halibut stock. In response to this need, the IPHC staff provided an analysis of these issues, which was included both in the Council analysis and as an appendix to the GOA Halibut PSC Limit EA/RIR.

Halibut bycatch mortality impacts are a combination of both the level of bycatch mortality and its cumulative impact on yield and spawning biomass, both coast-wide and by IPHC management area. The area impacts are influenced both by the distribution of halibut biomass as estimated from the resource surveys and halibut movements estimated from tagging studies. That is, the impacts of halibut bycatch are a function of both halibut ecology (movement, growth, mortality, maturity), and the amount of bycatch mortality; both components require analysis and evaluation.

On migration, the IPHC staff is preparing a white paper detailing the current understanding of halibut movements, including sources of information and analyses. This research synopsis paper may inform the Council's discussion of what the area-specific impacts of bycatch might be, given the available data. The migration white paper is anticipated to be made available in December, and would be a subject of the workshop discussion. Implications of the "slow growth" currently being observed in halibut, including its interaction with current minimum size limits, would also be reviewed at the workshop.

On bycatch estimation, the current levels of bycatch in the GOA are not completely understood, partly because of necessary extrapolations to vessels not subject to observer coverage. Recognizing that the groundfish observer program in the GOA is being restructured to address these deficiencies, and to provide for better use of available observer coverage, a review and assessment of bycatch estimation at this workshop could be very informative to the restructuring process. It could also inform the Council desire to consider more comprehensive bycatch management measures (e.g., IBQs or similar 'rationalized' approaches).

The absolute level of bycatch mortality is important because the Commission staff considers estimated bycatch as one of the factors that determines the appropriate harvest rate for the halibut stock. Essentially, the harvest rate for the stock is reduced to account for some of the bycatch mortality that is estimated to occur. If that estimate is too low by a substantial amount, it means that the halibut harvest rate, and the consequent yield taken from the halibut stock, is incorrect and the stock overexploited. However, regardless of uncertainties in total bycatch estimation in any given year, one goal of this workshop is to understand the impacts of *a given amount* of bycatch (for example, the current halibut PSC caps) on the IPHC yield management strategy.

Discussions within the Council, between the Council and the Commission staffs, and between all Pacific halibut stakeholders and the Commission would benefit from a better understanding of halibut bycatch mortality and its impacts. In addition, the Council desires to better appreciate the



current understanding of halibut migration and halibut growth in order to understand both the coast-wide and the area-specific impacts of halibut bycatch mortality on halibut stock biomass, yield, and productivity, and the relevance of halibut PSC limits. At its June 2011 meeting, the Council requested a jointly sponsored workshop with IPHC to examine the current understanding of halibut movements and growth.

#### **Workshop Outline**

Commission and Council staffs therefore propose that a public workshop be held to review the methodology and accuracy of the estimation of halibut bycatch in trawl/longline groundfish fisheries off Alaska, and the impacts of any given amount of halibut bycatch on the halibut stock, both coast-wide and by area given the current understanding of halibut migration. This workshop will also discuss halibut ecology, including recent trends in exploitable biomass, spawning biomass, and age at length correlations, as well as information concerning the causes and implications of halibut slow growth.

The staffs believe that the workshop focus should extend beyond just the GOA because halibut movement is a coastwide phenomenon and the Council has stated its intent to review halibut PSC limits in the Bering Sea/Aleutian Islands (BSAI) in the future. The workshop would be jointly funded by the IPHC and the Council, and could replace the proposed SSC review of halibut migration (originally scheduled for February 2012).

Tentative dates for the workshop have been identified as April 24-25, 2012 due to current IPHC, NPFMC, and NMFS meeting schedules and staff tasking, the need to develop background documentation and analyses of bycatch estimation, and ongoing interactions between IPHC staff and scientists contracted by the groundfish industry regarding halibut growth, migration, and harvest strategy, which are all subjects of the proposed workshop. The latter, which will extend from mid-February through March 2012, is intended to develop a joint understanding of halibut bycatch and its impacts on halibut stock dynamics and yields. Neither the workshop nor the meeting report would be available to inform the Council on its selection of a preferred alternative for revising GOA halibut PSC limits, which is scheduled for early April 2012 in order to be implemented in mid-2013, although the significant details of bycatch impact on the halibut stock were included in the September EA/RIR as noted. The workshop would be held in Seattle.

The workshop would be comprised of short summary presentations from agency science staffs and industry scientists, with a scientific panel that would be charged with providing a review of the discussion and its findings. The presentations would summarize documents that will be made available to the public/participants prior to the workshop. The panel would include staff from IPHC, the NMFS Alaska Fisheries Science Center, the Council's SSC, Canada's DFO, and independent scientists sponsored by industry. Also discussed has been the inclusion of one or two international bycatch experts.

**Suggested workshop presentations include the following:**

**1. Halibut ecology;**

- a. Recent (last 30 years) evolution of exploitable biomass, spawning biomass, and age/length relationships by sex of Pacific halibut stock (IPHC designate)
- b. Diet overlap of halibut and abundant Alaska flatfish — (co- presentation with IPHC designate and Kermit Aydin, AFSC)
- c. Synopsis of theoretical and empirical evidence concerning the causes of halibut slow growth and potential differences in natural mortality by sex — (Tom Jagielo, industry consultant) Existing presentation suggestion #7
- d. Review of empirical evidence of slow growth, sexual dimorphism and differences in natural mortality by sex among non-halibut flatfish — (Tom Wilderbuer, AFSC)

**2. Impacts of halibut bycatch;**

- a. Halibut bycatch and wastage estimates from the BSAI and GOA groundfish fisheries and the Alaska halibut fisheries (co-presentation NMFS AFSC designate and IPHC designate). Existing presentation suggestion #3.
- b. Halibut bycatch and wastage estimates in the Canada groundfish and halibut fisheries (co-presentation DFO designate and IPHC designate).
- c. Incorporating halibut bycatch and wastage impacts within the IPHC harvest policy (IPHC designate). Existing presentation suggestion #5.
- d. Impacts of halibut bycatch and wastage in the GOA and BSAI on halibut coast wide CEY and spawning biomass, (Steve Martell, industry consultant). Possibility of a co-presentation with IPHC, existing presentation suggestion #4.
- e. Effects of halibut migration on estimates of halibut bycatch (co presentation Tom Jagielo, industry consultant and Juan Valero, IPHC). Existing presentation suggestion #6.

**3. Optimal management of halibut bycatch;**

- a. Reducing halibut bycatch mortality rates in Alaska groundfish fisheries. Description of past and current research and programs to return bycaught halibut to the sea with minimal injury (co presentation IPHC and Kenny Downs / John Gauvin / Todd Loomis, industry consultants). Existing presentation suggestion #8.
- b. Effects of a smaller size limit on halibut coast-wide CEY, spawning biomass, and wastage in the commercial setline fishery (co presentation Steve Martell, industry consultant and IPHC). Existing presentation suggestion #7.

- c. **Implementing improvements in estimating halibut bycatch (co- presentation with DFO designate talking about Canadian programs and Nicole Kimball, NPFMC/Craig Faunce NPGOP, about Alaska groundfish observer program restructuring).**
- d. **Experience with tradable individual halibut bycatch quotas (co-presentation with DFO designate and NMFS/NWR designate). Existing presentation suggestions #1 and #2.**
- e. **Experience with north pacific catch share programs and halibut bycatch reductions – Rockfish Pilot Program and Amendment 80 (co-presentation Bonney and Anderson, industry consultants).**

**4. Results and policy implications;**

- a. **Stakeholder discussion: A chairperson led discussion of the implications of the results for halibut management where the attendees (stakeholders) are asked to provide their views on the implications of the results for halibut management, and during a process of moderated discussion the panel members provide feedback and-or questions about stakeholder views and suggestions as well as what additional research may be useful or required to determine which suggestions may be “optimal.”**
- b. **Panel discussion: A chairperson led synthesis and discussion of the implications of the results and stakeholder views for halibut management in the north pacific by a workshop panel constituted in advance of the workshop.**