

PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: C-6 TWS yellowfin sole fishery

	NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1	Don Ashley	F/V Gold Rush
2	BRENT PAINE #0	UCB
3	Bob Breskerich	F/V Aleutian Challenger
4	Mike Hyde #0	American Seafoods
5	Simeon Swetoz / Mateo P.S / Ricardo Mercuriet	City of St Paul / CBSFA
6	Stephanie Markon	NPA
7	Donna Parker	Arctic Star
8	Todd Loomis	Green Hope
9	Jim Johnson	Glacier Fish Co.
10	Matt Johnson	US Seafoods
11	DENNIS MORAN / MIKE GUY / ANNIKA #0 / SALTMAN	FISHERMEN'S FINEST
12	Patrick O'Donnell	F/V Caravelle
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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.

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C6 Hand Out
Brent Paine

North Pacific Fisheries Marine Council
Dan Hull, Chairman
Date: January 27, 2017

Re: C6 BSAI Trawl Limited Access Yellowfin Sole

Dear Chairman Hull

The Ocean Hunter is a fishermen owned, non-AFA, 100' catcher vessel. One of the smaller C/V trawlers in the BSAI. Since 1980 we have participated in most all of the Bering Sea trawl fisheries, including Pollack but our landings did not qualify us to be included in AFA. The ability to go back and forth between species as markets and opportunities change has been key to our economic survival. Our vessel participated in the 80's and again in 2008 in the yellowfin sole fishery, since 2008 there have been no opportunities to us to sell Yellowfin offshore until now. Deliveries by Catcher Vessels of Yellowfin Sole to shoreside plants is just not a realistic feasibility. We are now hoping to again participate in Yellowfin now that off shore delivery opportunities are once again being made available to us.

We are very concerned about the possible Council action being considered that may eliminate our ability to participate in the Bering Sea Yellowfin Sole (YFS) Trawl Limited Access Fishery (TLAS). This was originally presented to you as a halibut PSC conservation issue, we can assure you we are quite capable of working cooperatively on bycatch and avoiding bycatch as much as the other participants. We view this as another fish grab just as catcher vessel YFS at sea markets are becoming available again, we are not happy to be potentially left out again simply because we are not a Catcher/Processor.

In order to protect our participation, we encourage the Council to select either;
Alternative 1, No Action- Status Quo or **Alternative 2, Suboption 2.1 Making a YFS landing to a mothership or C/P in any year between 2008-2015.**

Sincerely, Jim Stone

2-17
Mike Hyde
American Seafoods

C6

2016 Halibut Bycatch Rate Comparison

TLAS Yellowfin Sole Fishery

	<u>CPs</u>	<u>CVs</u>
Halibut Bycatch Rate (mt halibut/1000 mt groundfish)	3.88	8.18
Halibut Bycatch Rate (mt halibut/1000 mt YFS)	6.10	10.98

Fishery Comparison

CPs

At the CP rate of 6.10, the fleet would have taken the entire TLAS yellowfin quota of 14,979 mt and used 91.4 mt of halibut ($14,979 \text{ mt} \times .000610 = 91.4 \text{ mt}$)

CVs

At the CV rate of 10.98, the fleet would have taken 13,662 mt of yellowfin sole before getting shutdown by the 150 mt hard cap ($13,662 \text{ mt} \times 10.98 = 150 \text{ mt}$)

Net Result

If the entire fleet had fished at the CV halibut bycatch rate as compared to the CP rate, the TLAS YFS fleet would have caught 1,317 mt less yellowfin sole and would have caught an additional 58.6 mt of halibut.

*All data is from Tables 2-6 and 2-12 of the Initial Review Document

Table 2-12 has been revised to include halibut mortality rate for the CPs and CVs in the BSAI TLA yellowfin sole fishery.

Table 2-12 Halibut mortality by vessel operator in the BSAI TLA yellowfin sole fishery, 2003 through 2016

Year	YFS trawl (mt)	BSAI TLA YFS halibut PSC limit (mt)	CP		CV		Total halibut mortality (mt)
			Halibut mortality (mt)	% of total halibut mortality	Halibut mortality (mt)	% of total halibut mortality	
2003	886	886	.	.	.	.	2
2004	886	886	.	.	.	.	4
2005	886	886	.	.	.	.	16
2006	886	886	.	.	.	.	92
2007	886	886	.	.	.	.	56
2008	241	241	.	.	.	.	158
2009	162	162	.	.	.	.	95
2010	187	187	.	.	.	.	27
2011	167	167	.	.	.	.	81
2012	167	167	.	.	.	.	142
2013	167	167	.	.	.	.	185
2014**	227	227	.	.	.	.	194
2015	167	167	54	44	68	56	122
2016	150	150	47	38	77	62	124

Source file: BSAI Yellowfin(7-15)-land NFS Final Specifications

**Confidential data

**80 mt of halibut PSC was transferred to the BSAI TLA YFS fishery from BSAI TLA Pacific cod fishery

**Halibut rate = kg halibut in BSAI TLA YFS fishery/mt groundfish in the BSAI TLA YFS fishery

TLA = trawl limited access

YFS = yellowfin sole

C6 Hand out



Fishermen's Finest, Inc.

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Mr. Dan Hull, Chairman

January 30, 2017

North Pacific Fishery Management Council

605 W 4th Avenue, Suite 306

Anchorage, AK 99501-2252

RE: Limiting Access for Offshore Trawl CVs in the BSAI Trawl Limited Access Yellowfin Sole Fishery- Agenda C-6

Dear Chairman Hull,

Fishermen's Finest, Inc. strongly urges the North Pacific Council to reject this effort by two of the largest seafood companies on the planet to disenfranchise the 50 plus catcher vessel owners by eliminating their current privileges to harvest Yellowfin Sole in the Trawl Limited Access Fishery. The two companies driving this disenfranchisement are Glacier Fish Company and American Seafoods Company. Their purpose is to disenfranchise the 50 small trawl CV's from the TLAS fishery so they can effectively privatize and allocate the TLAS fishery to themselves, and specifically their giant AFA catcher processor vessels Northern Glacier and Katie Ann. Their arguments are based on the 2 pretexts of 1) dependence and 2) halibut reduction. Both pretexts are transparent and in the case of their "dependence" argument, scandalous. Moreover, the entire effort, changing the rules of TLAS now, to retroactively disqualify the small boat CV fleet, most certainly violates both conventional and legal notions of Due Process. It's fundamentally unfair to create a set of rules in 2007 that does not tell the CV's that they will lose their TLAS privileges if they don't make a minimum number of TLAS landings in the years after that, but then in 2017 retroactively change the TLAS rule to disqualify them if they didn't. Due process requires that people be given fair notice, in advance, before they are deprived of rights or property.

A. Quick History of the TLAS.

TLAS was created in 2007 to allocate Yellowfin Sole to a fleet of AFA CP's and 50 plus smaller CV's based on their catch history predating that. Indeed, all of these CV's established their catch histories and participation in the years leading up to the 2007 Amendment 80 TLAS allocation. Its ostensible purpose was to provide a place for these vessels to fish YFS in years of declining pollock TAC, or at any time they wanted to when there was a market. Notably, the A80 regulation did not include any language or notice whatsoever stating that the TLAS participants

would ever be at risk if they did not harvest fish in that fishery in the coming years. Therefore, all of the TLAS qualified vessels were perfectly right to be comfortable in structuring their fishing moving forward towards Cod, Pollock or TLAS as the business opportunities were presented.

In 2007 the Northern Glacier harvested 17,922 mt of pollock and 24,329 mt aboard the Pacific Glacier. Then in 2008 Glacier purchased the Alaska Ocean, a massive pollock catcher processor. In subsequent years, Glacier stacked all this pollock quota on the Alaska Ocean and repurposed its factory to process yellowfin sole harvested in the TLAS fishery. Thus while it is fishing the TLAS with Northern Glacier this pollock quota continues to be harvested by Glacier.

In 2006 American Seafoods prevailed upon the North Pacific Council in Amendment 85 to allocate a massive amount of cod to the AFA Trawl CP sector for the sole purpose of giving the vessel Katie Ann a directed cod fishery. The allocation vastly exceeded the catch history for the entire sector by roughly 40% but was done in response to American Seafoods' pleas of dependence by Katie Ann for a directed cod fishery. See *FFI v. Locke*, 593 F.3d 886, 888-889 and dissent at 900-902 (9th Cir. 2010.)

Thereafter, both vessels, Katie Ann and Northern Glacier, fully vested with large pollock and cod quotas, turned and focused on acquiring catch history in the TLAS with the clear intention, now, of initiating this process, disenfranchising the 50 CV's and privatizing the resource for themselves. The process was initiated, in fact, at the October 2015 Staff Tasking by both a) the Councilmember who was the captain of the Northern Glacier, and 2) the Councilmember who was an executive of one of the largest shareholder in the Glacier Fish Company. At the time there were many who openly wondered how the Department of Commerce conflict rules could permit councilmembers to so openly just vote fish to themselves.

- B. The "Halibut Bycatch" argument has no merit and is simply a pretext to a self allocation scheme.

In the period 2008-2013 TLAS halibut bycatch rates were relatively low, as a result of the fishing profile. Specifically, much of the TLAS harvest was done by CP's in the weeks prior to pollock A season, wherein these vessels would predate on a well known, clean and easy fishing pool of YFS near the Pribilofs. During these years, many of the A80 captains tried to prevail on the AFA CP's to not overfish this stock, but they did and they effectively wiped it out by 2013.

Then in 2013-2014 their fleet moved east to fish the more traditional YFS and rock sole grounds, and almost immediately ran into big trouble with halibut and red king crab bycatch. Indeed, they shut down the TLAS on halibut bycatch overfishing in these years.

After watching the abysmal halibut and red king bycatch performance of the AFA CP's in 2013 and 2014, in 2015 a handful of CV's who thought they could do better stepped in and fished the TLAS and delivered to some A80 vessels. This was a good market for them, and indeed they

bested the halibut bycatch rates of the Northern Glacier and Katie Ann, which is when the Northern Glacier Captain and Shareholder executive stepped in and initiated this action to keep them and everybody else out of the fishery.

In 2016, while the analysis was underway, the Northern Glacier and Katie Ann finally got around to reducing their halibut rates by deck sorting. The CV's were not allowed to deck sort so there is a higher rate for those vessels that year. Deck sorting is available for A80 vessels acting as motherships in TLAS YFS in 2017 so we expect to see halibut rates go lower than the Northern Glacier and Katie Ann, again this year.

We believe that it is precisely this, the competition by CV's for lower bycatch rates, that has caused the Northern Glacier and Katie Ann to reduce their own rates. It is this competition that is, in the future, likely to drive even lower rates and it is the fear of this competition that is partially behind the Glacier and American Seafoods efforts to try to exclude these 50 CV's from the fishery. In any event, it is clear that eliminating this competition for lower bycatch rates by disenfranchising these 50 CV's will guarantee only 1 thing: The Northern Glacier and Katie Ann will get fat and lazy on existing halibut bycatch levels and have no real incentive to reduce it further.

C. Glacier and American Seafoods are not "dependent" on TLAS.

American Seafoods and Glacier Fish use "dependence" as a pillar of their Council request to fence off TLAS Yellowfin sole access. It's challenging to understand their purported dependence on a 15,000 metric ton fishery with a total value ex-vessel value of less than \$4 million when stepping back and looking at the abundance of resources at their disposal. Combined these two organizations - one owned by a multi-billion dollar Swiss investment company, the other 25% owned by a multi-billion dollar Japanese seafood giant - currently control more than 300,000 metric tons of Bering Sea fishing rights which generate more than a half a billion dollars annually in revenue. The income derived by their TLAS operations is just a drop in their massive buckets.

Moreover, instead of fishing TLAS, the Northern Glacier is permitted to fish its huge pollock quota, nearly 18,000 mt in 2017 and probably larger now, if it chooses. That's larger than the entire TLAS allocation in 2016 of 14,979 metric tons. That's not dependence.

Similarly, Katie Ann already has a directed Cod fishery that was built at the expense of the other sectors' historical participation, as well as a large pollock quota, as well as the ability to fish the 19,000 MT ADAK pollock allocation, if they choose to. Katie Ann has already been to the well on A85 Cod, it has plenty of opportunities to harvest its own pollock quota and it is certainly not dependent on TLAS.

Recently Glacier and American have altered their dependency argument by asserting *their crew* is dependent on the fishery and that new participation has led to early closure and resulted in lost

employment opportunities for Katie Ann and Northern Glacier fishermen. This may be the case, but some employment has more opportunity than others.

American and Glacier frequently use and abuse the foreign guest workers under the H2-B visa program. This program is used to bring unskilled, non-resident men and women from all over the world who are willing to work for peanuts, without benefits aboard their vessels under the false-premise that there are no U.S. workers willing to fill these jobs. The following is a sample of certified H2-B job-titles applied for by ASC and Glacier Fish as reported by the H2-B database myvisajobs.com.

Company	H2-B Certified Position	Rate of Pay
American Seafood Company	Food Batchmaker	\$11/hour
American Seafood Company	Pollock Roe Technician	\$12.48/hour
Glacier Fish Company	Supervisor, Fish Processing	\$22.91/hour
Glacier Fish Company	Fish Roe Technician	\$11.91/hour

Fishermen's Finest does not use the H2-B scam. *We use American labor.* We attract qualified crew by offering wages, medical benefits and retirement plans that are competitive with middle class shore-based industries.

Disenfranchising over 50 small catcher vessels, American workers all, in favor of two of the largest fishing companies in the world just so they can import more foreign labor at peasant wages, is definitely not the kind of "dependence" that Senators Magnussen and Stevens intended with the MSA. Instead it is a shameful abuse of US Immigration loopholes, the MSA and frankly the rest of the responsible businesses and fishermen trying to run their ships responsibly in this fishery.

We strongly urge the Council to reject these measures in all respects. Keep the TLAS fishery open to the ships who built the fishery and away from those conglomerates who seek merely to stack their quota, reduce wages to workers and displace American workers with cheap foreign labor.

Respectfully,



Dennis Moran,

President, Fishermen's Finest, Inc.