

Mr. Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Mr. Olson:

These are my comments on the halibut Catch Sharing Plan for the Oct. 2012 NPFMC meeting. The details are my own, but the major concerns described here are common to those of us in Gustavus who have been tracking halibut stock changes, regulatory actions, and on-the-ground observation of halibut exploitation in our area. Topics #2 and #3 reflect a large number of observations and concerns voiced by local residents. It is fair to say that declining halibut stocks and over-exploitation are at present the foremost natural resource concern of Gustavus residents.

1. Do not increase the charter fishery's share over that provided in the 2008 Catch Sharing Plan. The Magnuson-Stevens Act standards require that federal regulatory decisions consider the effect on local communities. Yesterday a charter captain told me that *"We've wiped out the 35 to 45 inch cohort of halibut in areas accessible from Gustavus"* - meaning Icy Strait and Cross Sound. What are the consequences of this?! If the NPFMC is unable or unwilling to find means of preventing inshore halibut depletions, at least it should not increase the allowable catch of the charter sector. Some points:
 - a. The charter fleet's allocation has already been increased twice.
 - b. That fishery is less controlled and monitored than the commercial fishery.
 - c. More of our coastal community residents are economically dependent on the commercial fishery than on the charter fishery. At this time, 20 out of 21 charter captains operating out of Gustavus are non-local, and with one exception, the charter lodge operators also reside out of state. This seems largely true around the region. An exception is Angoon, although an excellent authority told me that Whaler's Cove Lodge near Angoon is the largest local employer but is highly resented by the locals. Also note that very few charter clients are from this region of Alaska.
 - d. Halibut and salmon are by far the two main commercial and subsistence fisheries of Southeast Alaska, and it's the region that has experienced the greatest halibut decline. Groundfish and crab are comparatively minor fisheries here.
 - e. Charter fishing is far more likely than commercial fishing to take place in areas near communities, thus competing with residents' fishing for their families' food.
 - f. By allowing the growth of the charter fishery and spin-offs of that fishery (described in #3), the Council is allowing for inevitable local depletions near coastal communities. In the late 1990's, the Council believed that creation of Local Area Management Plans (LAMPs) would solve this obvious problem, but the Sitka LAMP was the only one formed or even

considered. Regulators and activists alike seem to believe that LAMPs can no longer be implemented.

- g. Managing on the basis of very large areas such as 2C and 3A was probably appropriate when commercial fishing was the only consequential exploiter, but not now, when intense inshore charter fishing threatens local depletions. The Council could do what the Pacific Fishery Management Council has apparently done in area 2A: divide these areas into smaller areas with their own halibut sport fish sub-quotas and close the season when these quotas are reached.

There are two reasons why the Council probably is not actually reducing the catch through the charter regulations it has promulgated. See #2 and #3 here.

- 2. Charter release mortality kills a large quantity of fish, currently not even accounted for in total charter catch and allowable catch calculations. Perverse incentives in the charter regulations are leading to increasing numbers of halibut being caught and released.
 - a. Even in 2010, before 2011 area 2C regulations that limited charter-caught halibut to 37 inches and 2012 regulations that had a 'reverse slot limit' of up to 45" and over 68", ADF&G's sport-caught halibut statistics showed that as many halibut were released as kept in area 3A, and nearly as many released as kept in 2C. And only "kept" halibut were counted as charter fishery catch. In our nearby areas (Icy Strait, Cross Sound & Glacier Bay), the number released was larger than the number kept. (statistics from "Participation, Effort, and Harvest in the Sport Fish Business/Guide Licensing and Logbook Programs, 2010, Appendix tables H4 and H5).
 - b. In the commercial longline fishery, an estimate of 16% mortality for released halibut is counted as part of that fishery's total catch.
 - c. Charter fishermen and clients fishing in our area complain that they had to catch and release a large number of halibut to return to the dock with a few not very large fish. ADF&G's creel census employee here said he talked to a number of captains who said they released 40 fish in a day. They also complained of the difficulty of measuring "over 68".
 - d. There has been no field study of halibut sport fish release mortality. Scott Meyer, ADF&G's sport fish bottomfish biologist, is apparently charged with developing a mortality estimate. He wrote this to me in answer to my questions:
"Generally speaking, release mortality will generally be estimated by multiplying an assumed mortality rate by the number of fish released and their average size (rate x number released x average weight). Higher mortality from poor handling can be incorporated by assuming a higher mortality rate. We are also obtaining information on the size ranges of released fish, so that may help refine the estimates. Release mortality of halibut in sport fisheries has never been studied, so the mortality rate is unknown and we will have to assume a rate. We also won't have an accurate estimate of the number of fish that were treated poorly

prior to release. Therefore, it will be difficult to know how much higher we should assume the mortality rate to be."

I had written to Meyer describing some questionable release practices that we know about, whose effects I doubted would be incorporated into agency analyses of release mortality.

A Power Point slide from the IPHC's 2007 annual meeting titled "Discard Mortality Rate in Recreational Fisheries" said:

- Discard mortality rate of halibut in recreational fisheries is unknown.
- Aggregate rate used for commercial fishing is 16%.
- 'Excellent' condition halibut have 3.5% and 'Moderate' injury fish have 36% discard mortalities, respectively, in commercial fishery. Higher occurrence of J-hooks and different release expertise would likely yield higher mortalities in the recreational fisheries.
- Accurate estimation will require tag-release-recapture study and take 2-4 yrs.

- e. I reported to Scott Meyer that one of our group heard from a man sitting beside him on a jet this summer. Returning home from a charter fishing trip out of Sitka, the man said the captain would keep halibut aboard in a water-filled tank and then put it overboard if a larger fish was caught. Meyer replied that this is illegal and should be reported. I've heard that a new thing this year is a number of charter boats returning to the Gustavus dock with water in their tanks, apparently for temporary holding of fish. We have also heard stories of relatively small halibut held overboard on stringers and allowed to fall off as the boat sped away heading for a new fishing spot.
- f. The increasing practices (described in #3) of evading the charter fish catch limits by sending boats out "self-guided" or with unlicensed and theoretically unpaid young guys (sometimes underage) as helpers is probably resulting in poorly released fish. If care of the "kept" fish is an indicator, we've heard remarks that they don't know how to kill the fish, and just bludgeon them, ruining the meat.

3. Means of evading the Area 2C charter-caught fish regulations (one fish with size limits) proliferate, allowing many clients to catch two fish of any size. Anecdotal information about seeing huge numbers of fish boxes shipped out of Icy Strait communities in 2011 and 2012 testify to the success of these models. Examples:

- a. Larger boats, often captained by people who have charter CHPs, towing or off-loading skiffs so that clients can fish nearby as "unguided." Someone here observed one such skiff that had neither a motor nor oars. Clients were taken to a good area for halibut, told how to fish, and assisted in every way, likely reboarding the mother boat after landing their halibut. And the fish would be dressed and packed by the operator or his staff.
- b. Charter lodges sending out young guys without CHPs or guide licenses, theoretically unpaid, on the boats to help clients with fishing and boat operation. The benefit to the young guys (some underage) is that they are building up vessel time for getting 6-pac boat operator permits. These

young men probably work in the fish processing or other parts of the lodge's operation.

- c. Clients taking out larger boats that are usually used in guided operations. The word is that one of the operators here had to replace eight anchors this summer due to inexperienced people using his boat.
- d. The long-standing Doc Warners Lodge in Excursion Inlet (60 clients per week) and a smaller one, Salmon Run Lodge send out three or four clients per skiff as "self-guided" fishermen. Doc Warner's skiffs are 16 or 18 ft. Lunds. They have laminated charts showing good halibut areas and a GPS showing halibut spots. A minder boat, one for every so many skiffs, travels around among them giving help with gear and boats and advice about where to fish.
- e. An existing fishing lodge in Elfin Cove, Northern Star Lodge, was recently bought, reportedly with financing from Doc Warner, and is operated by his daughter and son-in-law. Northern Star offers only self-guided fishing beginning in the 2010 or 2011 season. They have new 22 ft. boats with 150 hp engines. Instruction and information is provided for clients in the evenings. I'm guessing that Doc Warner refers some of the more experienced and aggressive of his clients to Northern Star. In a blog on the internet a prospective and a past client were communicating about this operation, one giving the other advice about where to fish and commenting that a recent sting against another lodge in Elfin Cove was causing Northern Star to be careful to stay inside the lines of the rules.
- f. Also in Elfin Cove, Eagle Charters, target of that successful law enforcement sting in, I think, 2010, now has at least one, and possibly more, "self-guided" boats. I saw one of their boats with "Self Guided" lettered along its side. (Incidentally, I passed through Elfin Cove in July 2011 and counted 25 fish boxes on the airplane float waiting for the Ward Air float planes. My husband passed through a week later and saw a much bigger pile of fish boxes on the airplane float, which was going partly under water and people were being asked to stay off until the boxes were loaded onto an aircraft. This was in a year when charter halibut regulations limited clients to one fish a day, 37" or less.)
- g. Taking people fishing but only charging for their lodging. This is being done by someone here who did not qualify for a CHP but was already operating a fishing lodge with guided fishing. Coming in to the dock this year, he told the creel census person 'These are just my friends'. Questions were asked about whether this was legal at the meeting conducted by NMFS enforcement personnel in Gustavus in the spring of 2011. They wavered a bit but implied that it may be legal. At that point another charter operator commented 'I'm told I can charge two times as much for lodging and zero for fishing and it's legal'.
- h. Dude fishing model (like dude ranching). Someone has a commercial fishing permit and takes people out on his boat as "crew." This reportedly happens here, but since his commercial permit is for hand trolling, he may just be doing this for salmon (no bycatch of halibut is allowed in salmon

fishing). Similar things reportedly occur in Elfin Cove but I don't know how it is done there.

I understand that the Council is looking into ways of limiting these kinds of operations, so the above list of known varieties may be useful to you. Meanwhile, commercial sport fishing is not being successfully regulated, at least not in our area.

4. Although this detail is apparently settled for the present, I wish to reiterate our objection to the method used in the planned leasing of commercial IFQ by charter operators. IFQ in *pounds* would be converted to *numbers* of Guided Angler Fish by dividing the leased pounds by the average weight of charter-caught fish in the most recent year without size limits. Because of the large fish in our Icy Strait-Cross Sound-Glacier Bay area, the result of this formula is that our area would be a magnet for catching leased fish. Several times as much poundage per GAF could be taken here than in some other subareas of area 2C. Recently an Elfin Cove charter operator posted ADF&G's table of the average weight of charter-caught halibut in the seven subareas of Southeast Alaska as evidence of why clients should come and fish here.

Thank you for your attention. I hope that the details provided above will be useful. I and many of my neighbors are apprehensive about the future of this critically important resource, and urge the Council's action to properly regulate the fishery while we still have a chance to avoid a collapse in local stocks.

Yours truly,

Judy Brakel Box 94, Gustavus, Alaska 99826 phone 907-697-2287
e-mail judybrakel@gmail.com

Subject: Public Comment: Miscellaneous Issues (4 hrs) (a) Discussion paper on the definition of a Fishing Guide

AGENDA D-1(a)
Supplemental
FEBRUARY 2013

From: Sean Neilson <seanneilson@gmail.com>

Date: 1/27/2013 11:42 AM

To: npfmc.comments@noaa.gov

Miscellaneous Issues (4 hrs)

(a) Discussion paper on the definition of a Fishing Guide

I am submitting these comments as a resident of Gustavus and a subsistence fisherman. Thank you for the opportunity to comment.

Illegal fish guiding has become an increasing problem in the Gustavus/Icy Strait area. Lodges and individuals are working all kinds of angles to get around the rules. Some of these methods include:

taking clients out on a "mother ship" and letting them drift in a smaller boat. The mother ship stays close enough to remain in voice contact with the smaller ship.

giving clients their own skiff with a gps loaded with all of the hot spots. then, a tender boat goes out making the rounds so clients can get help with bait, the boat, and for asking questions.

guides taking out clients who are "just friends" and then overcharging them for lodging.

I'm sure there are other schemes as well. Clearly, some of the lodges and guides and guides are doing everything they can to get around the rules. these rules need tightening and the definition of "fishing guide" and "guided fishing" need to be more explicitly written into the regulations.

Sincerely,

Sean Neilson

Gustavus, AK

Subject: NPFMC Meeting Misc Issues Discussion Paper on Definition of Fishing Guide
From: Mike and Karen Taylor <mikeandkaren@shizendou.net>
Date: 1/27/2013 4:01 PM
To: npfmc.comments@noaa.gov

The scheduled discussion on the definition of a fishing guide at your upcoming Portland meeting is a very important issue for concerned residents of SE Alaska. I hope the discussion will inform and support a tightening of definitions of a fishing guide, and other measures, sufficient to end the cheating practices deliberately used by sport fishing lodges to circumvent conservation limitations on charter halibut fishing. Many of us who live in Southeastern Alaska believe the halibut stocks in our areas are being over fished by mostly out-of-state-owned charter fishing operations catering to out-of-state clients with no respect for the sustainability of the halibut fishery or for the regulations promulgated for that purpose. These cheaters show no appreciation for the "tragedy of the commons" as it threatens halibut stocks.

The most egregious method is called "non-guided" sport fishing wherein a fishing lodge places their clients in skiffs, some even without motors or oars, out on the fishing grounds and provides them more or less continuous assistance from the "mother ship" in catching halibut in excess of the limits for "guided" charter fishing. The "non-guided" clients receive extensive assistance in the form of GPS units and charts identifying locations to fish and other aids. The catch of these clients is processed by the lodge in the same manner as if they had been on a guided charter. Other scams include putting a lodge employee who is not a licensed guide in a "non-guided" skiff who essentially serves as a guide. Functionally there is little difference from traditional charter fishing in this "self-guided" perturbation, other than the higher catch limit. The effect on the fish stock is certainly the same. It is painful for those of us who care about conservation of the stocks to see huge stacks of boxes of packed halibut being flown out of lodges for their out-of-state clients. We suspect a large amount of the fish being taken is ultimately wasted as few families could possibly eat that much halibut before it goes bad in the freezer.

As a resident of Gustavus, Alaska, and an occasional sport halibut fisherman, I very much appreciate the efforts of the NPFMC to assure that halibut stocks aren't seriously depleted or rendered functionally extinct by overfishing. I believe it is essential to limit the take of all lodge sport halibut clients, including those claiming to be "self-guided", to the same rules as have been established for guided sport charters last year. I am willing to be similarly limited as a resident sport fisherman if that is what is necessary to eliminate the loopholes exploited by the sport fishing lodges and their clients. If I can only take one halibut per day, that's OK. Sustaining the healthy halibut stocks for future generations is more important to me than jamming my freezer with more halibut than I reasonably need.

Michael S. Taylor
PO Box 85
Gustavus, Alaska

Subject: D 1 Charter definition

From: Linda <discakadv@msn.com>

Date: 1/29/2013 10:45 AM

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

Sent from my iPad

We own and operate a halibut charter in Area 3A. We agree with the staff recommendations as presented. I have talked to several clients and potential clients that have talked about following a charter guide to the fishing hole as part of their trip with SE lodges. I've also talked with a client that was tickled that after one day of fishing at a SE lodge he was told that now that "he knows the ropes" he could drive one of the other lodge boats halibut fishing. Now that the loop hole has been mentioned to a lot of folks in area 3A I am also concerned about a possible expansion of the practice of giving a boat and GPS to inexperienced fishermen, or worse, allowing clients to follow a licensed captain (Guide) to the fishing grounds.

Thank you Bob Stumpff Discover Alaskan adventures.

Subject: Comments on the Charter Halibut definition

From: PWSECO Business <pwseco@yukontel.com>

Date: 1/28/2013 8:17 PM

To: npfmc.comments@noaa.gov

CC: Holly Van Pelt <hvpmak@gmail.com>

Dear North Pacific Fisheries Management Council and National Marine Fisheries Staff,

The real crux of the problem appears to be the disparity between the unguided and guided recreational halibut fisher...notably in area 2C. If the catch limit regulations are equal across the board, at least one of these problems (and potentially all of them) disappears. This is simply that of finding a way to enable clients to be able to catch and retain what unguided clients can.

The second issue of fishing with or without a Charter Halibut Permit is more difficult. I specifically note the recommended change to federal definitions that was proposed...

*Sport fishing guide services, for purposes of §§300.65(d) and 300.67, means assistance, for compensation, to a person who is sport fishing, to take or attempt to take fish by being onboard a vessel with such person during any part of a charter vessel fishing trip. Sport fishing guide services **do not** include services provided by a crew member.*

This is very interesting because it seems to provide yet another 'loophole'. As I interpret this, the guide could pilot the boat and actually have his/her deckhand (crew member) provide direct (or even indirect) assistance to the customer...which would mean that the guide would not be actively a part of the fishing trip at all, merely the pilot of the boat that the people fished on. As a matter of fact, I can imagine situations where deckhands do all of the fishing work...and the registered guide just schmoozes with the clients and puts the boat on the spot or spots. How would this work?

Under the May 14 memo, I see that point 3 now begins to address the non-transferable permit lease possibility. Also, the issue of how the non-transferable permit can be passed on as part of an estate, or other scheme, to continue its use in perpetuity. I brought these points up in December of 2011 at that Council meeting, along with other points.

Further down, I see comments suggesting re-opening aspects of the LEP and ensuing CHPs. If you remember, my situation involved running a 5 client boat in 2004 and 2005 while my 12 client boat was being built (started in 2003!). Much to my surprise, even though I no longer had the '5 person boat', I received a CHP for only 5 clients, based on the fact that I only carried a maximum of 5 halibut fishers on any one trip in 2004/2005 (despite the ongoing building of the larger, 12 person boat). Since 2008, I have only had my 12 person boat...which now only has a CHP for 5 clients! If I had chosen not to run any charters in either 2004 or 2005, or both years, I would not have received a permit at all and could have appealed under the unavoidable circumstances. Since the new boat was being built, I would then have received a CHP with endorsements for 12. In just a cursory review of some of the CHPs, without any real effort, I have identified 7 CHPs with endorsements over 6 clients...for vessels and businesses that NEVER carried, NOR WERE ALLOWED TO CARRY, more than 6 on a trip! This really points out how haphazardly the CHP program was developed and implemented. If you re-open the LEP and CHP program...PLEASE correct this and change my endorsement to 12 where it should be!! The 'workaround' that I have to implement to be legal and fish a full boat involves much extra effort,

paperwork and expense.

In my opinion, the bottom line here is that the real difference between the charter halibut client and the recreational halibut fisher is only in the regulations. The gear used, the mechanics of fishing, the harvest of the catch, the type of boat, the people fishing, etc. is the same. The only real difference is that one boat needs a permit, while the other doesn't...and in 2C, one group can keep 2 fish of any size and the other can only keep one fish that has to fall into certain size ranges. As long as there is a difference in regulations between these two groups...there will be businesses that will find ways to morph into 'non-guided' operations where regulations are less restrictive. The cases mentioned in the discussion papers are primarily for 2C and, arguably, reflect only a limited amount of time and effort by NOAA and other enforcement agencies to identify ways that businesses have developed to 'get around the rules'. I'd bet that only when all recreational halibut fishers conduct their activities under the same rules, will there no longer be these enforcement problems. Until then, we'll see who ultimately is the smartest...the Council and NMFS or the halibut fishing businesses?

Respectfully,

Capt. Dave Goldstein
PWS Eco-Charters

January 29, 2013

RE: D-1 Charter Definition Discussion Paper

Gentlemen and Gentlewomen:

I was asked to review the above paper. I received an e-mail regarding the inter-agency staff discussion paper at noon today and was expected to comment by today (deadline by the end of business today).

Whalers Cove Lodge is based on Killisnoo Island, near Angoon, and has been operating for 30 years. We started building in 1971 and began sport fishing in 1983.

Our initial business model was to offer self-guided fishing from 14-16 foot skiffs (rental boats) and self service cabins with do-it-yourself cooking and fish processing. It became immediately clear that our initial clients required greater service for safety and reasonable success.

By 1985 we invested in a fleet of 12-14 and 18-20 aluminum center console skiffs typically powered by 50 HP outboards for our clients. We also purchased a couple of charter class boats of 26-30 feet for those anglers unwilling to do it themselves. 30 years later the majority of our customers qualify as guided, but a significant portion (one-third to one-half) of our clients are self-guided for at least a portion of their stay. Some weeks virtually all of our clients are self-guided.

Whalers Cove Lodge has been consistently the largest employer and contributor to the Angoon economy for the past 20 years. Clearly, your staff and board members do not have a good understanding of our business model, nor do they apparently care if their regulations and definitions put us out of business.

I applaud the Board and the Agencies involved with attempting to protect the halibut fisheries resource. It appears that you continue to ignore serious issues with commercial fisheries, i.e. (for example by-catch); the science (i.e. halibut stocks and migration); the allocation i.e. (the politics of regulating sport fishing in SE Alaska versus the Gulf and Southwest Alaska); and ignoring excessive subsistence harvest while targeting the sport fishing industry as criminal.

I cannot argue with the need for legitimate subsistence harvest particularly in rural communities such as Angoon. I can prove, however, that a pound of sport caught halibut is much more beneficial to the local, State, and national economy than the same pound processed for the commercial fishery. Yet the sport fishing industry allocation represents only a small fraction of the halibut catch and loss.

Comments on the February 2013 staff discussion paper:

Whalers Cove Lodge is a sport fishing business which provides both guided halibut fishing (with CHP) and unguided halibut fishing. We are a land based lodge that provides boats without guides, with no compensation specifically for the guiding. We also consider ourselves as outfitters to those in need.

We agree with the agency interests in closing loop holes such as depicted on the photo at the top of Page 1 of your January 28, 2013, agenda D-1, such as fishing from adjacent vessels or your discussion regarding onboard halibut fishing assistance.

Restricting our self-guided anglers from receiving shore based instructions such as GPS coordinates, or charts, however, appears to us as impractical, a major safety issue and harming our industry rather than significantly helping the resource to recover. We disagree that you can use log book data to evaluate the importance or legality of historic self-guided activities. Our self-guided activity has not ever been recorded in our charter vessel log books.

If you plan to initiate regulation without revisiting the IFQ issues and the consistency of State and Federal regulations, Whalers Cove Lodge should be grandfathered in to any catch allocation as perhaps the original combination operation in SE Alaska.

It appears impractical to keep the self-guided clients, guided clients, guides and our staff from talking to each other. How can you prevent people from anchoring in view of each other, learning about the fishery, the safety (tides, weather) and the region from each other while at our lodge. The whole purpose of our operation is to provide for anglers safety, success, and comfort with good communication, quality outfitting, services and equipment. Under our Constitution our clients should have equal rights and opportunities as Alaska residents and other users, such as commercial fisherman and processors.

Comment: Page 4)

Compensation: Changing the word "actual" to "reasonable" in the definition as proposed makes the definition clearer to us.

Assistance – The example of a handheld GPS (assistance issue) seems impractical and hostile. Virtually all of our self-guided boats have GPS units for safety and locational reasons. What if our customers have their own GPS and coordinates from fishing here 10 years ago? The majority of our customers are return clients. We have hosted over 15,000 anglers since we began. It makes little sense to assume that they are incapable of learning how and where to fish; or who to talk to. I believe this discussion has a more antagonist sport fishing intent than to significantly protect the resource.

We truly appreciate the opportunity to be involved in this allocation process.

Sincerely yours,

Richard L. Powers and Mark A. Powers

Subject: Discussion paper on definition of Fishing Guide

From: Judy Brakel <judybrakel@gmail.com>

Date: 1/29/2013 3:34 PM

To: North Pacific Fishery Management Council <npfmc.comments@noaa.gov>

To: the North Pacific Fishery Management Council

Jan. 29, 2013

Re: Feb. 2013 meeting Agenda Item "Miscellaneous Issues, (a) Discussion paper on the definition of a Fishing Guide."

I am a life-long resident of Southeast Alaska, living in Gustavus since 1988. I am part of an informal group of Gustavus residents who decided to work on halibut issues a couple of years ago, recognizing that the biggest natural resources concern for Gustavus residents appears to be the future of what have been abundant halibut in our area. In the midst of a general halibut decline, people are concerned about the heavy pressure increasingly exerted on them in our local area (Icy Strait/ Cross Sound/ Glacier Bay), especially by the charter fishery. They have the impression that they are witnessing "the last buffalo hunt." Even those who don't go out and fish are concerned. So it's a matter of wanting to be able to catch halibut for ourselves to eat within a skiff ride of town, and of maintaining a bit of a small-boat commercial halibut fishery around here, and also of just maintaining a healthy and viable halibut population that is an important part of the natural heritage of this place.

Information sources: (A) Local opinion from discussions, circulating sign-on letters, etc.

(B) Dodges to evade the charter and other regulations: from conversations with local people, personal observations of members of our active group, charter and self-guided companies' websites, and from an excellent source whose confidentiality I prefer to maintain but will reveal if necessary.

(C) IPHC, NPFMC and ADF&G statistical resources. (Note: I worked for the Commercial Fisheries Entry Commission for many years as a research analyst, etc.)

I think the Discussion Paper on definition of a Fishing Guide is a careful and competent job of examining relevant state and federal laws and regulations, and considering some enforcement implications. However, it greatly under-estimates the existing size of "self-guided" operations and other ways around the charter sportfish regulations, and the rate at which these are expanding.

The Icy Strait/ Cross Sound/ Glacier Bay area may be the leading edge of these practices, but they exist elsewhere in Area 2C, although I understand that at present they are minimal in Sitka. They will certainly begin to appear in 3A if and when charter fishermen there are subject to smaller bag limits or size limits than the private sport fishery. In 2C I know there are self-guided operations around Prince of Wales Is.

For an example outside of our area see the website of the large and long-established Whalers Cove Lodge in Chatham Strait near Angoon. Last year the site mentioned a self-guided option, but it's featured large this year (look under their "Fishing Packages") where they point out that you won't have to abide by the charter regulations and can take 2 fish a day

any size, emphasized by a photo of clients with big halibut. Option of fishing one day with a guide to learn the ropes, then self-guided, and you can call the guide by radio if you have questions.

We need to update our catch statistics, but for 2009, when there was a 1-fish a day bag limit but still no size limit in 2C, the catch-share pie for our Icy Strait/ Cross Sound/ Glacier Bay area was: Commercial fishery $\frac{1}{2}$, Charter fishery $\frac{1}{4}$, Private sport fishery $\frac{1}{4}$. The Private sport fishery catch appeared to be already swollen by "self-guided" – although only about 1,400 people live in all the nearby communities, the private catch here was much larger than in Sitka (8,000 people), Juneau, etc.

Types of Self-Guided and other such operations

In Sept. 2012 I sent the both the Council and its staff a list of 8 permutations of "self-guided" and other means of evading the charter regulations. That list appears below, with three more versions added. A large number of these came from an excellent source whose name I've omitted to protect confidentiality but I can provide his name if necessary.

a. Larger boats, often captained by people who have charter CHPs, towing or off-loading skiffs so that clients can fish nearby as "unguided." Someone here observed one such skiff that had neither a motor nor oars. Clients were taken to a good area for halibut, told how to fish, and assisted in every way, likely reboarding the mother boat after landing their halibut. And the fish would be dressed and packed by the operator or his staff.

b. Charter lodges sending out young guys without CHPs or guide licenses, theoretically unpaid, on the boats to help clients with fishing and boat operation. The benefit to the young guys (some underage) is that they are building up vessel time for getting 6-pac boat operator permits. These young men probably work in the fish processing or other parts of the lodge's operation.

c. Clients taking out larger boats that are usually used in guided operations. The word is that one of the operators here had to replace eight anchors this summer due to inexperienced people using his boat. One of these clients landed a 482 lb. halibut in the mouth of Glacier Bay. It would have been the world record but for "handing the rod around," which disqualified it.

d. The long-standing Doc Warners Lodge in Excursion Inlet (60 clients per week) and a smaller one, Salmon Run Lodge send out three or four clients per skiff as "self-guided" fishermen. Doc Warner's skiffs are 16 or 18 ft. Lunds. They have laminated charts showing good halibut areas and a GPS showing halibut spots. A minder boat, one for every so many skiffs, travels around among them giving help with gear and boats and advice about where to fish.

e. An existing fishing lodge in Elfin Cove, Northern Star Lodge, was recently bought, reportedly with financing from Doc Warner, and is operated by his daughter and son-in-law. Northern Star offers only self-guided fishing beginning in the 2010 or 2011 season. They have new 22 ft. boats with 150 hp engines. Instruction and information is

provided for clients in the evenings. I'm guessing that Doc Warner refers some of the more experienced and aggressive of his clients to Northern Star. In a blog on the internet a prospective and a past client were communicating about this operation, one giving the other advice about where to fish and commenting that a recent sting against another lodge in Elfin Cove was causing Northern Star to be careful to stay inside the lines of the rules.

f. Also in Elfin Cove, Eagle Charters, target of that successful law enforcement sting in, I think, 2010, now has two (I think), self-guided boats. I saw one of their boats with "Self Guided" lettered along its side. (Incidentally, I passed through Elfin Cove in July 2011 and counted 25 fish boxes on the airplane float waiting for the Ward Air float planes. My husband passed through a week later and saw a much bigger pile of fish boxes on the airplane float, which was going partly under water and people were being asked to stay off until the boxes were loaded onto an aircraft. This was in a year when charter halibut regulations limited clients to one fish a day, 37" or less.)

g. Taking people fishing but only charging for their lodging. This is being done by someone here who did not qualify for a CHP but was already operating a fishing lodge with guided fishing. When coming in to the dock this year, he told the creel census person 'These are just my friends'. Questions were asked about whether this was legal at the meeting conducted by NMFS enforcement personnel in Gustavus in the spring of 2011. They wavered a bit but implied that it may be legal. At that point another charter operator commented 'I'm told I can charge two times as much for lodging and zero for fishing and it's legal'.

h. Dude fishing model (like dude ranching). Someone has a commercial fishing permit and takes people out on his boat as "crew." Highliner Lodge in Pelican does that with both commercial troll gear for salmon and longline gear for halibut. Its website tells how they divide up the halibut between clients and captain. Captain probably has IFQs and if all the catch is within his quota, and if fish tickets are made out for all the catch, and clients get commercial fishing licenses, maybe it's ok. None of those elements are mentioned on the websites.

i. Charter captains fishing under private sport fishing rules before the season and storing the fish in the lodge's freezer. Later these would be used to help fill client's fish boxes.

j. An acquaintance operating out of Hoonah (lives in Juneau) told me that he takes clients out for whale watching and catch-and-release halibut fishing. He has no halibut charter limited entry permit.

k. Some charter captains holding permits for both Areas 2C and 3A are said to be claiming to fish in 3A (and thus able to take 2 halibut of any size) when they are actually fishing on the 2C side of the Cape Spencer line. The operators would be out of Gustavus, Elfin Cove or Pelican, so getting to 3A involves distance and often difficult

waters for small boats. This information comes from commercial trollers in the area.

An Interesting Proposal

A whale biologist in Gustavus copied me her comment to NPFMC in Sept. 2012, and one of her thoughts has stuck with me ever since:

"If this infuriating and ridiculous loophole cannot be repaired, then the catch sharing regulations themselves need to incorporate this increased 'private' catch into the models that estimate the effects of the charter fishery, because it is a direct effect of the charter fishery." I've talked with Dora Sigurdsson and to no surprise the data is not available under current systems. But could it be? As member of our group Jim Mackovjak repeats, "If you can't measure it you can't manage it." In fact, right now it can be said that you are not really managing charter fishing in Southeast Alaska – you are not reining in the catch through your regulations.

Personal View

Among the dodgy practices that we've described that get around the charter regulations, perhaps the most remarkable are the charter operators who, after receiving one, two or sometimes 6 or 7 charter permits - a free gift of a public resource which will, in most cases, be saleable thereafter - some of those recipients proceed to set up additional business operations that don't use permits and that skirt around the regulations under which their charter permits operate. And this way of enabling more harvest is developing at a time when the halibut resource is in real trouble.

I worked for Alaska's limited entry system from the time it started and for about 8 years, helping figure out how to issue permits in state-managed commercial fisheries beginning with salmon. We didn't issue permits for gillnetting or seining in Cook Inlet, Kodiak or Southeast and then see the recipients go out and set up additional fishing operations, not using those permits and not following the regulations in effect for fishing under their permits. With federal IFQ permits it's true that there's been some "Fuglvoging," but if discovered that means jail. But some of those charter operators come before the Council as respectable spokesmen for the charter industry.

Is it just me, or is this a remarkable example of greed and chutzpah, moral turpitude, etc.?

Thank you for the opportunity to comment.

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