

November 30

Mr. Chris Oliver, Executive Director
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Re: IFQ amendment

The Native Village of Nanwalek respectfully requests that the North Pacific Fishery Management Council (Council) amend the IFQ program to allow CQE's to operate under the same less restrictive vessel caps as individual quota share holders. In other words, the Council should eliminate the leasing of community quota share limitation of 50,000 pounds of halibut and 50,000 pounds of sablefish IFQ's, inclusive of any IFQ owned, per vessel. Apparently, the Council thought it might be protecting the residents of the community from a CQE giving too much of the benefits to one vessel but for some communities this restriction means losing critically important flexibility in how a community develops its long term plan of restoring their communities traditional economic dependence on the marine resources on their own doorstep. Keep in mind also, that leasing of community quota would still be limited to 50,000 pounds of halibut and 50,000 of sablefish, inclusive of any IFQ owned, per individual transferee and this seems a limitation that actually does serve to reasonably limit the amount of benefit that can go to any one individual.

The village of Nanwalek has been fishery dependent for thousands of years but in recent decades through one set of regulatory reform after another the residents of Nanlwalek were gradually squeezed out of their access to the marine resources upon which their community has always depended. As it is, the way to obtain quota share is unreasonably difficult. In a letter dated March 29, 2010, we requested that a portion of the total allowable catch (TAC) of halibut for IPHC area 3A be set aside for our CQE for use by our residents in order to reestablish the self sufficiency we traditionally had on our marine resources. The Council declined to take action. Consequently the barrier to gain access to halibut quota remains very high.


But let's assume that we will somehow obtain the financial ability to purchase quota and that quota will be available to purchase - we would still need adequate regulatory flexibility to enable us to develop a business plan to boot strap our community from our current position into increased residential vessel ownership and, eventually, individual resident quota ownership. That needed flexibility includes the ability to allow our CQE to lease quota share to individuals who currently do not own a vessel so that they can employ themselves as crew members on someone else's vessel so that their quota can be fished from that vessel. However, currently the vessels that might otherwise be available and interested in helping our community members get their own business started would very likely run afoul of the current 50,000 pound vessel cap.

As a theoretical example, our CQE may wish to lease 10,000 pounds to an individual resident who does not yet own a vessel. He may find a vessel who would like to hire him as a crew member in order to help him and his community but that vessel is already fishing 50,000 pounds and cannot take even one pound of CQE halibut on board - but he could take on an individual crew member who owned 10,000 pounds of regular IFQ and fish it, quite legally, on that same vessel. Thus there is an unnatural and unreasonable barrier to the communities legitimate and equitable business plan for redeveloping the fishing economy of our community.

Foul weather, especially late in the year, can be another reason why community quota held by a community member may need to be shifted from a smaller to a larger and safer vessel. But he may find the same problem - the vessel that he might otherwise have found a crew job on if he owned his halibut IFQ's outright cannot be fished on the vessel because they are community quota and the vessel would be over the 50,000 pound cap if they took him on. Safety should be a compelling reason to seriously consider eliminating this unreasonable and unnecessary vessel cap for CQE quota share.

We appeal to you to remove this barrier from our already difficult path. Please initiate the process that will culminate in the elimination of the 50,000 pound vessel cap for CQE's.

Sincerely,



Tim Greene, Nanwalek Resource Development Coordinator

Jane Dicosimo
North Pacific Fishery Management Council
605 West 4th, Suite 306
Anchorage, Alaska 99501-2252

November 26, 2010

Dear Ms. Dicosimo,

In 2011 a new, limited entry charter halibut program will be implemented for Area 3-A in Alaska. Very soon NOAA will begin issuing permits to charter operators that have previously made application and deemed eligible. For operators that were not accepted as eligible, they will no longer be allowed to charter fish for halibut unless they are able to obtain a permit from an outside source.

Applicants, who have been initially denied, can seek to appeal their denial in an administrative hearing process setup by NOAA. During the appeals process, NOAA has the authority to issue an interim permit that will allow appellants to continue operating until the appeals process is resolved.

The problem with the interim permits is they limit each boat to a maximum of four rods (anglers). Many operators take more than four anglers per trip and the interim permit will unfairly restrict appellants during the appeals process. It is my opinion this four rod (angler) limitation will unfairly penalize the affected parties and in some cases could inflict irreparable harm during the appeals process.

Please consider this an official request to add and discuss this matter at the upcoming (December 2010) management council hearing. I would encourage the council to increase the interim permit rod or angler limits to the historical capacity of each affected vessel at the time of their original application.

Your time and attention would be greatly appreciated.

Sincerely,



Allen Walburn
Kodiak Island Resort
P.O. Box 36
Larsen Bay, Ak 99624
1-877-263-2320



**Petersburg Charter Boat Association
P.O. Box 1507
Petersburg, Alaska 99833**

North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252
Fax: 907-271-2817

November 29, 2010

Re: Agenda Item D-2, Charter LEP Leasing

Chairman Olson, Council Members,

The Petersburg Charter Boat Association would like to offer the following comments on the Charter LEP leasing limitations discussion paper.

The problem statement is flawed. There is no existing problem and no evidence one will develop. There is no clearly defined potential problem a prohibition on leasing of LEP permits will solve.

The problem statement itself is contradictory and confusing. Adoption of any of the Options under Alternative 2 or Alternative 3 would "require substantial change to the character and current primary business practices of the halibut charter fleet", something the problem statement says it is trying to avoid.

While it could be true that leasing might decrease the sale of permits from initial issue permit holders, it certainly would facilitate temporary transfers during the initial change from a wide open fishery to one operating under restricted access. LEP leasing would not inhibit entry level opportunities but would in fact make it easier for new entrants or recently established businesses, that didn't qualify for initial issue, to access the fishery without the capitol expense of purchasing a permit. By allowing leasing, a permit holder will have more options for use of their permit, possibly increasing its long term value.

There are adequate safeguards already built in to the Halibut Charter LEP program to address the issue of increased acquisition by individuals.

The vessel ownership, owner on board, owner logging (xx) number of trips per vessel and owner on site for every departure or landing requirements, as outlined in Alternatives 2 and 3, would require substantial changes to established business practices for most charter and lodge operations regardless of those businesses leasing or not leasing permits. Clearly this discussion paper points to a lack of knowledge on how the charter industry works and goes way beyond prohibitions on leasing.

We need to let the Charter Halibut LEP program be implemented as written and address any problems after they have been clearly identified.

Stan Malcom
President
Petersburg Charter Boat Association
907-772-9255



November 30, 2010

Mr. Eric A. Olsen, Chairman
North Pacific Fisheries Management Council
605 W. 4th Avenue, Suite 306
Anchorage, AK 99501
Deliver via fax to (907) 271-2817

RE: Council Motion on Leasing Limitations Provisions for Charter Halibut Moratorium

Dear Mr. Olsen,

The Southeast Alaska Guides Organization (SEAGO) continues to represent the interests and welfare of independent charter operators and lodges throughout the Southeast region. We respectfully submit our comments with regard to the Council's motion on leasing limitations provisions for the limited entry program for your review and consideration.

Synopsis

SEAGO supports Alternative 1: Status Quo pending clarification from NMFS of a provision that appears may already restrict leasing in most practical applications. (Detail provided below in discussion on Alternative 1) . The LEP ruling will already "substantially change the character and current primary business practice of the halibut charter fleet" and additional restrictions on leasing at this juncture strip the industry of important options to help cope with that change.

Reaction to Council's Problem Statement

As noted, the implementation of the LEP represents substantial change for the sport fishing fleet. No one knows exactly how the charter industry will acclimate to the new system and restrictions on leasing remove important flexibility from our suite of options to adjust to change.

We find it improbable that persons without a stake in the industry would seek to acquire permits strictly as a form of investment although it is reasonable to assume that some individuals granted permits by windfall may use them to derive passive income without continued activity in the fishery. In the Council's analysis in its motion for moratorium Council itself states "The extent of the absentee ownership issue in the charter fishery is difficult to predict prior to program implementation". (Section 2.6.3.1)

SEAGO also believes that the ability to lease without limitations is more likely to facilitate entry level opportunities and transfer than to discourage them. We remain in an era of economic hardship. Unlike other programs passed by the Council, the LEP has no provision for helping charter operators finance



permits. If demand is high and supply is short, the cost of permits could create a substantial barrier to new entrants and increase debt service in young businesses that will need to secure permits to continue operations.

Leasing represents a way for existing operations and new operators to acquire permits without having to immediately capitalize them. It allows for savings toward eventual purchase or lease toward purchase scenarios. This in effect decreases the price of entry and aids in transfer.

Comments on Alternative 1: Status Quo

This is SEAGO's preferred alternative.

It is our understanding that from the outset the Council desired a prohibition on leasing in the LEP but a blanket prohibition failed to make it into the final rule. NMFS informed the Council that leasing had not been defined clearly enough and therefore could not be adopted at that point in the rule's drafting.

Prior to mid-November 2010 the charter sector had been under the impression that a conventional lease arrangement as generally practiced in other industries would still be allowed under current regulation. The sector was unaware that specific language in the LEP could act as an effectual prohibition on such open leasing in the fleet.

We are waiting for clarification from NMFS on a simple provision in the LEP that has temporarily been interpreted by NMFS to require that the name on a vessel's permit match the name on the vessel's logbook. This creates a situation in which a lease (defined by normal standards) is largely impractical.

If the interpretation stands the lessor of a permit would be required to 1) submit for an ADF&G logbook for a vessel that he/she neither owns nor operates, 2) be licensed by the ADF&G as a business operator, 3) insure the lessee's vessel under his/her name potentially being liable for accident or injury, and 4) be legally liable for entries and submissions of logbook data that he/she is not associated with. Catch history relating to fish harvest would also accrue to the lessor rather than the lessee should that history ever become important in future management decisions.

Comments on Alternatives 2 and 3

All options and sub options under these two alternatives attempt to tie a permit holder wishing to lease a permit either financially or operationally to a vessel that would utilize the permit.

In light of our hope that the Council will allow leasing across charter sector businesses to allow flexibility and adjustment to the LEP, we point out that any requirement to bind the lessor physically or financially to the operation of the lessee will substantially limit any realistic opportunity for lease transfer.

Owners of charter businesses or lodge owners with vessels are business people shouldering a wide variety of management and entrepreneurial problems that have little to do with on-the-water operations. In some instances owners are not Coast Guard licensed operators. We note that in the majority of cases, if the Council were to require any of the options under Alternatives 2 and 3 of



businesses that will receive permits on initial allocation, it would be nearly impossible for them to comply. Any requirement for the lessor to be physically or financially linked with the lessee will create similar hardship.

Summary

The charter industry is faced with major changes beginning with the implementation of the Limited Entry Program and perpetuated by the upcoming Catch Share Program. SEAGO does not agree with the Council's fundamental belief that leasing is inherently problematic in a fisheries management application and urges the Council to allow traditional lease arrangements within the framework of the LEP to provide more options for the industry.

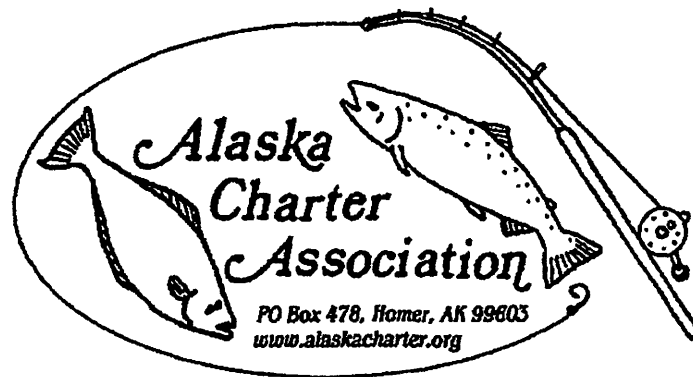
The Council admits the following in its analysis for the motion on moratorium:

"Looking at similar situations and economic theory for guidance, most mature markets that involve productive assets ultimately allow leasing and short-term contracting. In fact, it is difficult to find many property-like privilege systems in the world that prohibit short-term leasing and only allow 'permanent' transfers in order to eliminate absentee landlords. The widespread tolerance of leasing suggest two possibilities: (1) the benefits associated with short term production flexibility are seen by most participants as outweighing the social costs associated with absenteeism; and/or, (2) the basic incentives in many systems work against absenteeism". (Section 2.6.3.1)

SEAGO echoes the position of most mature markets and world systems and sees the benefits of LEP leasing as outweighing any social cost associated with absenteeism. We respectfully urge you to allow unrestricted leasing within the program.

Sincerely,

Tom Ohaus
President/Chair
Southeast Alaska Guides Organization
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"To preserve and protect the rights and resources of Alaska's Sport Fishermen."

November 30, 2010

Mr. Eric Olson, Chairman
North Pacific Fisheries Management Council
605 W 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Ref: Leasing of Charter Halibut Permits

Dear Chairman Olson,

The Alaska Charter Association (ACA) is a statewide organization representing over 150 charter and associated businesses. Its mission is to preserve and protect the fishing rights and resources necessary for the Alaska charter fleet to best serve the recreational fishery.

The ACA is concerned that the Council is considering action to restrict leasing of Charter Halibut Permits and agrees with NPFMC staff and NMFS that such an action would be disruptive to current existing business models with potentially unintended negative consequences, and it would be very problematic to enforce. The ACA asks the Council to take no action on this issue.

The ACA notes that the "owner on board" concept is compromised in every multiple boat fleet in the charter business since there is no way for the owner of multiple permits to be on board more than one vessel at a time. Furthermore, there are no requirements other than citizenship governing who may and may not purchase charter halibut permits (CHPs). In fact, there are large and small charter operations in Alaska where the owner is either a corporation or is not present on the premises. The same applies in commercial fisheries under the Council's management.

The ACA notes that existing charter business models as well as special circumstances routinely dealt with by charter operations are already strikingly similar to the leasing concept that the Council is considering banning or severely restricting. ACA offers the following examples.

Example 1:

A charter booking business owns several boats and contracts others as needed to accommodate customer demand. The contracting boat receives a percentage of the gross revenues generated by guiding anglers on behalf of the booking agency and the booking agency gets a percentage for advertising and managing reservations. This model is already well established in the charter industry. Under the Charter LEP, the business purchases a CHP and places it on a contract boat. The contract boat again receives a percentage of the gross revenues. Since the contract boat is

PAGE 2 ACA

not receiving 100% of gross revenues, this could now be construed as leasing, with the contract boat leasing the permit from the broker for a percentage of the gross proceeds.

Example 2:

A charter operator holding a CHP desires to retire and agrees to owner-finance the purchase of his equipment and CHP. The seller is the lien holder and would be ill-advised to transfer the permit until payment in full is received. The seller receives monthly payments from the buyer. This is indistinguishable from a lease with option to buy.

Example 3:

Charter operations run their boats up to 120 days straight during the summer months. Inevitably, equipment fails, often resulting in its removal from service for the remainder of the season. When this happens, it is common practice to contract business with another vessel in order to satisfy commitments. Under the limited entry program, it is unlikely that another CHP holder will be available, since guided demand will be concentrated on up to 40% fewer boats. It is therefore necessary and desirable to move the CHP to another vessel in order for the operator of the business to fulfill his commitments to his clients. Once again, the operator of the replacement vessel could be considered to be leasing the CHP, since he would likely be accepting less than 100% of the gross proceeds, with a certain percentage retained by (or paid to) the holder of the CHP.

From the above examples, the ACA is concerned that from a practical standpoint, the myriad of existing business models and the operational expectation that permits will be moved from vessel to vessel make leasing inevitable in the charter fleet. The cited examples demonstrate the uncertainty in what constitutes a lease and what does not. Hence, any regulation of leasing will rapidly generate enforcement complications.

The ACA highlights that the halibut Catch Sharing Plan (CSP) passed by the Council in 2008 allows leasing of commercial IFQ to CHP holders. Catch Share leasing is allowed in other fisheries under North Council management. The ACA asks the Council why intra-sector leasing of halibut CHPs is proposed to be taboo when leasing is already allowed in other fisheries under its management and is proposed between sectors in the halibut fishery under the CSP.

When the Council passed the charter halibut limited entry program, it effectively capped the total number of seats available for guided recreational anglers on any given day. *A permit can only be used on one boat at a time: this is a simple concept that is simple to enforce.* The Council should be content with this restriction, and leave how the permits are utilized to the people holding the permits. Further restrictions on CHP leasing will be disruptive to existing business models and will likely result in even more business failures than those likely to occur as a direct result of the limited entry program.

In summary, the ACA requests that the Council takes no action with regard to leasing of CHPs. The ACA strongly suggests that the Council concentrates its efforts on solving the much more important issue of permanent inter-sector allocation transfer in the Alaska halibut fishery.

Sincerely yours,

For: GREGORY M. SUTTER
Gregory M. Sutter
President

by Donna Bondioli
Treasurer

PRITCHETT & JACOBSON, P.S.

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November 30, 2010

By facsimile to: 907-271-2817
[15 pages in total]

Eric Olsen, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501

Re: Request for Staff Tasking Regarding Protections Against Adverse Impacts
of the American Fisheries Act (AFA)

Dear Chairman Olsen:

I am writing to you on behalf of the Independent Cod Trawlers Association. The Association is composed of Charles Burrece of the fishing vessel LONE STAR, Omar Allinson of the fishing vessel MISS LEONA, Steve Aarvik of the fishing vessel WINDJAMMER.

I am writing to request that the North Pacific Fishery Management Council direct staff to develop an analysis concerning possible recommendations to the Secretary of Commerce for protections from the adverse impacts on my three clients, and similar non-AFA vessel owners, caused by the AFA and by the pollock fishery cooperatives which have been established in accordance with the AFA. By this letter, my three clients request that the Council recommend protections in accordance with Section 211(c) of the AFA, and the regulations implemented under 50 CFR.

All three of these vessels are small vessels for the BSAI fishery, ranging in length from 75 to 88 feet. They have fished for cod in the Bering Sea since the 1970s (Charles

Burrece), 1980s (Steve Aarvik), and 1991 (Omar Allinson), respectively. All three vessels have primarily engaged in the directed trawl fishery for Pacific Cod, and none of them qualified under the AFA because of their relatively small incidental catches of pollock.

Starting in June of 2000, my clients testified before the Council as to the adverse effects caused by a large increase in the number of vessels fishing in the Bering Sea Pacific cod fishery in January and February as a result of the newly effective AFA. At its December, 2002 meeting the Council adopted as its preferred alternative under Amendment 73 a proposal agreed to by my clients and by AFA trawl catcher vessel interests. Under that agreement, the AFA interests agreed that AFA non-exempt Bering Sea catcher vessels should not exceed a daily average of 10 vessels in the directed Pacific cod fishery for the period of January 20 through February 25.¹

However, at the February, 2003 meeting, NOAA General Counsel indicated that the Amendment 73 problem statement may be legally insufficient, and the Council postponed any protective action indefinitely. Importantly, the Council expressly indicated that "if a really large problem became apparent, the Council would bring it back to the table and look at it again," and that if "the Council saw a problem of displacement by AFA vessels, it would cause reason for the Council to think about a solution."²

Before the Council, these three fishermen had demonstrated the adverse impacts of the AFA, including the ability of AFA vessels to enter their traditional cod fishery early in large numbers. That was the reason that the AFA trawl catcher interests agreed to a compromise solution at the December, 2002 meeting.³ Unfortunately, the adverse impacts have continued and have become more pronounced since that time. During the 2009 BSAI Pacific cod season, conditions in the pollock fishery resulted in an early influx of effort by the AFA fleet in the cod fishery, resulting in a very early closure and no B season. Other recent years have been similar. The short seasons have had real and significant adverse impacts on my clients. In addition to the real hardships of less income

¹ A copy of the Council's December, 2002 minutes setting forth the Council's action is attached as Exhibit A.

² A copy of the Council's February, 2003 minutes setting forth the Council's action is attached as Exhibit B.

³ My clients recognized that the compromise solution did not fully address the adverse impacts caused to them by the AFA, but agreed to the compromise in an effort to secure at least a limited level of protection.

for more effort, in the summer of 2009 foreclosure proceedings were commenced on Steve Aarvik's home.

The Public Review Draft prepared by Council staff (dated January 16, 2003) with respect to Proposed Amendment 73 shows a breakdown in Table 4.4 (pages 33-36) of weekly participation in that fishery for the years 1995-2002. That breakdown shows that in the pre-AFA years of 1995-1999, there was an average of 2 $\frac{1}{3}$ vessels (which are now AFA vessels without cod exemption) on the grounds in the Bering Sea during the first 5 weeks of the Pacific cod fishery.⁴ Since the fishery normally starts on January 20th of each year, that means that there were never many such vessels on the grounds until near the end of February. Not until the end of February or in early March of each pre-AFA year, was there traditionally a sudden influx into the Pacific cod fishery of vessels which are now AFA.

Since then, the AFA fleet has always held in reserve the ability to massively invade the cod fishery any time that pollock biomass and economics dictate. As a result, the Catch Per Unit Effort of the MISS LEONA, WINDJAMMER, and LONE STAR has been substantially reduced during the post-AFA years.

Because of the frequent race for fish which has resulted, my clients have had to fish in extremely dangerous winter weather conditions for their small vessels, including hurricane force winds. This raises obvious issues under National Standard 10. They also have been often passed by, and have had to fish behind, the much larger AFA vessels. As a result, they have had to fish further from shore, and in a more dispersed area than in pre-AFA years. Additionally, the measures resulting from the 2010 Stellar Sea Lion Biological Opinion will almost certainly increase the race for fish in the cod fishery, and also result in a surge in federally mandated discards (bycatch). Previously, the Council's objective with respect to the Pacific cod fishery has been to spread out the fishing fleet and effort, in order to avoid the risk of localized depletion. Unfortunately, effects of the recent Biop (which presented little real opportunity for public comment) will not be consistent with that objective.

In the AFA, Congress mandated that fishermen outside of the AFA pollock fishery **must** be protected from any adverse impacts of the AFA. As is made clear below, Congress plainly stated that the incursion of freed-up AFA vessels into a fishery such as the Pacific cod fishery is exactly the type of adverse impact which must be prevented. Section 211(a) of the AFA provides as follows:

⁴ A copy of Table 4.4 of the Public Review Draft is attached as Exhibit C.

Sec. 211. Protections for other Fisheries; conservation measures.

(a) General.-- The North Pacific Council shall recommend for approval by the Secretary such conservation and management measures as it determines necessary to protect other fisheries under its jurisdiction and the participants in those fisheries, including processors, from adverse impacts caused by this Act or fishery cooperatives in the directed pollock fishery.

By Section 211, Congress articulated certain measures for the purpose of determining, and remedying, such adverse impacts. In the presentation of the provisions of the AFA to the Senate for its consideration, key sponsoring Senators, including Senator Ted Stevens and Senator Patty Murray, explained what Section 211 requires. Those comments are set forth in the Conference Report (Senate - October 20, 1998).

Senator Murray explained the nearly absolute protections intended in the AFA for non-pollock fisheries as follows:

The bill attempts to ensure adequate protections for other fisheries in the North Pacific from any potential adverse impacts resulting from the formation of the fishery cooperatives in the pollock fishery. The formation of fishery cooperatives will undoubtedly free up harvesting and processing capacity that can be used in new or expanded ways in other fisheries. Although many of these vessels and processors have legitimate, historic participation in these other fisheries, they should not be empowered by this legislation to gain a competitive advantage in these other fisheries to the detriment of participants who have not benefitted from the resolution of the pollock fishery problems.

While we have attempted to include at least a minimum level of protections for these other fisheries, it is clear to many of us that unintended consequences are likely. It is therefore imperative that the fishery management councils not perceive the protections provided in this bill as the only protections needed. In fact, the opposite is true. Although the protections provided for the head and gut groundfish offshore sector are more highly developed and articulated in the bill, the protections for other fisheries are largely left for the Councils to recommend. Those of us involved in the development of this legislation strongly urge the Councils to monitor the formation of fishery cooperatives closely and ensure that other fisheries are held harmless to the maximum extent possible. [Conference Report, at page 12707 (emphasis added)].

Thus, Senator Murray's comments make clear that an early incursion of AFA vessels into the Pacific cod fishery is in and of itself an adverse impact, where those vessels did not have a pre-AFA history of such early participation. Of course, this is particularly obvious in a fishery such as the Bering Sea Pacific cod fishery where the January and February fishery is crowded primarily into a small area.

The comments of Senator Stevens were wholly consistent:

Subsection (a) of Section 211 directs the North Pacific Council to submit measures for the consideration and approval of the Secretary of Commerce to protect other fisheries under its authority and the participants in those fisheries from adverse impacts caused by subtitle II of the American Fisheries Act or by fishery cooperatives in the BSAI directed pollock fishery. The Congress intends for the North Pacific Council to consider particularly any potential adverse effects on fishermen in other fisheries resulting from increased competition in those fisheries from vessels eligible to fish in the BAI directed pollock fishery or in fisheries resulting from any decreased competition among processors. [At page 12781].

Paragraph (3) of subsection (c) directs the Pacific Council to submit any measures that may be necessary to protect fisheries under its authority by July 1, 2000 and allows the Secretary of Commerce to implement measures if the Council does not submit measures or if the measures submitted are determined by the Secretary to be inadequate. [At page 12781].

There can be no doubt that it was Congress' intent that protections be put in place for any adverse impacts on non-AFA fishermen, to ensure that other fisheries are held harmless to the maximum extent possible. And it is clear that Congress intended to forbid the type of extra fishing effort which has occurred in the January and February Bering Sea cod fishery due to the AFA.

On behalf of these three long-time BSAI cod fishermen, I respectfully ask that the Council recommend that regulations be promulgated to provide protections adequate to hold them harmless in fact from the adverse impacts of the AFA, as plainly intended by Congress. To do so, protective measures should return AFA vessels to the level of their pre-AFA (1995-1999) participation in the BSAI Pacific cod trawl fishery, as at least one protective measure mandated under Section 211.⁵

⁵ Additional protective measures should be applied as well. As one example, in the event of rationalization of the BSAI Pacific cod fishery, protection for non-AFA participants whose

Thank you very much for your consideration of this request.

Sincerely,



Russell W. Pritchett

cc: The Honorable Gary Locke, Secretary of Commerce
(With enclosures)

Dr. James Balsiger (With enclosures)

Mr. Allinson, Mr. Aarvik, and Mr. Burrece
(With enclosures)

SQ/N/PFMC.Ltr.11.30.2010

catch history has been adversely impacted by the AFA should include adjustments to reflect their pre-AFA historical percentage of catch.

PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: D-2 STAFF TASKING

NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1 Steve Harvit	INDEPENDENT COD TRAWLERS
2 Tom Ohaus	SEAGO
3 Forrest Brader	ACA
4 Greg Gabriel	UCIDA
5 Jason Anderson / Lori Swanson	AKSC / GFF CROWMAN'S ASSOCIATION
6 John C. Doukeman	KPFA
7 PAUL A. SHADURA II	GOAC3
8 Chuck McCallum	
9 Julie Benn	AGDB
10 Kenny Down	FLC
11 Todd Loomis	Cascade Fishing
12 Paul MacGregor	Mundt MacGregor
13 Chuck Borrece	LONG STAR
14 LORI SWANSON	GFF
15 Mike Szymanski	AGC (AK. Council for Cooperatives)
16 MARK GLEASON	OCEAN PEACE
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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.

December 13, 2010

North Pacific Fishery Management Council

Eric Olson, Chair

605 W 4th Avenue, Suite 306

Anchorage, AK 99501-2252

RE: Agenda D-2 Staff Tasking

Dear Chair and Council Members,

We would like the NPFMC to initiate an amendment during staff tasking to cap the total number of CQE halibut charter permits at the level analyzed and approved in the Halibut Charter Limited Entry Program. When the halibut charter committee, the commercial industry and the public commented on the number of permits that would be issued to CQEs, we believed the list of CQE that would qualify to receive permits was complete. As approved, the limited entry program in Area 2C allowed up to 72 community permits (18 eligible communities at 4 permits per community) and in 3A up to 91 community permits (14 communities at 7 permits per community). We are concerned that adding to the list of CQEs that automatically become eligible for halibut charter permits is not consistent with Council intent, relative to the limited entry program, and will serve to further de-stabilize the halibut fisheries and undermine the health of the halibut resource. Our concerns are heightened by the Council's decision to take initial and final action on an issue of this gravity, thereby limiting public notice and comment.

Since the NPFMC recommended the halibut limited entry program, the 2C catch limits have declined by 48.3% (2007 – 2010) and the 2011 staff recommendation for this area call for another 47% reduction. Catch limits in 3A have been reduced by 24% (2007 – 2010) and the 2011 staff recommendation for this area is for another 27% reduction. In area 2C, where two more communities were just added to the CQE list, the charter GHL has been reduced from 1.432 M lbs to .788 Mlbs over the past three years. When the Catch Share Plan is implemented, the charter allocation will fluctuation with biomass and will likely be further reduced.

There are additional communities in 2C that may be eligible for CQE status. While we do not object to their eligibility, we do have concerns about issuing additional charter permits to these communities. The problem statement for the halibut charter limited entry program/moratorium stated,

“. . . The moratorium is to provide an interim measure of stability in the guided sport halibut sector during the step-wise process toward a long-term solution. In doing so, however, the Council is also concerned with maintaining access to the halibut charter fishery by small, rural,

coastal communities. To address this, the Council is considering establishing a separate program to allow **these communities** to enter the halibut charter fishery." (emphasis added)

Based on this language, we maintain that the Council has leeway to determine whether communities added after Council action on the charter limited entry program automatically qualify for permits, and whether issuing those permits is consistent with Council intent. If the Council does not reconsider this aspect of the charter limited entry program, we believe it would be appropriate for the Council to consider capping the total number of charter moratorium permits issued to CQEs.

Thank you for your consideration.

Sincerely,

Kathy Hansen

Southeast Alaska Fishermen's Alliance

Linda Behnken

Alaska Longline Fishermen's Association

D-2
McCallum

A Resolution of the Gulf of Alaska Coastal Community Coalition (GOAC3)

In support of Council Action to

Eliminate the CQE Vessel use cap of 50,000 lbs of halibut IFQ and 50,000 lbs of sablefish IFQ

Whereas, since the inception of the CQE Program, community representatives evaluating the financial viability of the program have noted that the 50,000 lb. vessel use cap, inclusive of both CQE quota and individually owned quota, for both halibut and sablefish QS is unnecessarily prohibitive; and,

Whereas, this was also cited as an issue at the February 2009 CQE workshop; and,

Whereas, individual QS holders are subject to a less restrictive vessel use cap, based on the size of the IFQ TAC and those vessel use caps are 1% of Area 2C halibut IFQ TAC (50,200 lbs in 2009) and 0.5% of all halibut IFQ TAC combined (217,744 lbs in 2009); and,

Whereas, the 50,000 pound vessel cap was originally established to ensure a broad distribution of quota share and thus, benefits, from CQE-owned quota share that goal is adequately addressed by the cap on the amount of QS that each individual resident can lease from the CQE; and,

Whereas, the 50,000 lb. vessel cap results in no benefit to CQE communities thus significantly reducing needed flexibility to CQE communities with regard to mapping out their community fishery development plans; and,

Whereas, there is a need to allow entry-level fishermen, and fishermen with no vessels or very small vessels, the ability to use CQE leased IFQ on vessels owned by other residents and some CQE communities may have a very limited number of longline vessels, or longline vessels that are too small to ensure safety during all seasons, so that vessel availability may become an issue; and,

Whereas, the GOAC3 submitted an IFQ proposal to eliminate vessel cap limitations for CQE's on May 27, 2009, which was advanced by the Councils Advisory Panel for Council consideration; and,

Whereas, a letter from Nanwalek, dated November 30, has been received by the Council asking Council to initiate the process to eliminate the 50,000 pound vessel cap; then,

Therefore, the Gulf of Alaska Coastal Community Coalition fully supports Council action to eliminate the current CQE program vessel use cap of 50,000 pounds.

This resolution of the Board of Directors of the Gulf of Alaska Coastal Community Coalition was passed at the meeting of the Board of Directors held on the 12th day of December, 2010.

Signed by directors:

[Signature]

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Certified by: *[Signature]* and Dated 12-12-10

In 2001, Congress directed the Council to conduct an analysis of several different approaches to rationalizing the BSAI crab fisheries (see Consolidated Appropriations Act of 2001 (Pub. L. No. 106 554)). In response, the Council adopted the following purpose and need statement to guide it through the process of considering rationalization alternatives for the fisheries:

Vessel owners, processors and coastal communities have all made investments in the crab fisheries, and capacity in these fisheries far exceeds available resources.

In June of 2004, after deliberating at several meetings, the Council took final action adopting its preferred alternative for rationalizing the fisheries. As a part of that action, the Council requested a comprehensive review of the program five years after its implementation. At the October 2009 Council meeting, staff presented the Council with a workplan for the review. This paper (and its accompanying appendices) is the five-year review of the program. This paper examines most aspects of the management program and its effects, while separate appendices examine effects of the program social and community impacts (Appendix A) and safety (Appendix B).

The paper reviews the distribution of allocations to both harvesters and processors under the program and examines changes in those distributions to the extent feasible. The paper goes on to examine the participation patterns and distribution of activities of both sectors and changes in their operations. The paper also examines the effects of the program on crews in both sectors. Changes in ex vessel pricing brought on by the share structure of the program are also examined. Entry opportunities for both sectors are examined. Changes in management arising as a result of the change in management and changes in costs are also examined, as the effects of the program on the biological condition of crab stocks.

Five-year review of Crab Rationalization 2
Program for BSAI crab fisheries – December 2010

The analysis examines five years of fishing under the program. The change to any share-based management system requires participants to modify their behavior. Some changes evolve over time, as participants adapt to the program. For example, in the derby fisheries landings each participating vessel competed to achieve a share of the allowable catch. One of benefits expected to arise from the crab rationalization program is the organization of fishing in cooperatives to achieve harvesting efficiencies. Some aspects of this transition (such as fleet consolidation) occurred immediately on implementation of the program. Others, such as the joint fishing of allocations in cooperatives have occurred more gradually, as participants have developed stronger associations within the fleet. The program is a complex system that incorporates regulatory aspects intended to balance the interests of various stakeholders. As with any such system, participants are likely to develop a better understanding of the program over time. In addition, the operation of certain aspects of the program is likely to become more predictable as the program matures. Adequately assessing the performance of the program after only five seasons is difficult, since participants continue to learn to operate under the program and adapt to the changes it has brought on.

North Pacific Fishery Management Council
604 West 4th Avenue Suite #306
Anchorage, Alaska 99501

201th Plenary Session – December 8-14, 2010
Hilton Hotel Anchorage, Alaska

Re: D-2 Staff Tasking - CR program

Public Comment: Shawn Dochtermann
Crewman's Association

Kodiak, Alaska — Tel: (425)-367-8777

Mr. Secretary, Chairman Olson, and NPFMC members,

My name is Shawn Dochtermann a 32-year commercial fisherman, with 24 years crab fishing experience in the Bering Sea. I am here representing the Crewman's Association as well as hundreds of Bering Sea crab fisherman, of which, many are disenfranchised and over 80 have the opportunity to be active participants. We'd like to introduce a problem statement for the historical relief of crew compensation and the limiting of quota leasing for the BSAI CR program:

Problem Statement

Due process was circumvented when the NPFMC did not recognize vessel operator (crewmen) [captains were issued substandard allocations] as stakeholders in the initial allocation process of the BSAI CR program. Due to excessive harvest quota share (HQS) being allocated to LLP holders, exorbitant lease fees have been extracted off the top of gross revenues and have deprived the vessel operators (crewmen) from receiving fair and equitable compensation from the HQS holders.

The crewmen's historical share of compensation as an aggregate was 35-40% previous to privatization. Then on the basis of a \$1.1 billion initial market value, there was a taking from the vessel operators (35% less 3%, times \$1.1B) of approximately \$350 million. Another \$100-\$120 million in vessel operators/crewmen's compensation has been removed from our historical compensation as an aggregate since the inception of the CR program in October of 2005. A total of \$450-470 million in rights/privileges and compensation has been stolen due to the NPFMC not following the letter of the law of the National Standards at the June 2002 meeting in Dutch Harbor.

Purpose and needs:

The BSAI crab crewmen needed to be established as the stranded labor portion (stakeholders that were not included) of the CR program, just as required by NS #4 paragraph (c) (3) (i) *Definition. An "allocation" or assignment" of fishing privileges is a **direct and deliberate distribution of the opportunity to participate in a fishery among identifiable, discrete user groups, or individuals.** Any management measure (or lack of measurement) has incidental allocative effects, but **only those measures that result in direct distributions of fishing privileges will be judged against the allocation requirements of Standard 4.***

Excessive HQS was distributed to LLP holders in the initial allocation of the CR program, depriving the BSAI crab crewmen of their rights to HQS and to fair negotiation for layshare contracts. Review NS#4 (c) (3) (iii) avoidance of excessive shares. **An allocation scheme must be designed to deter any person or other entity from acquiring an excessive share of fishing privileges, and to avoid creating conditions fostering inordinate control, by buyers or sellers, that would not otherwise exist.**

The NOAA and the council have failed to collect the best data on quota leasing and on crew compensation even though we have instructed them to collect layshare contracts and reconcilable settlements sheets for all crewmen pre and post rationalization. We request that the council pass this motion today:

Due to the EDR data being unreliable at producing data on leasing of BSAI crab quota and on substantial data on crew compensation for the 5 year review of crab that the Council require all vessel owners to submit layshare contracts [that are mandatory per 46 U.S.C. section 106011 and reconcilable settlements for all vessel operators that (were) engage(d) in the BSAI crab fisheries from the year 2000 to date and to continue to collect this empirical data for the as long as the program exists. The data is required within 6 months of December 13, 2010 and will be required to be submitted within 6 months after a BSAI crab fishery has closed.

The MSA law requires all quota shareholders of the BSAI CR program to follow all federal laws or otherwise have their quotas revoked.

Due to vessel operators as stakeholders prosecuting crab and other fisheries and their long periods of time at sea the onus should not be left on the just the crewmen to find solutions to receive historical fair and equitable compensation. We've offered the council a full suite of alternatives at the June 2008 NPFMC meeting in Kodiak, but the council did not ask questions about those alternative. We would be happy to work with the state and federal representatives to draft solutions. Time is of essence and the council asking an industry panel to draft solutions by October 2011 is not legally correct. The council must make decisions to use the hammer to bring the program into compliance with MSA before the next Bristol Bay red king crab season or otherwise damage vessel operators for a longer period of time.

Our goal is to provide the benefits of the CR program to all participants in the industry as historically compensated, as it has proven to be the most cumbersome program that did not fulfill it's assurance that:

“Rationalization will improve economic conditions substantially, for all sectors of the industry. Community concerns and the need to provide for economic protections for hired crew will be addressed”

-NPFMC former Chairman Dave Benton’s letter to Congress on May 6, 2003-

Shawn C. Dochtermann

Executive Director

Crewman’s Association

December 13, 2010

To: North Pacific Fishery Management Council

From: John Gauvin, Gauvin, Alaska Seafood Cooperative, and Julie Bonney, Alaska Groundfish Databank, and in consultation with Dr. Craig Rose, NMFS

Re: Steps to verify that modified trawl sweeps as studied and used in the BSAI flatfish fisheries achieve similar elevation when used in the Gulf of Alaska (GOA) flatfish fisheries.

December 14, 2010

The sweep elevation verification discussion below is based on the assumption that the benefits to crab (reduction in unobserved mortality) are the same for the GOA relative to what recent research in the Bering Sea has shown provided the same degree of lift off the seafloor can be achieved. This includes the assumption that target species catchability findings from research in the Bering Sea are also applicable this being imperative to avoid increased trawling time to achieve the similar catches. The assumption that the Bering Sea sweep modification research is relevant to the GOA is based on the fact that there is a great deal of similarity in the two regions in terms of substrates where flatfish fishing occurs, flatfish target species and the dominant crab species of interest, tanner crab (*Chionoecetes Bairdi*). *C. bairdi* is the same species that was the subject of much of the crab effects research in the Bering Sea. Verification and comparative work will focus on disc or bobbin (sweep elevation device) height and spacing (between elevating devices) so that the same degree of elevation from the seafloor (approximately 3 inches) is achieved given the specifics of the GOA flatfish fisheries. Factors affecting whether sufficient lift can be attained in the GOA flatfish fisheries as compared to the BSAI include: towing power and/or speed of GOA vessels, styles and/or sizes of trawl doors, rigging of trawl nets, bridle and sweep materials (e.g. cookie sweeps rather than combination rope) and sediments and bathymetry of the GOA flatfish fishing grounds as compared to the Bering Sea grounds.

The GOA flatfish vessels are generally smaller, lower horsepower catcher vessels although some larger catcher processor vessels which have worked with the modified sweeps in the Bering Sea also participate in the GOA flatfish fisheries. With the differences in GOA flatfish vessels, the most efficient approach would be to do some basic field testing to observe how the sweep modification parameters as currently used in the Bering Sea function in the GOA. Further testing would then ensue to verify sufficient elevation is achieved once adjustments (if necessary) are made. The field testing would use the same tilt sensor devices used in the Bering Sea sweep modifications research with appropriate modifications/adjustments for use on cookie sweeps (versus combi wire used in the BSAI). These devices are needed to validate whether the mid-points between elevating devices are sufficiently elevated off the seafloor to achieve the degree of lift that was attained in the Bering Sea.

From a practical perspective, using the BSAI spacing and disc height requirements as described in the sweep mod regulations (e.g. the equivalent of 10 inch elevating devices for 2 inch "combi rope" sweeps and 90 foot spacing) makes practical sense and offers a starting point for comparative purposes given what is known from the Bering Sea research. This will help show if the GOA physical environment and/or vessel/gear differences affect sweep lift compared to the Bering Sea. It would also help to avoid potentially unnecessary costs for vessels that have already made investments in meeting the sweep

modifications regulations that will soon be in place for the Bering Sea flatfish industry. Recall that the spacing in the Bering Sea reflects what was feasible given the net reel capacity of the larger Bering Sea flatfish boats. If the testing in the GOA shows that significantly closer spacing is required for the GOA flatfish fisheries, knowing this from the outset will be important in terms of consideration of costs and benefits of implementing a sweep mod requirement in the GOA for the different GOA flatfish dependent fishermen.

Proposed steps for verification of lift achievement and testing plan

January 2011: Meeting with fishermen to gather testing parameters for different vessel classes and sweep mod designs. Vessel owners / operators will give their perspective of the practicability of different sweep mod designs for their individual vessel platform and net reels.

Spring/summer 2011: When flatfish fishing commences in 2011, a field technician with experience in tilt sensor placements on sweeps will go out on three GOA flatfish vessels of different sizes. The goal of this "ride along" cruise under regular commercial fishing conditions will be to place tilt sensors between the elevating devices installed on a section of modified sweeps that is added to each vessel for each cruise. The initial modified sweep gear will comply with the current Bering Sea regulations. The vessel size classes of interest for this work should be smaller GOA flatfish catcher vessels (range of HP < 800), larger GOA flatfish catcher vessels (HP range > 800) and a Bering Sea flatfish CP that fishes GOA flatfish (range of HP = 1200 to 3000). This work will establish whether the current Bering Sea standards for modified sweeps achieve the same lift at the midpoints as was seen in the Bering Sea.

Follow-up cruise if adjustments are needed: Once analysis of the tilt sensor data from the first fieldwork is complete, adjustments to spacing or height of elevating devices, if deemed necessary, can be made on the section of modified sweeps used in the first stage of verification work. This may include reducing the spacing to 60 feet or increasing the height of elevating devices to 11 inches. The second stage of testing would confirm whether the adjustments were sufficient to achieve the desired elevation. Another round of tilt sensor testing would be done to verify that the new parameters achieve the desired amount of lift between elevating devices.

Fleet implementation evaluation: Once the field testing has come up with a set of parameters that the testing shows will achieve the necessary lift, fishermen will need to do some practicality evaluation. For this, a full set of sweeps that meet the GOA height and spacing parameters would be needed. This will allow fishermen to evaluate the differences in setting and retrieving the trawl gear with the modified sweeps as well as seeing if their current net reel capacity is sufficient for loading a full set of modified sweeps meeting the GOA parameters. Conducting a field demonstration for enforcement practicality issues with NMFS enforcement and NOAA GC would also be worthwhile at that point so that enforcement concerns can be addressed early on in the pre-implementation process.

High-Resolution Stock Identification for Migratory Studies of Chinook Salmon

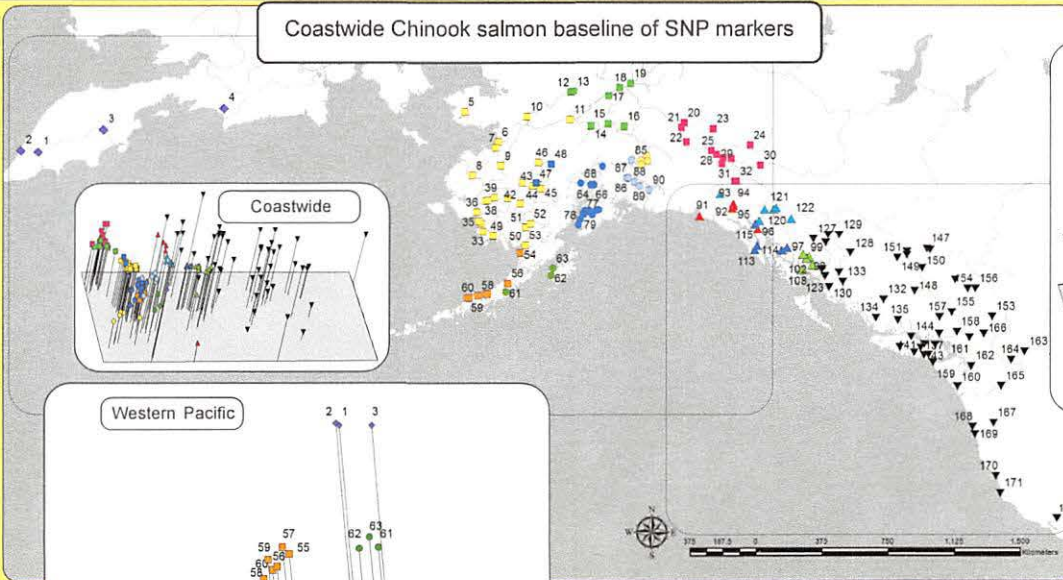
William D. Templin¹, Lisa W. Seeb², James Murphy³, and James E. Seeb²

¹Division of Commercial Fisheries, Alaska Department of Fish and Game, Anchorage, Alaska, USA; ²University of Washington, School of Aquatic and Fishery Sciences, Seattle, WA, USA;

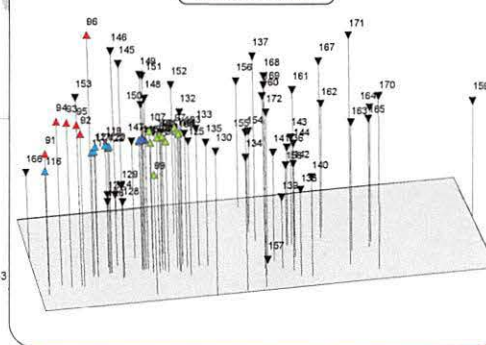
³Ted Stevens Marine Research Institute, Alaska Fisheries Science Center, NOAA Fisheries, Juneau, AK, USA



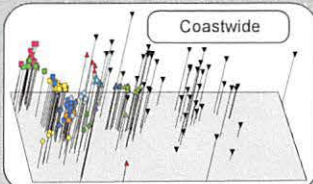
Coastwide Chinook salmon baseline of SNP markers



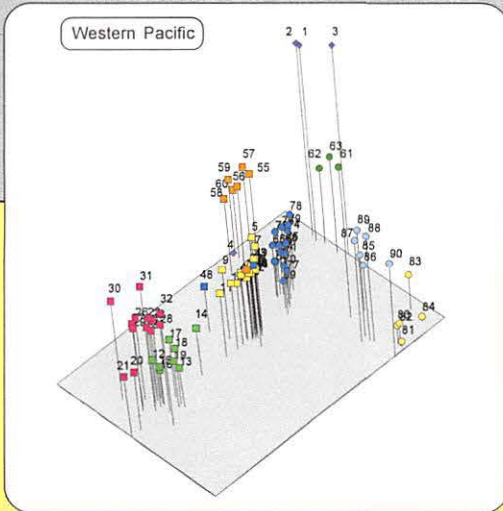
Eastern Pacific



Coastwide



Western Pacific

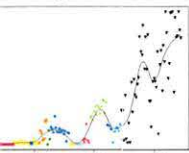


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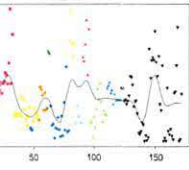
Variation

Locus

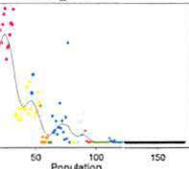
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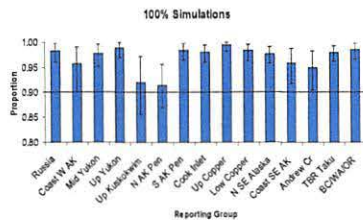
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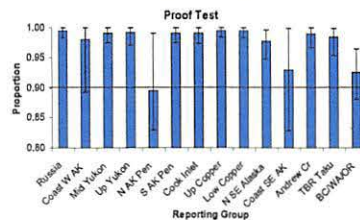


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Known Sample Tests

The second step to investigate the precision and accuracy possible involves removing individual salmon from the baseline and using them to create a mixture of real salmon. This is a more stringent test than the simulations because the information in the baseline is reduced and real (not hypothetical) genotypes are used. As previously, these mixtures were composed entirely of individuals from the same reporting group. The results indicate that all groups are identifiable at or above the 90% threshold. Insufficient individuals were available from the Upper Kuskokwim reporting group to allow for inclusion in this test.



Reporting Groups

- ◆ Russia
- North Alaska Peninsula
- ▲ Northern SE Alaska
- Coastal Western Alaska
- South Alaska Peninsula
- ▲ Coastal SE Alaska
- Middle Yukon River
- Cook Inlet
- ▲ Andrew Creek
- Upper Yukon River
- Upper Copper River
- ▲ Transboundary Taku
- Upper Kuskokwim River
- Lower Copper River
- ▼ BC/WA/OR/CA

Estimated population contributions to mixtures of salmon were combined into broad-scale reporting groups. Reporting groups in this study were defined based on genetic similarity, geographic proximity, and management needs. Geographic organization can be seen on the maps and genetic organization can be seen using multidimensional scaling to represent genetic distances among populations in three dimensions. Clusters of populations in these plots indicate

genetic similarities between the component populations. By comparing these plots with the maps potential reporting groups can be identified.

Coastwide

Three major groups of populations were identified: two within the Eastern Pacific populations (including Southeast Alaska) and a Western group (including Russia, Yukon River, and coastal Alaska to Copper River).

Eastern Pacific

British Columbia, Washington, Oregon, Idaho, and California populations are combined into a single genetically diverse reporting group because current representation is insufficient to allow further subdivision. Southeast Alaska and transboundary populations cluster into four groups.

Western Pacific

Populations within this major group exhibit strong geographic and genetic clustering with the exception of the Coastal Western Alaska group, where populations are geographically dispersed, but genetically similar.

Conclusions

- The baseline of SNP markers demonstrates significant genetic variation among Chinook salmon populations.
- Genetic variation in Chinook salmon on a coastwide scale is closely associated with geographic features.
- Mixed stock analysis using genetic markers can identify 15 reporting groups on a coastwide basis.

Acknowledgements

Laboratory analysis and support was provided by Judy Berger, Andrew Barclay, Nick DeCovich, Zachary Grauvogel, Eric Lardizabal, Gina Robinson, and Heather Hoyt. Support for data analysis was provided by Andrew Barclay, Nick DeCovich, and Tyler Dann. Funding for this analysis was provided by the Arctic Yukon Kuskokwim Sustainable Salmon Initiative and the State of Alaska.

D2
Paul Sturuda