

Unalaska Native Fishermen's Association  
PO Box 921408  
Dutch Harbor, Alaska 99692

Chairman Simon Kinneen  
North Pacific Fishery Management Council  
605 W. 4th Avenue  
Anchorage, Alaska 99501

November 25, 2020

Dear Chairman Kinneen,

The Unalaska Native Fishermen's Association (UNFA) was established more than two decades ago to represent Unalaska's small boat longline, jig, and pot vessels. Since its inception, UNFA has consistently worked within the Council process to ensure viable fishing opportunity for current and future generations of Unalaska's community-based fishermen. UNFA spearheaded the creation of the jig sector allocation to provide for growth of entry-level opportunity in Bering Sea Pacific cod fisheries. UNFA also pioneered the <60 sector as a way to protect small boats dependent on Pacific cod in the region from having to unfairly compete with larger vessels. The Council's intent in both of these actions was to provide stability and opportunity for the small boat sectors. As the Council is well aware, our small boat opportunity in Bering Sea Pacific cod fisheries has eroded in the last decade. Our small boat fleet will not survive without the Council again taking action to carve out opportunity to support our small boat community-based fleet that has always depended on Bering Sea Pacific cod fisheries.

UNFA has always been proactive in working to address the challenges we face and ensure the sustainability of Unalaska's current and future small boat fleet. In that spirit, we have developed a proposal based on provisions within MSA for a community cod allocation for the small boats of Unalaska and Akutan. We ask the Council to include this proposed framework as a strawman proposal to be analyzed as a community provision within the developing BSAI Trawl CV Program. Our comments below speak to the need and rationale for this provision to be included as part of the overall BSAI Trawl CV Cod Cooperative Program.

#### *Timing and Direction of Council*

In previous testimony to the Council, UNFA has described how the changing nature of the <60 sector (e.g., increased participation, non-traditional efficiency improvements, shorter seasons, etc.) is threatening the survival of Unalaska's small boat fleet and serving to diminish past Council actions taken to protect community access and participation in federal Bering Sea Pacific cod fisheries. These changes are also described in Council documents.<sup>1</sup> In our most

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<sup>1</sup> See NPFMC 2019. D2 Discussion Paper: Bering Sea/Aleutian Islands Pacific Cod Limited Access Privilege Program Scoping Paper for the Trawl Catcher Vessel Sector and Pot Catcher Vessels  $\geq$  60 feet. p. 66; and NPFMC 2020.

recent request to the Council for attention to this issue,<sup>2</sup> we were informed by the Council that the time to finally take up this issue is during the Council's discussion on management changes currently under consideration for the BSAI Trawl CV cod sector. The 2019 Scoping Paper for this action identifies how rationalizing this sector may affect rollovers to the <60 sector and potentially exacerbate adverse impacts already felt by local vessels. These management changes represent the potential foreclosure of any future opportunity for our small boat fleet to realize opportunity, sustain ourselves, or meaningfully address the growing inequities within our sector. It is within the Council's purview to consider and develop measures as part of LAPP fisheries that it deems necessary to protect other sectors, especially small boat sectors and entry-level opportunity, from the adverse impacts of management changes within the Trawl CV sector.

#### *Fit with Overall Program*

As currently proposed, the Trawl CV Cod Cooperative Program does not include meaningful community provisions, or measures to protect small boat and entry level opportunity in BSAI Pacific cod fisheries. We recognize that the Trawl CV sector does not represent an entry level fishery. Our concern is that not including these kinds of community and small boat provisions in the management framework from the outset will prevent or limit the Council in taking effective action to protect communities and small-scale fishing opportunity in the future. Prior examples of rationalized fisheries show clearly the need to include small boat and community concerns from the start in program design because of the difficulty in making changes once the framework has been solidified. Pacific cod is the entry level fishery in our community. Given the potential impacts of the Trawl CV Cod Cooperative Program to sectors that depend on rollovers from the Trawl CV sector, we have developed a proposal that incorporates community provisions into the overall framework and ensures small boat access in Pacific cod fisheries in the future. MSA authorizes the creation of community entities to receive allocations as part of LAPPs as one way to maintain long-term access to federal fisheries, particularly in the context of small-scale operations and rural communities. We are asking the Council to analyze UNFA's proposed framework for a community cod allocation as a community provision of the BSAI Trawl CV Cod Cooperative Program.

#### *Other options*

UNFA has considered a number of options for how best to address the challenges and impacts on our community fleet and achieve the goals of 1) providing stability and security for our small boat fleet, 2) ensuring entry-level opportunity, and 3) minimizing unfair competition and growing disparities within the <60 vessel class size. We feel strongly that a community allocation is the best and most durable tool to preserve local participation in Bering Sea Pacific cod fisheries for the long-term. A community allocation provides the security for our small boats that was intended through the <60 sector allocation created 20 years ago.

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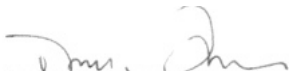
RIR/EA for BSAI Pacific Cod Trawl CV Cooperative Program

<sup>2</sup> BSAI Cod Allocation Review at June 2019 Council meeting in Sitka, AK.

We recognize that there is uncertainty and minimal guidance for the Council to follow in providing community protections through a community allocation at this time. We also recognize that a community allocation will require work and time for all entities involved to ensure success. Although community allocations are complex in their creation, administration and operation, as an innovative though untested management tool they are authorized under MSA to address the very problem we are faced with today. Moreover, the Council tackles time-consuming and complex issues as a matter of regular business. We have developed this framework for a community allocation as a tool that minimizes impacts to other sectors, and avoids the risks that other potential solutions carry (e.g., small boat opportunity shifting away from our communities over time).

There is a clear and urgent need to enhance and preserve small boat access in Pacific cod fisheries given the changing nature of the <60 sector and the rationalization of the Trawl CV sector. For more than a century, Unalaska's small boat fleet has depended on viable access to Bering Sea Pacific cod fisheries for economic livelihood and cultural survival. Preserving local cod fishing opportunity is preserving our cultural heritage. We thank the Council for their continued effort in preserving access for the small boat fishermen that live, work and rely on the Bering Sea.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dustan Dickerson".

Dustan Dickerson  
Vice President  
Unalaska Native Fishermen's Association

## **Fishing Community Allocation Proposal**

The Magnuson-Stevens Fishery Conservation and Management Act authorizes the creation of entities such as Fishing Communities (FCs) in Limited Access Privilege Programs (LAPPs) as one way to anchor limited access privileges in place-based and interest-based communities to help maintain their long-term access to federal fisheries. These entities were added to the MSA in 2007 to provide additional assistance to fishing communities, especially in instances where small-scale and rural fishing communities exist and/or quota consolidation is a real or perceived concern.<sup>3</sup> Community allocations represent a reasonable option for the Council to analyze as a community provision within the BSAI Trawl CV Pacific cod LAPP.

### **Element 1. Structure**

The Fishing Community (FC) entity must be a non-profit entity qualified by NMFS, with a Community Sustainability Plan approved by the Secretary as specified in the MSA.<sup>4</sup> The Council can establish set requirements for the FC to be approved, possibly mirroring many of the CQE requirements.

The entity will be governed by a Board of Directors. The Board of Directors will include balanced representation from fishing and community interests, including fishing groups, tribes, cities, and others (e.g., processors, CDQs, support services, etc.) in eligible communities in the Bering Sea management area. The goal for the Board of Directors is to ensure that board composition is broad enough to ensure fair representation, but small enough to function efficiently. The specific composition of the Board of Directors could be set in regulation to ensure that eligible Bering Sea communities and stakeholders are represented.

### **Element 2. Community Eligibility**

The MSA defines a fishing community generally as “a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community.”<sup>5</sup>

In the more specific context of allocations to Fishing Communities in the context of Limited Access Privilege Programs (LAPPs), a community must be “located within the management area of the relevant Council,” meet criteria developed by the Council and established by the Secretary and “consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council’s management area.”<sup>6</sup>

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<sup>3</sup> See Stoll, J. S., and M. C. Holliday. 2014. The Design and Use of Fishing Community and Regional Fishery Association Entities in Limited Access Privilege Programs. U.S. Dept. of Commer., NOAA. NOAA Technical Memorandum NMFS-F/SPO-138.

<sup>4</sup> 16 USC § 1853a(c)(3)(A)(i)(IV).

<sup>5</sup> 16 USC § 1802(17).

<sup>6</sup> 16 USC § 1853a(c)(3)(A)(i)(I-III).

Under both of these definitions, a community need only be engaged in fishing or processing within the management area. There is no requirement that they specifically engage in the target species fishery, or in a particular fishery. In fact, in developing participation for a Fishing Community under the LAPP provisions, Councils are required to consider “economic barriers to access to the fishery,” and “the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.”<sup>7</sup> These considerations support the inclusion of communities in the Bering Sea management area which do not currently participate in the Trawl CV fishery.

Under this program we propose Fishing Community criteria<sup>8</sup> to include communities within the Bering Sea management area which have:

1. Traditional fishing practices in, and dependence on, Pacific cod fisheries in the management area;
2. Cultural and social ties to Pacific cod fisheries in the management area;
3. Economic barriers to access to the fishery;
4. A high potential for economic and social impacts on harvesters, captains, crew, and others in the community substantially dependent on fisheries

Based on this criterium, we envision the Bering Sea communities of Unalaska and Akutan as communities eligible to participate in this program.

### **Element 3. FC Goals and Objectives**

The goals and objectives for the FC entity will be established by the Council in regulation.

Possible goals and objectives include:

- A. Provide for the sustained (current and historical) participation of fishing communities (MSA National Standard 8).
- B. Assist entry-level and small vessel owner-operators, captains and crew and fishing communities (MSA §303A(c) (5) (C)).
- C. Minimize economic barriers and adverse economic impacts on fishing communities (MSA National Standard 8).
- D. Minimize adverse impacts on sectors not included in the LAPP fishery.
- E. Promote active participation in fisheries.
- F. Improve safety at sea among small boat vessels currently competing with larger vessels in an increasingly compressed season (MSA National Standard 10).

### **Element 4. Allocation**

For analysis, the Council should consider an initial allocation range of 0.5-1.0% of Bering Sea ITAC for Pacific cod. Quota allocated to the Fishing Community may not be sold. A minimum

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<sup>7</sup> 16 USC § 1853a(c)(3)(B)(iii,vi).

<sup>8</sup> Note that under the MSA provisions, eligibility criteria must be developed by the Council, approved by the Secretary, and published in the Federal Register. These eligibility criteria are therefore submitted as recommendations, but further refinement should be developed by the Council.

amount (lower threshold) should be identified to ensure that the FC allocation remains at a viable level at times of low stock abundance.

Option 1. If the Council selects an initial allocation of less than 1.0% then a stair-step provision will be included which allows the FC to receive an additional 0.25% of the ITAC per year if the FC allocation is fully harvested up to a cap of 1.0% of the ITAC for Bering Sea Pacific cod. This option should also include a stairstep down provision. For example, if the TAC increases and the FC allocation becomes too large to be fully harvested for two years in a row, the FC allocation would stairstep down by 0.25% to a floor of 0.5% of the Bering Sea ITAC.

#### **Element 5. FC Season and Quota Distribution**

The FC allocation will become available January 1. If there is unharvested FC quota as of May 1, the remaining quota will become available Sept 1.

Quota will be leased on an annual basis according to allocation criteria and a distribution formula established by the Board which meets the goals and objectives for the FC established by the Council in regulation.

To ensure that quota leased from the FC achieves the goals and objectives established by the Council, quota will be leased subject to specific eligibility criteria and contract terms which meet the goals and objectives adopted by the Council. The Board of Directors will develop specific scoring criteria. Possible criteria and terms may include:

- a. Vessel size/capacity restrictions (e.g., <55 tons);
- b. Community residency (e.g., Akutan, Unalaska);
- c. Gear restrictions (e.g., HAL, pot);
- d. Local crew hire;
- e. Port of landing/delivery requirements;
- f. Dependence on Pacific cod fisheries (e.g., needs based formula);
- g. Owner/operator: Must own and materially participate in the operation of a fishing vessel permitted to fish in federal BSAI Pacific cod fisheries

#### **Element 6. Lease Rates and Consolidation Limits**

Lease rates will be managed by the FC in accordance with the goals and objectives established by the Council and FC Board of Directors through the Community Sustainability Plan. Lease rates and the FC's operational and administrative costs will be publicly disclosed in the FC annual report. Preliminary figures indicate that a lease rate set at 20% of the dock price should cover FC administrative and operating costs while providing for affordable entry-level opportunity.

The amount of FC quota that can be fished by a single qualified vessel will be limited by consolidation caps. These ranges reflect flexibility that may be needed to ensure full harvest of the FC allocation while accounting for unexpected disruptions (e.g., vessel breakdowns). Fishing

back up plans to account for unexpected setbacks will be described in the Community Sustainability Plan.

Option 1. 15-25% of the FC's quota

Option 2. 25-35% of the FC's quota

#### **Element 6a. Use of Lease Proceeds**

Option 1. Use of lease proceeds is restricted to operational and administrative expenses.

Option 2. Use of lease proceeds is restricted to operational and administrative costs, and investments identified by the FC board that directly support community-based fisheries and enhance entry-level opportunity (e.g., vessel insurance pool) within eligible FC communities.

#### **Element 7. Reporting, Accountability, and Transparency**

The Council will set goals and objectives for the FC and allow the FC board to adopt FC policies and operational guidelines to meet those goals and objectives.

#### **Element 7a. Community Sustainability Plan**

To be eligible to participate in the program, the FC must “develop and submit a Community Sustainability Plan (CSP) to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.”<sup>9</sup> The CSP is intended to hold the FC accountable. The CSP may include the following:<sup>10</sup>

- Administrative and operating details (e.g., description of board, governance structure, members, etc.);
- Roles and responsibilities of all entities;
- FC Goals and Objectives (and explanation of how the FC will meet those goals and objectives);
- Description of how the FC will meet the specific goals of sustaining community participation in the fishery, providing for new entry, and encouraging active participation;
- Fishing plans and distribution formulas to ensure full harvest of FC allocation;
- System to address violations of CSP

#### **Element 7b. Annual Reporting**

The Council will receive an annual report on or before January 31 as a public document to the Agency that is required. The purpose of the annual report is to provide programmatic information to enable NMFS and the Council to assess the FC's performance regarding Council goals and objectives and adherence to the Community Sustainability Plan. Additional reporting

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<sup>9</sup> 16 USC § 1853a(c)(3)(A)(i)(IV).

<sup>10</sup> See Stoll and Holliday 2014:26 for additional requirements of CSP.

requirements will be determined by the Council. The Council could initiate action at any time to modify or eliminate the FC if it is not meeting the Council's goals.

**Element 8. Additional Provisions**

Rollover provisions and/or 'harvest by' dates will be established to minimize risk of stranded quota and ensure optimum yield.