

April 2, 2021

Chairman Simon Kinneen
North Pacific Fishery Management Council
605 West 4th, Suite 306
Anchorage AK 99501
Submitted electronically

Re: C2 BSAI Halibut ABM

Esteemed Chairman Kinneen and Members of the North Pacific Fishery Management Council,

On behalf of the Aleut Community of St. Paul Island (ACSPI), a federally recognized Alaska Native Tribe located in the Pribilof Islands, Bering Sea, Alaska, we respectfully submit the following comments regarding **C2 BSAI Pacific Halibut Abundance-based Management (ABM)**.

The ABM action was initiated in 2016, as recommended by the Council, to take steps toward responsible halibut bycatch management in the Bering Sea. Reductions in static halibut limits in the groundfish fisheries imposed in 2015 were a first step, but halibut bycatch in the Bering Sea continued to consistently exceed the directed halibut catch as halibut abundance declined, and directed fishery quotas were reduced in response. One of the critical aspects of this issue, and the crux of any management action that must be addressed, is that *bycatch limits were not linked to the declining halibut abundance*, and thus bycatch made up a larger and larger proportion of halibut removals, discarded at sea.

Restoring Equity

We are one of seventeen Alaska Native communities identified as a “halibut dependent community” in the Social Impact Analysis developed by Council staff as part of this action. Our community, including tribal members and our fishing association, Central Bering Sea Fishermen’s Association (CBSFA), has actively participated in the Council process on this issue to identify alternatives, support analyses, and collaboratively remedy this imbalance. Indeed, prior to the formation of CBSFA, individual tribal members from St. Paul established the halibut fishery with support from the Tribal Government. When federal commercial sealing ended, fishing was the primary source of income and our dependence on halibut increased over time with the transition into a fishing-based economy.

Halibut has *always* been fished on St Paul. It has been an integral part of our diet and culture, long before the term “subsistence” came about. The commercial halibut fishery on St. Paul started in the 1980s as part of a promise of support from the federal government after the commercial fur seal trade was discontinued. This occurred long before the Amendment 80 fisheries started trawling in the Bering Sea. Our guaranteed participation in the directed halibut fishery has been recognized by the federal government, as explained in the attached letter from the Department of the Interior to the National Oceanic and Atmospheric Administration (26 May 2015). This letter highlights the vital importance of each agency’s role in protecting the continued existence of the Pribilof Unanga (Aleut) culture and livelihood. Specifically, this letter calls for NOAA to ensure “access to the fishery resource at a level sufficient to sustain the local fishing economy *and* subsistence needs of the Tribe” (pg. 1, emphasis added).

Tragically, of the seventeen halibut-dependent communities in the Bering Sea, more than half are no longer participating in this fishery as a result of being forced out due to dwindling access to the very resources that our

ancestors stewarded for past millennia. We cannot stress enough the importance of the survival of Indigenous Peoples' cultures and communities, which are currently being ignored in this process in favor of large scale industrial fishing interests that have only been a reality in the Bering Sea since 2008. The trajectory of the ABM process currently contradicts both existing federal laws regarding Alaska Natives and Native Americans, Magnuson-Stevens Act (MSA) and the National Standards (NS), and the recent Presidential Executive Orders to advance racial equity and support for underserved communities. Additionally, it contradicts the federal government's commitment to tribal sovereignty and strengthening nation-to-nation relationships. For example, NS 4 (section 3 Factors in Making Allocations) states: "[w]here relevant, judicial guidance and government policy concerning the rights of treaty Indians and aboriginal Americans must be considered in determining whether an allocation is fair and equitable." NS 8 requires these management and conservation actions to consider effects on fishing communities; consider how to ensure sustained participation of fishing communities (section 1); and to the extent practicable, minimize adverse economic impacts on such communities (section 2). This failure to properly manage the groundfish fisheries responsible for halibut bycatch to the detriment of our communities, as exemplified by the numerous communities no longer participating in directed halibut fishing, may have already violated federal trust responsibilities towards Alaska Natives.

Using Best Available Science

Through the Council's early choice to utilize a Management Strategy Evaluation (MSE) process to analyze the ABM, the ABM working group constructed an operating model intended to provide information about the effects of proposed alternatives on the halibut population, as well as impacts to directed halibut fisheries and indirectly on other fisheries. The model has not achieved its intended function, as has been noted over several years by the Science and Statistical Committee (SSC), and in previous public testimony from various stakeholders, including the Amendment 80 fleet. In October 2020, The Council approved a motion to move away from the MSE process, and away from the further use of the model to guide management decisions. In its place, a more qualitative Council analytical process was proposed. This new approach was intended to simplify and bring to a conclusion an action that has been long delayed, due in part to concerns about the model's complexity, as well as the difficulties in addressing several critical flaws identified by the SSC.

Unfortunately, the analytical document posted on March 23, 2021 uses the results of the operating model to analyze the effects of the proposed alternatives on the halibut stock. This appears to contradict the intent of the October 2020 ABM motion that indicated the operating model would not be used any further to drive any analyses. In contrast to the operating model produced by the Council working group, and during the time that this ABM issue has been in front of the Council, the IPHC has produced a model that represents the best available science as required by National Standard 2 of the Magnuson-Stevens Act. The IPHC model was completed recently, in collaboration with stakeholders on the Management Strategy Advisory Board (MSAB) to test scale and distribution management alternatives in a years-long process. The Council model was originally undertaken to mirror IPHC processes, because the IPHC was in the middle of building their own analytical modeling tool that was not expected to be finished in time to be used for Council analysis. However, it is public knowledge that the IPHC model is now finished, and would need minimal additional work to incorporate tools to look at non-directed mortality effects on all resource users. To reject using this model would be a conscious decision to forgo use of the best available science. We ask that the North Pacific Fishery Management Council (NPFMC) and the International Pacific Halibut Commission (IPHC) work together with stakeholders and scientists to use the best available science to help analyze the action now before the Council regarding Abundance-Based Management (ABM) of halibut bycatch.

Summary

In summary, we ask the Council to reassess the basis for the BSAI Halibut ABM analysis. If a model is to be used, we ask the Council to request the IPHC's model as the best available science and undertake an appropriate

analysis for this action. It is critical for NMFS, NOAA, and the Department of Commerce to provide their support in this effort in order to maintain the integrity of the MSA, NS, and recent Executive Orders.

Thank you for the opportunity to voice our concerns. We look forward to continuing to participate in this process for as long as needed to ensure an equitable, just and sustainable solution is achieved.

Respectfully,

A handwritten signature in blue ink that reads "Amos T. Philemonoff, Sr." The signature is written in a cursive style with a large initial 'A' and a distinct 'S' at the end.

Amos T. Philemonoff, Sr.

President, Aleut Community of St. Paul Island



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

MAY 26 2015

The Honorable Eileen Sobeck
Assistant Administrator for Fisheries
National Oceanic Atmospheric Administration
United States Department of Commerce
1404 Constitution Avenue, NW, Room 5128
Washington, DC 20239

Dear Ms. Sobeck:

Earlier this year, I wrote to Deputy Assistant Administrator Rauch regarding the issue of halibut bycatch and the Aleut Community of St. Paul's (Tribe) federally protected fishing rights in the Bering Sea. I appreciate the work National Oceanic Atmospheric Administration (NOAA) has done to date to ensure that the Tribe's harvest quota is not further diminished while the regulatory community works to address the issue of halibut bycatch. Pursuant to our government-to-government relationship with federally recognized tribes, protection of tribal fishing rights is a vitally important shared role of our respective agencies.

Based on recent discussions with the Tribe, we understand that NOAA intends to commence a rulemaking regarding halibut bycatch based on recommendations to be provided by the North Pacific Fishery Management Council (Council). We are hopeful that the Council will recommend, and NOAA will propose in its rulemaking, an approach to regulate the halibut fishery through meaningful reduction in halibut bycatch. We understand under current conditions a reduction of 45 percent to the overall halibut prohibited species catch (PSC) caps in the Bering Sea groundfish fisheries would limit the directed halibut fisheries in the Central Bering Sea to the same volume as in 2014 and 2015. Given that over the past 10 years the Tribe's directed halibut fishery has been severely impacted by the increase in bycatch of halibut by other users, maintaining the same volume as 2014 and 2015 allows only a minimal, maintenance fishery for the Tribe.

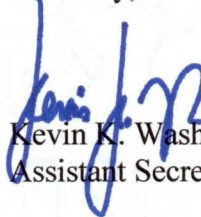
We appreciate NOAA's work to ensure that the Tribe's harvest quota was not further diminished this year. The Tribe's longstanding use and reliance on the fishery for the community's health, welfare, and livelihood has been heightened since 1983 with the end of commercial fur seal harvesting. Access to the fishery resource at a level sufficient to sustain the local fishing economy and subsistence needs of the Tribe is critical to its health and welfare. The fishery not only provides employment and revenue to satisfy the community's most basic needs, it reflects a way of life that has defined this tribal community for generations.

As we explained in our letter dated February 19, 2015, we intend to share with you soon the Department of the Interior Solicitor's Office analysis of the Tribe's federally reserved fishing rights. My staff and attorneys within the Solicitor's Office have initiated conversations with NOAA officials and attorneys regarding the Tribe's federally reserved fishing rights.

My office continues to stand ready to assist NOAA and the Tribe on this important matter. Should the Council issue final action on halibut bycatch at the June 2015 meeting that does not meet the needs of the Tribe, the Department will support NOAA in taking action to ensure a viable directed halibut fishery for the Tribe for 2016 and beyond.

Thank you for your hard work to help us meet our responsibilities to Alaska Natives.

Sincerely,



Kevin K. Washburn
Assistant Secretary – Indian Affairs

Cc: Chairman Amos Philemonoff, Sr.
Aleut Community of St. Paul Island