

MEMORANDUM

TO: Council, SSC and AP Members
FROM: Chris Oliver *CO*
Executive Director
DATE: April 2, 2002
SUBJECT: Halibut Subsistence

ESTIMATED TIME 4 HOURS

ACTION REQUIRED

- (a) Report on the proposed rule for October 2000 action.
- (b) Halibut Subsistence Committee report.
- (c) Final action on trailing regulatory analysis.

BACKGROUND

(a) Proposed Rule

At its January 2002 meeting, the International Pacific Halibut Commission modified its halibut regulations to allow for the recognition of halibut subsistence in Alaska. That change allows the proposed rule for the Council's October 2000 preferred alternative to proceed. Jay Ginter, NMFS-SF, will provide a status report on the proposed rule. Final action on the trailing amendment may modify some of the proposed regulations from the October 2000 action.

(b) Halibut Subsistence Committee

The Council modified the membership of the Halibut Subsistence Committee (Item C-3(b)(1)) and requested that it reconvene to address two options in the trailing regulatory analysis scheduled for final action at this meeting. The two options are: 1) proxies and 2) community harvest permits. The committee recommendations are included in the analysis on pages 33-35 and as Item C-3(b)(2).

(c) Trailing regulatory analysis

An analysis of proposed changes to an October 2000 action to define the legal harvest of halibut for subsistence use in Convention waters in and off Alaska is scheduled for final action at this meeting. At the request of the Council, the Alaska Board of Fisheries recommended changes to the Council's previous action in June 2001 on: 1) gear limits, 2) stacking of gear limits, 3) harvest limits, 4) proxy fishing, 5) changing the Cook Inlet non-subsistence fishing area southern boundary. These changes were intended to address local needs and perceived management issues. The Council initiated this analysis in June 2001. Initial review occurred in December 2001. During initial review, the Council modified the language of Alternative 2 (the Board's recommendations) for clarity and modified the Board's recommendations in a new Alternative 3. The Council also added a new action to allow retention of legal sized halibut while halibut fishing in the community development quota (CDQ) program. A letter from the IPHC on this issue is included under C-3 Supplemental. The analysis was mailed to you on March 15. The actions are summarized below and the executive summary is attached as Item C-3(c).

ACTION 1 (Board recommendations) is intended to better reflect local halibut subsistence fishing needs to feed families in all areas while balancing concerns about rockfish stocks in four local areas adjacent to more densely populated centers. It may affect access to food for as many as 82,000 Alaska residents deemed eligible under the previous action whose fishing practices occur in the affected areas. The proposed options are not designed to decrease the amount of total harvest for subsistence use in those waters. The biological data to assess local fish removals and rockfish populations are not currently available, but the potential effects have the potential to be positive for local rockfish and ling cod populations. The economic data to assess the potential effects of the proposed measures on the affected individuals also are not available, but they may be negative for local subsistence users in those same areas. The Council must weigh these potential effects in making its decision.

ACTION 2 was added to the analysis in December 2001. Alternative 2 would allow retention of legal sized halibut for subsistence use while commercial fishing and not counting it against a CDQ allocation. It is intended to minimize the number of trips needed to harvest halibut CDQ allocations and subsistence halibut and enhance safety at sea.

None of the alternatives under either action is expected to result in a "significant regulatory action" as defined under NEPA or in E.O. 12866. The proposed action is not expected to be "economically significant." The affected entities in this analysis are not considered "small entities" under the Regulatory Flexibility Act.

HALIBUT SUBSISTENCE COMMITTEE

Last updated January 7, 2002

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Committee members who participated in the Halibut Subsistence Committee meeting on February 26 were Robin Samuelsen (Chair), Adelheid Hermann, Matt Kookesh, Dan Hull, Harvey Kitka for Theodore Borbridge, Jennifer Hooper, Sue Unger for Flore Lekanof, Brett Huber, and Arne Fuglvog.

Halibut Subsistence Committee recommendations. The Committee reviewed the State proxy fishing system and concurred that it was too restrictive to be applied to the halibut subsistence fishery. It also concurred that another alternative considered by the Council that would define a proxy system for all Federally eligible subsistence users was too inclusive. It recommended that proxies not be fished for Federally eligible users who reside in urban areas. Those users may return to their rural area to have their proxy fished.

The Alaska Native Subsistence Halibut Working Group provided recommendations on behalf of the Alaska Native members of the committee. The Committee concurred that the proposals for community harvest permits, proxies, and ceremonial, cultural/educational permits be included in the analysis. A summary of those recommendations follow:

- (a) Proxies and/or community harvest permit systems should not be adopted for those areas where additional restrictions are not adopted.
- (b) If the Council adopts additional restrictions, a Tribe-based community harvest permit system should be developed for those areas where the Council recommends further restrictions. Only small, remote communities that have a traditional pattern of community harvesters would be eligible. For example, in Cook Inlet and Prince William Sound, where the BOF has proposed a 5 hook limit, eligible communities would include Nanwalek, Port Graham, Seldovia, Seldovia Village, Chenega Bay and Tatitlik. None of these communities has a population over 500 and none are connected to the mainland by a road. All have a traditional subsistence harvest pattern which includes community harvesters. Cordova would be excluded under this criteria. Sitka (the LAMP area) and Kodiak (the road zone and Chiniak Bay) would also not be eligible for community harvest permits. Designated harvesters would be identified by the Tribe. Fishing restrictions would be community-based and developed in a cooperative agreement with NMFS. Revised language (reflecting committee discussions) follows:

“The NMFS may develop and issue community subsistence halibut harvest permits to Village residents identified by the Village as “community harvesters.” Such permits may only be issued in Native Villages and other small, remote coastal communities where there is an established pattern of subsistence harvest that includes community harvesters. Such permits may be developed and implemented through cooperative agreements with tribes and other local governments. Such permits shall include restrictions on gear and bag limits and may provide for gear and harvest amounts consistent with customary and traditional harvest patterns and practices, and sufficient to meet the subsistence needs of the community. Such permits shall include harvest reporting requirements.”

- (c) If the Council adopts additional restrictions and: 1) does not adopt a community harvest permit system or 2) for the communities not eligible for community harvest permits (Sitka, Cordova, Kodiak - see above), an individual-based proxy system should be developed for those areas where the Council recommends further restrictions. Revised language (reflecting committee discussions) follows:
 - 1) A person who is qualified to take halibut for subsistence uses in Alaska may designate another qualified subsistence user to take halibut for subsistence uses on his/her behalf; provided that a qualified urban user must return to the rural area

where she/he is qualified to subsistence fish, and remain in that area during the period when another qualified subsistence user is designated to take halibut on his/her behalf in that rural area. The designated fishermen may fish for any number of beneficiaries.

- 2) The designated fisherman must comply with any requirements NMFS may set for proxy fishing for other qualified subsistence users, including harvest reporting requirements, when taking, attempting to take, or transporting fish taken under this section, on behalf of a beneficiary.
 - 3) The designated fisherman may fish with up to two times the number of hooks allowed for an individual on one line of gear, or with two lines of gear each with the number of hooks allowed for one individual, if the designated fisherman is qualified to harvest halibut for four eligible users.
 - 4) A beneficiary may not designate more than one person to take or attempt to take subsistence halibut on his or her behalf at one time or personally take or attempt to take subsistence halibut at the same time that a designated fisherman is taking or attempting to take halibut on his/her behalf.
 - 5) The NMFS may enter into cooperative agreements with tribes, the State, and other local governments to implement this section.”
- (d) The committee concurred that under any alternative, the Council should adopt a ceremonial, cultural, and educational harvest permit system. This proposal is modeled after an existing Federal permit system under the U.S. Fish and Wildlife Service that administers such a program for salmon.

“NMFS would administer a ceremonial, cultural, and educational harvest permit system for Alaska Native Tribes that are eligible for halibut subsistence to conduct cultural/education camps and for ceremonial purposes (e.g., deaths, potlatches). The permit would be limited to a harvest of 25 fish. A qualifying cultural or education program must have instructors, enrolled students, minimum attendance requirements, and standards for successful completion of the course. A qualifying ceremonial use is one in which the use of halibut is customary and traditional and is related to some act or occasion of cultural significance.

The committee did not agree that the proposed additional restrictions for Sitka Sound be applied to all of Area 2C (Alternative 3, Part 4, Suboption 2).

The committee identified additional rural communities that would not be eligible to use community harvest permits if the Council adopted Action 1, Alternative 3, Part 4, Suboption. This would require eligible residents in the following communities to use proxies and not community harvest permits if the elements proposed by the Board to all of Area 2C: Craig, Haines, Petersburg, Sitka, Skagway, Wrangell, and Cordova.

EXECUTIVE SUMMARY

The enclosed halibut subsistence analysis examines two proposed actions to amend an October 2000 Council action to define the legal harvest of halibut for subsistence use in Convention waters in and off Alaska. The regulatory amendment for the October 2000 action is being prepared for Secretarial review. As part of that action, the Council requested that the State of Alaska Board of Fisheries reexamine the Council's preferred alternative on: 1) legal gear; 2) daily limits; 3) reporting requirements; 4) customary and traditional use areas of tribes and rural communities; and 5) non-rural area definitions for halibut fishing areas. The Board forwarded its recommendations for changes affecting Area 2C, Area 3, and Area 4 to the Council in June 2001. This proposed action is analyzed under ACTION 1. The Board's recommendations were reorganized into Action 1, Alternative 2, which would implement more liberal limits for Areas 4C, 4D, and 4E; slightly more restrictive limits for Areas 3B, 4A, 4B, and most of Areas 2C and 3A; and more restrictive limits in four local areas of Areas 2C and 3A (Sitka Sound, Kodiak and Chiniak Bay, Cook Inlet, and Prince William Sound). In response, the Council initiated this analysis for potential changes to its previous action on: 1) gear limits, 2) stacking of gear limits, 3) harvest limits, 4) proxy fishing, and 5) changing the Cook Inlet non-subsistence fishing area southern boundary. In December 2001, the Council added Alternative 3 which expanded some of the elements of Alternative 2 to allow a wider range of options from which to select its preferred alternative for Action 1. Alternative 1 is the No Action alternative.

Action 1 is intended to better reflect local halibut subsistence fishing needs to feed families in all areas and balance concerns about rockfish stocks in four local areas adjacent to more densely populated centers. It may affect access to food for as many as 82,000 Alaska residents deemed eligible under the previous action whose fishing practices occur in the affected areas. The alternatives are not intended to decrease the amount of total harvest for subsistence use in those waters, but to develop regulations that better reflect local subsistence fishing practices in all areas and complement precautionary measures adopted by the State to conserve local populations of rockfish in waters under its jurisdiction. The biological data to assess local fish removals and rockfish populations are not currently available. The economic data to assess the potential effects of the proposed measures on the affected individuals also are not available. The effects of Alternative 2 are more restrictive on subsistence halibut users than for either commercial or sport halibut users. It appears to have the effect of placing subsistence uses at the lowest priority and to be inconsistent with state and federal laws that govern the harvests of fish species. Alternative 3 provides a wider range of alternatives and may mitigate the impacts on the affected marine resources and individuals.

In December 2001, ACTION 2 was added to allow retention of legal sized halibut for subsistence use while commercial fishing and not counting it against a CD allocation. It is intended to minimize the number of trips needed to harvest a halibut CD allocations and halibut subsistence and enhance safety at sea. It includes the requisite No Action alternative and an alternative to allow all legal-sized halibut caught for subsistence purposes to be excluded from being counted against a halibut community development quota (CD) account.

None of the alternatives is expected to result in a "significant impact" on the human environment as defined by NEPA since the halibut subsistence fishery is estimated to remove less than one percent of both the total halibut biomass and the exploitable halibut biomass. None of the proposed actions are expected to effect the amount of halibut removed from the resource for subsistence use. None of the alternatives is expected to result in a "significant action" under E.O. 12866 since neither action would have an annual effect on the economy of \$100 million or more, create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. The affected entities in this analysis are not considered "small entities" under the Regulatory Flexibility Act.

ACTION 1. Alaska Board of Fisheries Proposal

Alternative 1. No action.

Alternative 2. Modify the previous action on halibut subsistence:

- Part 1: in Areas 4C, 4D, and 4E: Eliminate gear and harvest restrictions
- Part 2: in Areas 2C, 3A, 3B, 4A, 4B: Allow stacking up to three times the number of hooks on a single unit of gear per trip provided the subsistence user(s) are on board the vessel.
- Part 3: in Area 3A:
- A) Kodiak Road Zone and Chiniak Bay:
 - 1) Decrease the gear limit to 5 hooks;
 - 2) Create a 20 fish annual limit;
 - 3) Allow proxy fishing.
 - B) Prince William Sound
Decrease the gear limit to 5 hooks.
 - C) Cook Inlet;
 - 1) Decrease the gear limit to 5 hooks;
 - 2) Increase the size of the Cook Inlet non-subsistence fishing area by adjusting its southern boundary.
- Part 4: in Area 2C, Sitka LAMP Area:
 - 1) Decrease the gear limit to 2 hooks;
 - 2) Create a 20 fish annual limit;
 - 3) Allow proxy fishing;
 - 4) Decrease the daily harvest limit to 2 fish (Council option).
- Part 5: A permit and reporting system must be in place when the program is implemented.
- Part 6: The Council will conduct a program review 3 years after the program implementation date.

Alternative 3. Modify the previous action on halibut subsistence:

- Part 1: Areas 4C, 4D, and E: Eliminate gear restrictions
- Part 2: All Areas except 4C, 4D, 4E Allow stacking of a maximum up to 2 to 3 times the number of hooks on a single unit of gear per trip provided that the subsistence user(s) are on board the vessel, or when subsistence users are represented by proxy.
- Suboption: Allow stacking of up to 2 to 3 times the number of hooks on a single unit of gear per trip provided that the subsistence user(s) are on board the vessel, with no maximum limit on units of gear.
- Part 3(A): In Area 3A, Kodiak Road Zone and Chiniak Bay:
 - 1) 5 to 30 hooks
 - 2) 20-fish annual limit
 - 3) Develop proxy system
 - 4) Allow stacking of a maximum up to 3 times the number of hooks on a single unit of gear provided that the subsistence user(s) are on board the vessel, or when subsistence users are represented by proxy.
- Suboption: Allow stacking of up to 2 to 3 times the number of hooks on a single unit of gear per trip provided that the subsistence user(s) are on board the vessel, with no maximum limit on units of gear.

Part 3(B): In Area 3A,

Prince William Sound:

- 1) 5 to 30 hooks
- 2) 30 -fish annual limit
- 3) Develop proxy system
- 4) Allow stacking of a maximum up to 3 times the number of hooks on a single unit of gear provided that the subsistence user(s) are on board the vessel, or when subsistence users are represented by proxy.

Suboption: Allow stacking of up to 2 to 3 times the number of hooks on a single unit of gear per trip provided that the subsistence user(s) are on board the vessel, with no maximum limit on units of gear.

Part 3(C). In Area 3A,

Cook Inlet:

- 1) 5 to 30 hooks
- 2) 30-fish annual limit
- 3) Develop proxy system
- 1.04 Allow stacking of a maximum up to 3 times the number of hooks on a single unit of gear provided that the subsistence user(s) are on board the vessel, or when subsistence users are represented by proxy.

Suboption: Allow stacking of up to 2 to 3 times the number of hooks on a single unit of gear per trip provided that the subsistence user(s) are on board the vessel, with no maximum limit on units of gear.

1.05 Cook Inlet Boundary - No action

Part 4: In Area 2C,

Sitka Sound Lamp Area:

- 1) 2 to 15 hooks
- 2) 5 fish per day
- 3) 20 fish annual limit
- 4) Develop proxy system
- 5) Allow stacking of a maximum up to 2 times the number of hooks on a single unit of gear provided that the subsistence user(s) are on board the vessel, or when subsistence users are represented by proxy.

Suboption: Allow stacking of up to 2 to 3 times the number of hooks on a single unit of gear per trip provided that the subsistence user(s) are on board the vessel, with no maximum limit on units of gear.

Suboption: Apply the above provisions to all of Area 2C.

Part 5. All areas.

Analysis of Federal and State proxy systems and other proxy options that reflect customary and traditional harvests and distribution patterns of native villages and other communities. This should be done in consultation with State, Federal, Tribes, and rural communities.

Part 6. All areas.

Community Harvest Permits: The Council Halibut Subsistence Committee shall work with the NMFS to construct a community harvest permit system.

ACTION 2.

Alternative 1. No Action.

Alternative 2. Modify the previous action on halibut subsistence:

Areas 4B, 4C, 4D, and 4E.

Legal-sized halibut could be retained for subsistence purposes and not counted against a CDQ account.

RECEIVED
APR - 2 2002

N.P.F.M.C

April 3, 2002

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

Re: April 2002 Meeting, Agenda Item C-3(c): Halibut Subsistence Trailing amendments

Dear Chris:

The staff of the International Pacific Halibut Commission has reviewed the EA/RIR for the trailing amendments for the proposed Halibut Subsistence Fishery. The measure allowing retention of subsistence on a CDQ trip was initially proposed at the December 2001 Council meeting. We understand that IFQ and subsistence fishing will not be allowed on the same trip. Our comments on Action 2 of the amendment, which provides for the retention of legal-sized halibut for subsistence use while commercial fishing and not counting it against a CDQ allocation are as follows:

Action 2: As we have stated in previous letters to the Council, we believe that any mixing of CDQ and subsistence fishing will compromise enforcement of normal CDQ regulations. Specifically, we believe having more than one legal gear on a CDQ-subsistence trip would cause enforcement problems. For Area 4B, legal CDQ gear is defined by IPHC regulations, as part of commercial regulations, and subsistence gear would be defined by subsistence regulations. The legal limit of no more than 30 hooks for subsistence is probably exceeded by most CDQ commercial halibut gear. We suggest the Council avoid implementing subsistence regulations that are unenforceable on a CDQ trip. If there are no gear restrictions for the subsistence fishery in Areas 4C, 4D, and 4E, then there is no conflict with legal fishing gear requirements.

If legal-sized halibut can be retained and not counted as part of the CDQ, any overage above the CDQ trip limit could be claimed as subsistence. We strongly recommend that all halibut be offloaded and weighed from subsistence-CDQ trips. Proper accounting to both CDQ accounts and subsistence will be necessary.

Should the Council desire to proceed with this proposal, we also suggest that this retention provision be limited to local vessels only and not permitted on "outside" vessels which are hired to fish CDQs for the local organizations. Our understanding of the original intent was to allow local fishers greater opportunity for catching their CDQ and subsistence harvests within the narrow summer fishing season. Permitting this practice on "outside" vessels will create new fishing effort which we do not believe was the Council's intent.

Gregg Williams from our staff will be attending the April meeting and can address any questions the Council may have about our recommendations.

Sincerely,

Bruce M. Leaman
Executive Director

cc: IPHC commissioners

Upper Lynn Canal Fish & Game Advisory Committee
P.O. BOX 1309
Haines, AK 99827

RECEIVED

APR - 3 2002

N.P.F.M.C

4-03-02

Attn: Jane DiCosimo
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Ak 99501-4424

Dear Jane,

The Upper Lynn Canal Fish & Game Advisory Committee met on April 2nd to discuss the Federal Halibut Subsistence Fishery Regulations. The committee would like to make the following recommendations for the Lynn Canal, Unit 15 area.

- Annual bag limit of 15 halibut per household
- 30 hook limit with only non-stainless steel circle hooks to limit halibut mortality and ease of releasing if over limit.
- Stacking of gear – up to 3 ok with all permit holders on board.
- Proxies authorized consistent ADF&G Sport Fishing by proxy regulations.
- No sale of subsistence caught halibut.
- Bartering is ok, as long as not commercialized.
- System of accountability. Perhaps a punch card with annual renewal requirements, administered by local ADF&G, possibly funded by NMF. Marking of subsistence caught halibut by cutting specified fin.

Feel free to contact us at 907-766-2787 or the above address if needed.

Sincerely,


Michael D. Ward, Secretary


Norman Hughes, AC Member

PUBLIC TESTIMONY SIGN-UP SHEET FOR AGENDA ITEM C-3 Subsistence

**PLEASE SIGN ON THE NEXT BLANK LINE.
LINES LEFT BLANK WILL BE DELETED.**

	NAME	AFFILIATION
1.	Math Kookesh	Alaska Native
2.	Larry Menulieff	Subsistence Halibut
3.	Skyl Starker	Working Group
4.	BILL Paden	SITKA Fish Game Adv. Comm.
5.	Ben Ellis	Recreational Angler
6.	^{Phillip Lesterhof} Bimoon Swetz Jr.	ST. PAUL ISL, AK.
7.	Dan Hull	CDFW
8.	HANK PORTER	ANG/ANS
9.	BERT ADAMS	AKA
10.	CORA CROME	P.V.O.A.
11.	since DAN FALVEY	ALFA
12.	Iver MALUTIW	KODIAK
13.	JOHN LITTLEFIELD	SITKA & SERAC - FEDERAL SUBSIST, DOG POINT FISH CAMP
14.	Rob Stotts	Unalaska Native Fishermen's Assoc.
15.	Logie Wagner	Metlakatla Tribal Council
16.		
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Summary of Subsistence Halibut Draft Proposed Rule
April 5, 2002
Jay J. C. Ginter, Alaska Region, NMFS

How would "subsistence" be defined?	"Subsistence" would be defined as the "non-commercial, long-term, customary and traditional use of halibut."
Who would be eligible to do subsistence fishing for halibut?	<ol style="list-style-type: none"> 1. Residents of certain rural communities with customary and traditional uses of halibut specifically named by the Council and listed in the proposed rule; and 2. Members of a Federally recognized Alaska Native tribe that has customary and traditional uses of halibut
What gear restrictions would apply to subsistence halibut fishing?	The legal gear for subsistence halibut would be set and hand-held gear of not more than 30 hooks, including longline, handline, rod and reel, spear, jigging and hand-troll gear.
What harvest restrictions would apply to subsistence halibut fishing?	<ol style="list-style-type: none"> 1. The daily limit for subsistence halibut in rural areas would be no more than 20 fish of any size per subsistence fisher. 2. No daily limit would apply to subsistence fishers in IPHC Areas 4C, 4D, or 4E. 3. No subsistence fishing would be allowed in non-rural areas (same as State non-subsistence areas for Ketchikan, Juneau, Valdez, and Anchorage). 4. Subsistence halibut could not be retained on the same fishing trip with sport or commercial halibut (except in IPHC Areas 4D and 4E). 5. Subsistence halibut could not be retained if harvested from a charter vessel.
Any restrictions on the use of subsistence halibut?	Subsistence halibut could not be used for commercial purposes except that an eligible subsistence fisher could engage in customary trade of subsistence halibut through monetary exchange up to a limit of \$400 per year.
Any other requirements?	For subsistence harvest information purposes, subsistence fishers would register and possibly be surveyed about their subsistence harvests.

Development of Subsistence Halibut Proposed Rule
June 2001 through March 2002
Jay J. C. Ginter, Alaska Region NMFS

June 2001:

Consulted with Council to clarify intent of the Council in its October 2000 action.

July 2001:

First draft of proposed rule regulatory text; internal review.

August 2001:

Issued contracts to RurALCAP for consultations with Alaska Native Subsistence Halibut Working Group and to Robert J. Wolfe and Assoc. for consultations and report on alternative methodologies for estimating subsistence halibut harvests.

September 2001:

Revised draft of proposed rule regulatory text and draft preamble

November 2001:

- Meeting with Alaska Native Subsistence Halibut Working Group
- Meeting with IPHC staff to discuss potential regulatory changes
- Meeting with consultant Robert Wolfe

January 2002:

- International Pacific Halibut Commission meeting; IPHC adoption of regulatory language recognizing customary and traditional use of halibut for subsistence off Alaska and expanding allowance to retain short halibut taken with CDQ halibut in Area 4D and 4E.
- Revised draft of proposed rule notice; continued internal review.

February 2002:

- Meeting with Council's Subsistence Halibut Committee
- Discussions with Council staff, Region, Enforcement and GCAK staffs, and consultant Robert Wolfe regarding implementation.

March 2002:

- Revised draft proposed rule notice twice more; continued internal review.
- Meeting with Southeast Alaska Intertribal Fish & Wildlife Commission.
- Received final revisions of analysis from Council staff

Ongoing consultations with Council staff and Alaska Native representatives pursuant to Executive Order 13175.

Expect review and revision work within Region to be done and proposed rule package submitted to NMFS headquarters by late April 2002.

March 25, 2002

Chairman Dave Benton
North Pacific Fisheries Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Dear Chairman Benton:

I am writing on behalf of the Sitka Fish and Game Advisory Committee Subsistence Halibut Work Group. The original Sitka Sound Halibut Task Force was assembled to develop a Local Area Management Plan (LAMP). The Sitka LAMP was developed by consensus of all local user groups and has been in effect for two years. Ak. Dept. of Fish and Game creel census indicates an improvement in halibut fishing success for local Sitka fishermen so we can say that the LAMP is working.

In January 2002, the Council requested assistance from the Sitka area, to incorporate the new federal halibut subsistence regulations into the Sitka LAMP.

The Halibut Work Group met five times on this issue and reached a tentative agreement based primarily on the opinions of the seven participants, that for various reasons could not be supported by one of the groups. Scheduling conflicts and the April deadline for Council final action precluded the development of the broad support of user groups reached in the original LAMP. However, the Work Group and the majority of the Advisory Committee members feel that is the best plan for Sitka at this time.

The Work Group feels very strongly about the provision for an Annual Evaluation. Without it, the entire process is likely to fall apart. Much of the compromise in the tentative agreement is based on hypothetical opinions of the Work Group members. A process for fine-tuning the regulations is necessary and we recommend the following:

- 1) Annual evaluation by the Sitka Fish and Game Advisory Committee (SAC) is imperative.

- 2) Agencies and organizations responsible for gathering harvest and biological information for halibut make information available to the SAC to determine if this agreement is meeting the needs of all user groups. Such organizations include, but are not limited to, the International Pacific Halibut Commission, The Alaska Department of Fish and Game, the Sitka Tribe of Alaska, and the National Marine Fisheries Service.
- 3) The Council provides a means for the SAC to propose changes to the Sitka LAMP on a cyclical basis, at least once every three years.

We believe conflicts of various users are best defined and settled at a local level. The annual revision process was deleted by the Council from the original Sitka LAMP consensus agreement. By endorsing a process as defined above, the Council will restore credibility and incentive to the development of LAMPS.

Thank You.

Sincerely,

Bill Paden
Halibut Work Group Coordinator

Cc:
Marvin Proctor, Chairman, Sitka Fish and Game Advisory Committee

ALASKA LONGLINE FISHERMEN'S ASSOCIATION
403 Lincoln Street, Ste. 237
Sitka, AK 99835

April 2, 2002

North Pacific Fishery Management Council
605 West Fourth Avenue Ste. 306
Anchorage, AK 99501

Dear Council Members,

On behalf of the Alaska Longline Fishermen's Association (ALFA), I wish to submit the following comments relative to halibut subsistence management in Sitka Sound.

First, I want to thank the Council for the amount of time and attention you have dedicated to the subsistence issue in general and to the subsistence issue in the Sitka Local Area Management Plan (LAMP) in particular. Given the other issues on your agenda, it is quite impressive that you all were willing to spend more meeting time on Sitka's problem.

Second, I want to restate ALFA's commitment to maintaining halibut subsistence opportunities for local fishermen in the protected waters of Sitka Sound. In particular, ALFA members are sensitive to the needs of people who fish for halibut from small skiffs, are not set up to haul longline gear, and deserve a reasonable opportunity to safely harvest halibut to eat. Members believe that some incentive should exist for subsistence halibut fishermen with larger boats and the capacity to haul longline gear to fish outside the Sound, at least during the summer months.

A little background on the negotiations. . .

As you will hear from the Sitka Fish and Game Advisory Committee spokesman Bill Paden, representatives from all halibut user groups met five times to construct a subsistence management plan for the LAMP that all could support. The charter, sport and commercial interests all started the negotiations from the position of one line, two hooks, and two fish for subsistence management in the LAMP, at least during June, July and August. The starting point for the Sitka Tribe was 30 hooks and 20 fish, although all participants recognized that the limits were likely to fall within the range determined by the subgroup that met during the last Council meeting (up to 15 hooks and up to 5 fish).

Hours of discussion eventually led to agreement on management limits for the winter months (30 hooks, 10 fish, with a boat limit of 60 hooks and 10 fish), but the summer months remained a challenge until the final 15 minutes of what was to be our last meeting. Mike Miller, on behalf of the Tribe, proposed the concept of prohibiting power gear in the LAMP during the summer, while allowing up to 15 hooks and 5 fish as a boat limit. Someone then offered the idea of a jig only area around Vitskari Rocks,

recognized by all Sitkans as the halibut hot spot. One participant voiced his discomfort with the 15 hooks, but everyone agreed to talk to other fishermen, reflect on the proposed package, and meet one last time.

During the week of reflection, the Tribe become angered by the reluctance of other participants to support the package, and elected to reject the package in favor of their previous position. All participants were informed of this decision at the last work group meeting. At this meeting, a final element (the annual review) was added to the package, bringing on board the one non-Tribal member who had remained reluctant. As a result, the charter, sport and commercial representatives decided they could support the package **if it was adopted by consensus**. Unfortunately, the Tribe representatives did not have the Tribe's support. **Because consensus was not reached, ALFA's position on halibut subsistence management inside the LAMP remains one line, two hooks and two fish, at least during the summer months.**


Conclusion


ALFA members understand that Tribal members have a long history of fishing halibut with longlines in Sitka Sound. We believe that the Tribe will continue to harvest halibut in a responsible way, using what is harvested in the spirit of subsistence. ALFA members also recognize that the Council's definition of subsistence (which our Association supports) allows the 8,000 people who live in Sitka to set longlines up to 30 hooks in length for subsistence, and believe this level of effort, or even any level of effort that approaches this intensity, would prevent halibut abundance in Sitka Sound from returning to levels that allowed a person in a small skiff to have a reasonable opportunity to harvest a fish to eat. Hence the objective for establishing the LAMP in the first place would not be met.

In closing, ALFA members were willing to support the negotiated package allowing more than two hooks and two fish in the Sound **if all groups agreed to the package**. Members we are not willing to allow the package to be the starting point for further compromise with the Tribe's position of 30 hooks and 20 fish. For this reason, and to achieve the objective of allowing local people who do not have access to large boats or the capability to haul a longline a safe and reasonable opportunity to harvest a halibut to eat, ALFA's position for subsistence management in the Sitka LAMP remains one line, two hooks, two fish, at least during the months of June, July and August.

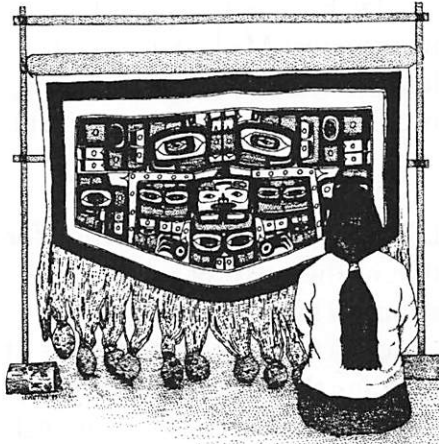
Thank you for the opportunity to comment, and for your patience in reviewing this issue.

Sincerely,


Linda Behnken
(Director and work group member)


Terry Perensovich
(President and work group member)

C-3



Southeast Alaska Federal

Subsistence Regional Advisory Council William C.

Thomas, Chairman P. O. Box 5196, Ketchikan, AK 99901 907 225 4833, fax 907 247 4833, wctomas@ktn.net Robert Schroeder, Subsistence Management Coordinator, U. S. Forest Service, Alaska Region Box 21628, Juneau, AK 99802-1628 1 800 586 7895, fax 907 586 7860 rschroeder@fs.fed.us

David Benton, Chairman

North Pacific Fishery Management Council

605 W 4th Ste 306

Anchorage, Alaska 99501-2252

March 18, 2002

Dear Mr. Benton,

The Southeast Regional Advisory Council (SERAC) met in Juneau, Mar. 12-14, 2002. This Federal Advisory Committee Act regulated council is authorized by the Alaska National Interest Lands Conservation Act (ANILCA) to make regulatory recommendations for subsistence fish and wildlife management to the Federal Subsistence Board. ANILCA also directs the SERAC to discuss issues that affect subsistence harvests in southeast Alaska and to suggest policy and regulatory directions to agencies whose actions may affect its constituents. SERAC represents all southeast subsistence communities including Yakutat; these communities fish halibut in areas 2C and 3A. Halibut is a key subsistence resource in our region and is among the top five species taken by subsistence users in terms of usable food weight. SERAC recognizes that halibut management is entrusted to the International Pacific Halibut Commission (IPHC) and to the North Pacific Fishery Management Council (NPFMC).

We are encouraged by the effort taken by the IPHC and the NPFMC, with support from National Marine Fisheries Service staff, to provide regulatory recognition of continuing subsistence use of halibut by members of southeast Alaska communities. We also recognize the significant effort put forward by subsistence users throughout the state to develop equitable regulation of this important species-regulation that would recognize customary and traditional halibut harvesting patterns, most of which have been in practice

for hundreds of years. At our Juneau meeting we were briefed by Pete Probasco, U.S. Fish and Wildlife staff, by Halibut Subsistence Committee member Mathew Kookesh, and by council members Floyd Kookesh, John Littlefield, and Harold Martin concerning proposed regulatory actions that may be taken by the North Pacific Fishery Management Council at its April, 2002 meeting.

SERAC wishes to express its strong support for the Oct. 7, 2000, regulatory direction for subsistence halibut. **Specifically, we support recognition of the existing subsistence practice of using short skates to catch subsistence halibut.** This is an efficient subsistence method and one which has been widely practiced in the rural communities of our region. **We agree with the suggested limits proposed for this traditional activity: use of up to 30 hooks and a 20 fish per day limit for subsistence users.** We note that this regulation would simply recognize existing practice. It would not establish a new harvest method or new harvest level for subsistence harvesting of halibut in our region.

Furthermore, SERAC **supports the recognition of a proxy fishing system** to allow harvest of halibut by subsistence users who, for whatever reason, are not able to fish using this method themselves. SERAC also **supports establishment of educational and ceremonial permits** as previously discussed by the NPFMC. These permits should be issued to tribal governments in communities with recognized tribes.

In addition, SERAC **opposes putting additional restrictions on subsistence halibut fishing for the Sitka Local Area Management Plan area (LAMP).** We believe that management of halibut within the LAMP should be addressed through the LAMP process-not through an area wide regulation. We also note that the intense competition for halibut and other marine resources that may occur within the Sitka LAMP takes place during the summer tourist season. There may be no resource issue for migratory halibut during the months when subsistence harvests generally take place.

SERAC **strongly opposes any yearly limit for subsistence caught halibut whether limited in number or pounds of fish harvested.** We believe that the subsistence harvest of halibut is inherently self-limiting because subsistence harvesters take only what they need for their families' and for their communities' use. We also note that current sport fish regulations for halibut allow for a daily limit of two fish per fisher; potentially allowing a sport fisher to take 720 fish per year, 722 in a leap year. The NPFMC has not identified any problem with this potentially large sport harvest.

We applaud the long-term success of the NPFMC and the IPHC and of the halibut fishers in our region in establishing the sound management of halibut; this has allowed this resource to rebound from the over-harvesting that took place in the early commercial era. Hopefully, future management actions will allow the stock to approach its pre-commercial harvest level. We trust that you will take this opportunity to redress the regulatory oversight that has not recognized the continuing traditional subsistence use of halibut.

Thank you for consideration of our council's position on this management issue.

William C. Thomas, Chairman

Council members:

Bert Adams, Yakutat

Mike Douville, Klawock

Dolly Garza, Ketchikan

Floyd Kookesh, Angoon

Butch Laiti, Juneau

John Littlefield, Sitka

Harold Martin, Juneau

Patricia Phillips, Pelican

Mary Rudolph,

Hoonah

Dick Stokes, Wrangell

Marilyn Wilson, Haines

cc.

Denny Bschor, Regional Forester, U. S. Forest Service, Box 21628, Juneau, AK 99802-1628

Secretary Donald L. Evans, U. S. Department of Commerce, 14th and Constitution Ave. NW, Washington, D. C. 20230

Dave Gibbons, Forest Supervisor, Chugach National Forest, 3301 C St., Suite 300, Anchorage, AK 99503-3998

Jay Ginter, Chief Operations Branch, U. S. Department of Commerce, NOAA, NMFS, 709 W. 9th St., Box 21668, Juneau, AK 99802

Bruce Leaman, Executive Director, International Pacific Halibut Commission, Box 95009, Seattle, WA 98145-2009

Thomas Puchlerz, Forest Supervisor, Tongass National Forest, Federal Bldg., Ketchikan, AK 99901-6591.

Frank Rue, Commissioner, Alaska Department of Fish and Game, Box 25526, Juneau, Alaska, 99802-5526



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NPFMC

Southeast Alaska Intertribal Fish & Wildlife Commission

Submission Date: March 12, 2002

HALIBUT, A TRIBAL RESOURCE

BACKGROUND

In 1981 the people of Angoon submitted a proposal to the Alaska Board of Fish to recognize a subsistence halibut fishery in Angoon. Regulations were adopted to allow for the use of a hand-held line and an increase from one to two hooks. The bag limit of two fish was left the same as the sport bag limit. In 1997, Angoon residents submitted a request to the Tlingit and Haida Central Council (THCC) to adopt a resolution requesting that the appropriate federal managers recognize a subsistence halibut fishery in Southeast Alaska. THCC acted and Edward Thomas, Central Council President, forwarded this resolution to Senator Stevens. The senator's staff then forwarded the resolution to Clarence Pautzke, the executive director of the North Pacific Fisheries Management Council (NPFMC). The directions from Senator Stevens to NPFMC were to address this issue within the framework of their federal management process.

In October 2000, the North Pacific Fisheries Management Council adopted a regulatory framework that recognized customary and traditional use of halibut for subsistence purposes. The Council adopted a subsistence definition, eligibility, legal gear, traditional trade, bag limits and cooperative agreements with Tribes on subsistence use of halibut.

In October 2000, the NPFMC also requested that the Alaska Board of Fish reconsider the state's halibut subsistence regulatory framework and to recommend modifications to the federal program.

Currently, we have two proposals in front of NPFMC to address the recommendations of the Board of Fish. The first motion is from a council member who represents sport-fishing interests; the second motion is from a council member who represents subsistence interests. The first motion, which is "Alternative 2", leaves the original motion from the council intact, and would be beneficial to most of Southeast Alaska. If adopted it would allow subsistence fishers to fish 30 hooks and keep 20 fish a day for subsistence purposes. But it is extremely harmful to subsistence harvesters in the Sitka area. Sitka subsistence users would be left without any meaningful subsistence regulations within the Sitka Local Area Management Plan (LAMP) for three months. Sitka would still be able to fish outside the LAMP under the 30 hooks and 20 fish a day provision.

The other motion, "Alternative 3", would allow Sitka an increase of the subsistence bag limit from two halibut to five a day, but it would restrict the annual limit for subsistence users to 20 halibut. Because the annual limit contemplated under this alternative is limited to 20 fish, under this scenario Sitka tribal members would be better off to go sport fishing. Alternative 3, Part 4 sub-option, which says, "apply the above provision to all of area 2 C" would restrict all of Southeast Alaska to the same regulatory framework for the Sitka LAMP. Any proposal that restricts subsistence fishing more severely than sport fishing in Southeast Alaska does not deserve consideration.

Alternative 3, Part 5 (proxies) and Part 6 (permits) would adopt regulations that have not worked under the state management system. Part 5 combines elements of both the Federal and State proxy systems and recognizes customary and traditional harvest. Part 6 allows for a "community harvest permit" for all areas in Alaska.

The Halibut Working Group recommended a third alternative to the proxy and permit regulations put forth in Alternative 3, Parts 5 & 6. Under this alternative all tribes would be eligible to participate in issuing permits to high harvesters for two purposes: for ceremonial purposes to address the needs of our Indian parties, funeral and potlatches; for cultural/education purposes for use by culture camps and schools.

INTERTRIBAL POSITION



1. It is the position of the Southeast Alaska Intertribal Fish & Wildlife Commission (SAIFWC) that the 30-hook limit and 20 fish a day regulation adopted by the NPFMC on October 7, 2000 should remain as is and not be held to the standards of the Sitka LAMP. The Southeast Intertribal Commission is opposed to using Sitka LAMP as the standard for all of Southeast Alaska.
2. It is the position of the Intertribal Council that we did not give up our Subsistence halibut rights in the Treaty of Cession, Statehood Act, ANCSA, ANILCA or the 1982 Halibut Act.
3. It is the position of the Intertribal Commission that three (3) resources are not addressed in the ANILCA Legislation: migratory birds, marine mammals and halibut. Migratory birds and marine mammals are addressed under separate legislation. The subsistence use of Halibut, however, has yet to be addressed by legislation.
4. It is the position of the Intertribal Commission that the IFQ program should have had tribal consultation before it was addressed within a legal regulatory framework. Today, it is our opinion that the IFQ program lacks legal standing because it fails to recognize the subsistence rights that Alaska Native people have in federal waters.
5. It is the position of the Intertribal Commission that the NPFMC adopted Halibut regulations that are inconsistent with Native aboriginal rights; it is also the opinion of the commission that the adoption of non-subsistence use areas is a clear violation of the 1982 Halibut Act. We recommend that the council be consistent

with other Federal legislation on non-ANILCA resources. Regulations should allow for the subsistence harvest of resources in all waters of Southeast Alaska, even within areas where the State has not made a "customary and traditional" use finding and in the "non-subsistence areas". Because state managers don't recognize a "customary and traditional" designation, this does not mean the areas are undeserving of such designation; it usually means that other interests (sport, charter and commercial) have overridden aboriginal interests. For example Native people hunt seals and migratory birds in non-subsistence areas but are prohibited from halibut fishing in areas they have always customarily and traditionally used, areas within the Ketchikan and Juneau Borough boundaries.

6. The Intertribal Commission opposes the December 8th council motion to request Alaska Board of Fish recommendations on subsistence halibut regulations. The Commission believes, by allowing Alaska Board of Fish input it would impugn the federal regulatory process. It is unacceptable to request input from the Board of Fish who is responsible for violating federal law and losing subsistence management in Alaska.

7. The Intertribal Commission opposes any regulations that restrict Subsistence more than sport regulations. The Board of Fish Recommendations and the North Pacific Fisheries Management Council Potential Regulations if adopted are in violation of the state of Alaska 1982 Subsistence Law, which gives Subsistence a priority over all other user groups.

8. The Intertribal Commission is in full support of a Petition to the Secretary of Interior to expand Federal Jurisdiction of Subsistence Management to State Waters to Protect Seventy to Eighty Per Cent of the resources used by Native Communities in Southeast Alaska.



INTERTRIBAL RECOMMENDATIONS

Keep the Subsistence Halibut Regulations simple and fair to Native Communities. Avoid annual limits to Native Communities. Keep 30 hooks, 20 fish a day consistent throughout the State of Alaska (including Sitka LAMP). Avoid restricting Subsistence Halibut around Non subsistence areas such as Ketchikan and Juneau. Adopt a Proxy System for large communities so that no new entrants to the Subsistence Halibut fishery will be left unaccounted for. Adopt a Ceremonial permit for Native Communities and Tribes. We recommend a Subsistence IFQ program for qualified Tribal organizations recognized by the Federal Government under the 1934 Indian Reorganization Act.



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SOUTHEAST ALASKA INTERTRIBAL FISH & WILDLIFE COMMISSION



AGENDA

April 5, 2002 – 3rd Floor CCTHITA Conference Room
 9:00 AM

Official Welcome

Roll Call

Reading and Approval of Minutes

Reports of Officers, Boards, and Standing Committees

Special Order Announcement. Committee Appointment (Letter to petition Secretary of Interior to extend federal jurisdiction of Subsistence Management to federal Waters. Request Cal Casipit and Bob Schroeder to do an analysis of Federal process to proceed with petition. cc Jim Ustasiewski, Office of General Counsel).

Unfinished Business and General Orders

New Business - Program

New organization membership by Tribes

Subsistence Halibut Regulations

a) Position paper

b) SE position on NPFMC.....Jay Ginther – NMFS

Tribal Consultation.....Carl Jack – OSM

Federal Jurisdiction.....Calvin Casipit - USFS

Tribal Advocacy in Alaska.....Vernita Herdman, Rural Cap

Migratory Birds.....Gordon Jackson – CCTHITA

Commercial Fishing.....Bob Loescher, Member

State Fish Appointment.....Matt Kookesh, Chair

Announcements

Adjourn



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SOUTHEAST ALASKA INTERTRIBAL FISH & WILDLIFE COMMISSION



SPEAKERS

NAME	REPRESENTING
Jay Ginther	NMFS
Carl Jack	OSM
Calvin Casipit	USFS
Vernita Herdman	Rural Cap
Gordon Jackson	CCTHITA
Bob Loescher	Member
Matt Kookesh	Chair

PARTICIPANTS

NAME	COMMUNITY
Vicky LeCornu	Hydaburg
Henrich Kadake	Kake
Johanna Dybdahl	Hoonah
Harvey Kitka	Sitka
Art Demmert	Klawock
Irving Katasse	Petersburg
John Feller	Wrangell
Gordon Jackson	
Carrie Sykes	
Matt Kookesh	
Bob Loescher	
Al McKinley	

Haven't heard from Floyd Kookesh.

Tentative: Walter Jack/Angoon, Ed T. Warren/Klukwan may attend. Craig, Haines will try to send a rep. Invites also went out to Ed Thomas & Corrine Garza.

Caroline Powell/Yakutat, Skaqua Tribal council away on business, Kasaan, KIC rep cannot attend this time round but requests to be kept informed.

**COMMENTS OF THE ALASKA NATIVE SUBSISTENCE HALIBUT
WORKING GROUP**
On
**PROPOSED ACTIONS REGULATING THE SUBSISTENCE USE
FOR HALIBUT IN ALASKA**
For
**THE NORTH PACIFIC FISHERIES MANAGEMENT COUNCIL
APRIL 2002 MEETING**

Group
led
Larry
Meredith
key C-3

The Alaska Native Subsistence Halibut Working Group is an organization composed of Tribes and other Alaska Native and fisheries organizations dedicated to protecting the right of Alaska Natives to continue their nutritional, cultural and spiritual use of halibut, and to protect the halibut stocks upon which these uses depend.

Prior to this meeting, the ANSHWG maintained a position supporting the Council's original action, which called for a 20/day personal bag limit and a 30 hook limit statewide except in Area 4C, D and E where there is no harvest limit. The Group has always, however, supported eliminating gear limits in 4C, D and E as proposed in Council Alternatives 2 and 3 and as proposed by the Board of Fisheries.

During the AP meeting members of the ANSHWG from Southeast Tribes met with AP members and forged a compromise for the Sitka LAMP area and Area 2C that the ANSHWG has agreed to support. The AP recommendations for Area 3A could also form the basis for a workable solution if modified to allow for 10 rather than the recommended 5 hooks in Cook Inlet, Prince William Sound and the Kodiak road zone and Chiniak Bay. The ANSHWG will therefore construct its comments around the AP recommendations.

The basis for compromise reached during the AP process was an attempt to accommodate both the concern over possible expansion of non-local, non-tribal users in Areas 2C and 3A, and the corresponding possible effect on rockfish and other stocks in these areas, and the need for tribal communities to meet their subsistence needs and maintain their traditional subsistence harvest patterns. All parties seem to agree that continuing the traditional harvest patterns of the tribes located in these regulatory areas is not the problem.

The critical element in the compromise described below is the assurance that community harvest permits will be issued to the federally recognized tribes located in IPHC regulatory areas 2C and 3A, so long as these tribes are on the list of eligible tribes approved by this Council in October of 2000. Tribal community harvest permits should be developed and administered through cooperative agreements with the tribes, and provide for gear and bag limits consistent with meeting the tribe's needs and traditional harvest patterns.

AP recommendations

- Part 1: The ANSHWG supports the AP recommendation for elimination of gear in Areas 4C, D, and E because of the short harvest season, harsh weather and other reasons described by the EA.

- **Part 2A:** The ANSHWG supports the AP recommendation allowing stacking of up to 3 times the amount of hooks on a single unit of gear in Areas 3A, 3B, 4A and 4B provided the subsistence users are on Board. The ANSHWG agrees that no proxies are necessary in these areas because the 30 hook, 20/day daily bag limit would continue to apply in Areas 4A, 4B and 3B and some parts of 3A, and those tribes effected by the restriction proposed for some parts of 3A (Cook Inlet, Prince William Sound and the Kodiak road area and Chiniak Bay) will be issued community harvest permits.
- **Part 2B:** The ANSHWG supports the AP recommendation for a vessel limit in Area 2C, excluding the Sitka LAMP area, of 20halibut/day and 30 hooks provided that community harvest permits are developed and issued to all the federally recognized tribes located in Area 2C that are eligible to harvest halibut for subsistence (see Table 2, "Alaska Native Tribes with C&T Uses of Halibut in Area 2C" at page 11 of EA).
- **Part 3:** This AP recommendation is the key element in the ANSHWG's support for the restrictions in gear and harvest limits in Areas 2C and 3A, including Kodiak and Sitka. The compromise included agreement that all tribes affected by these restrictions would be issued tribal community harvest permits. The ANSHWG also supports issuing community harvest permits if requested to do so by local governments in eligible rural communities within these regulatory areas if these communities have a pattern of community harvesters.
- **Parts 3(A), (B) and (C):** The ANSHWG would support the AP recommendations for these areas **provided that:** the hook limit for Cook Inlet, Prince William Sound and Kodiak is raised from 5 hooks to 10 hooks which is the bare minimum necessary to provide for subsistence needs for the tribes in these areas, and only if tribal community harvest permits are issued that allow tribal community harvesters gear and bag limits consistent with the Villages subsistence needs and traditional harvest patterns. Five hooks will not work at all for the tribes in this region, and 10 hooks will only work with community harvest permits.
- **Part 3(C)(5):** The ANSHWG supports, and greatly appreciates the AP recommendation to retain the Council boundary for the Cook Inlet non-subsistence use area boundary. These non-subsistence use areas are the harshest restriction placed on subsistence users. Part of the expanded area the BOF proposes for closure in Cook Inlet are important halibut fishing grounds for Port Graham and other Cook Inlet tribes.
- **Part 4:** The ANSHWG supports the AP recommendation. This compromise was forged by local Sitka halibut users through the Sitka Fish and Game Advisory Committee. Although the recommended gear and harvest limits are far from what the Sitka Tribe needs to meet its members' subsistence needs, it is a start. The Sitka tribe will be able to meet some of its subsistence needs through tribal community harvest permits which the tribe could fish outside the LAMP boundaries (See AP recommendation in Part 3 for Sitka tribal community harvest permits outside the LAMP area.)
- **Part 5:** The ANSHWG supports the AP recommendation providing for cultural, ceremonial and education permits, and thanks the AP for supporting this important component of the Alaska Native subsistence way of life.

- **Part 6: The ANSHWG supports the AP recommendation providing for greater subsistence halibut fishing in Areas 4B, 4C, 4D and 4E, but believes the marking requirement is an unnecessary burden to both subsistence users and the NMFS.**
- **Part 7: The ANSHWG supports the AP recommendation for greater information gathering for all halibut fisheries and sharing that information with all users.**

The ANSHWG also recommends that the Council establish representation for tribal subsistence users on the Advisory Panel. It is vital that this group of users, and the subsistence fishery be represented on the AP.

C-3b

SITKA LAMP HALIBUT SUBSISTENCE WORK GROUP

~SITKA AC COORDINATOR: BILL PADEN

FACILITATOR: ERIC JORDAN

MEMBERS:

SITKA TRIBE OF ALASKA

~HARVEY KITKA

~MIKE MILLER

SITKA CHARTERBOAT ASSOC.

KENT HALL

FOY NEVERS

LONGLINERS (ALFA)

LINDA BEHNKEN

TERRY PERENSOVICH

AC SPORTFISH SEAT

BRIAN MASSEY

The Sitka AC Halibut Subsistence Work Group met 5 times during February and March, 2002 to address the NPFMC motion pertaining to Subsistence Halibut fishing in the Sitka LAMP. The beginning positions of the stakeholders were (per my notes) as follows.

ALFA

Summer (June, July and August), 2 hooks, 4 halibut per day, no stacking, no annual limit, no vessel size restriction.

Rest of year, 30 hooks, 10 halibut per day, no stacking, no annual limit, no vessel size restrictions.

STA

Summer, 15 hooks, 5 halibut per day, allow stacking and proxies, no annual limit, no power hauling allowed.

Rest of year, 30 hooks, 10 halibut per day, allow stacking and proxies, no annual limit, allow power hauling.

SPORT AND CHARTER

Summer, 2 hooks, 2 halibut per day, no longline gear allowed.

Rest of year, 30 hooks, 10 halibut per day, D class (35 feet) vessels and below, no annual limit.

As can be seen, the group was all over the board at the beginning of the collaborative process. By using this process the group was able to identify areas of agreement and work toward consensus.

Two things that were agreed to by all at one of the first meetings was. "We agree to protect and enhance the opportunity for local residents to travel to halibut holes in small skiff's, in the Sitka

LAMP, to catch halibut to eat". And, "We agree that we support legitimizing and regulating Halibut Subsistence Fishing".

There was also general agreement that 30 hooks and 20 fish per day was acceptable outside the Sitka LAMP.

The outcome of the meetings was a tentative agreement that was as close as we could come to total consensus. (See attached Tentative Agreement). This was agreed to by the work group members but, for various reasons, could not be embraced by the groups they represented.

Bill Paden
Sitka Advisory Committee Coordinator

Sitka Advisory Committee

Halibut Subsistence Work Group

March 12, 2002

Tentative agreement:

NO ANNUAL LIMIT

SEPTEMBER 1ST THROUGH MAY 31ST

30 HOOKS (ONE STACK OR 60 HOOKS TOTAL PER BOAT)

10 HALIBUT PER DAY, PER BOAT

POWER HAULING ALLOWED

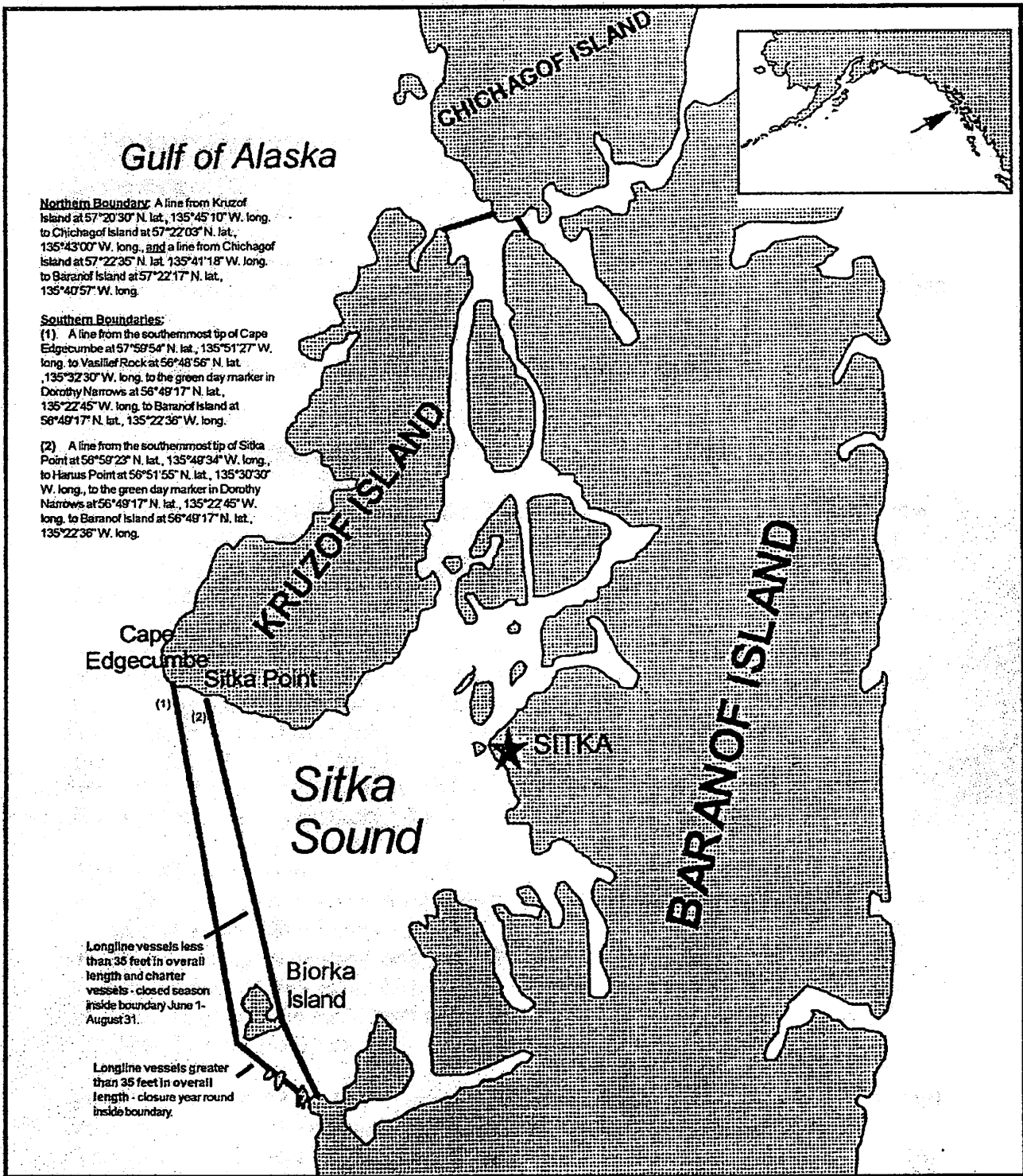
JUNE 1ST THROUGH AUGUST 31ST

15 HOOKS (NO STACKING)

5 HALIBUT PER DAY

NO POWER HAULING

GROUP RECOMMENDS A NO LONGLINE AREA IN THE LAMP
(ROD AND REEL ONLY)

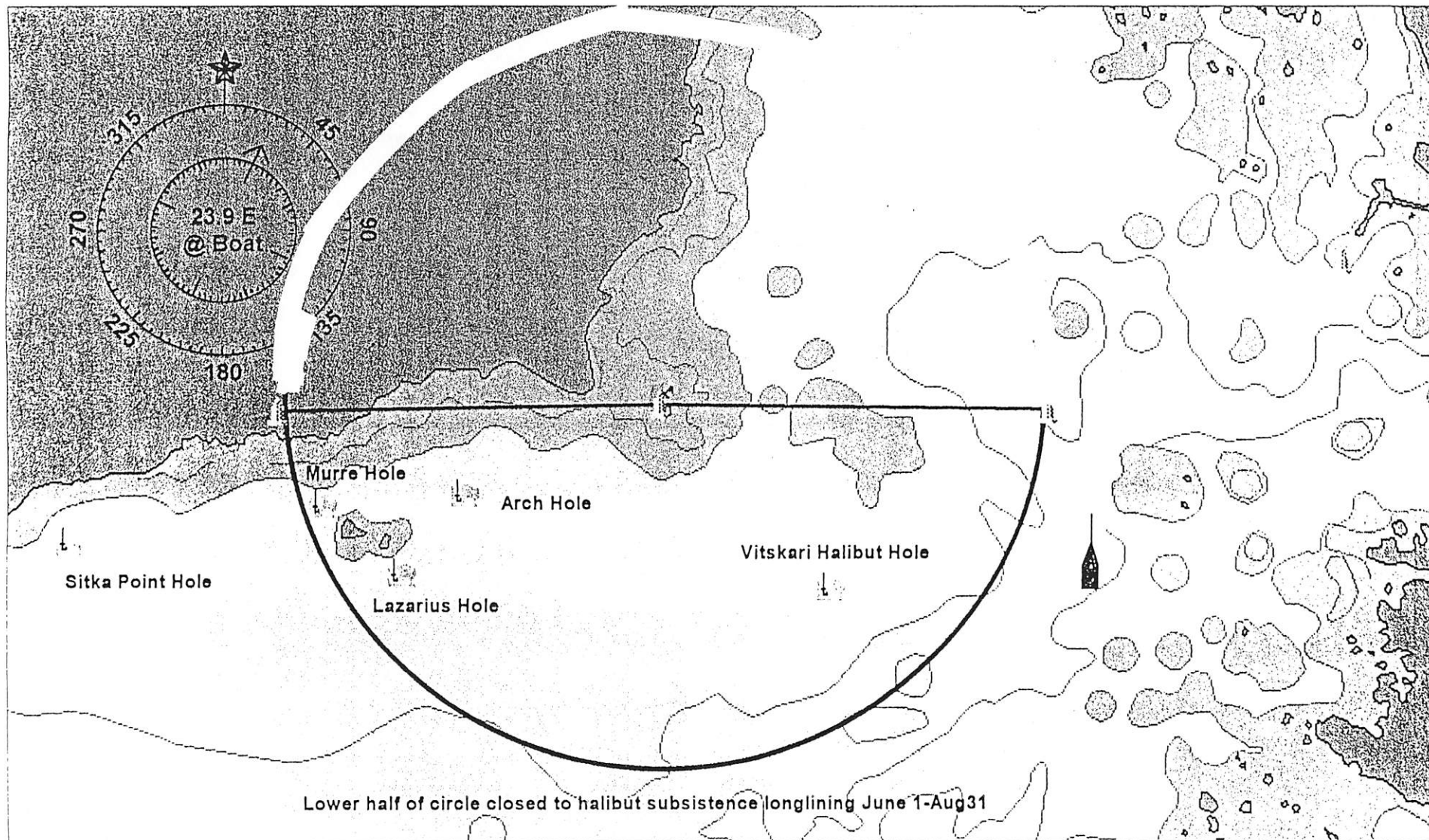


Local Area Management Plan (LAMP) for the Halibut Fishery in Sitka Sound

effective October 29, 1999

The primary provisions of the LAMP:

- Prohibit longline vessels greater than 35 feet in overall length from fishing for halibut within Sitka Sound;
- Prohibit longline vessels less than 35 feet in overall length from fishing for halibut within Sitka Sound from June 1 through August 31; and
- Prohibit charter vessels from fishing for halibut within Sitka Sound from June 1 through August 31.



**Sitka Fish & Game Advisory Committee Motion on
Halibut Subsistence for consideration by the
North Pacific Fisheries Management Council**

1. The Sitka Fish & Game Advisory Committee (SF&GAC) supports legitimizing and regulating halibut subsistence fishing.

2. The SF&GAC supports protecting and enhancing the opportunity for local residents to travel to halibut holes in small skiffs within the Sitka LAMP to catch halibut to eat.

3. The SF&GAC supports the use of up to 30 hooks and a 20 fish per day limit for halibut subsistence users in area 2C outside of the Sitka Local Area Management Plan (LAMP) boundaries (see attached chart).

4. The SF&GAC opposes any yearly limit for subsistence caught halibut.

5. The SF&GAC supports the following halibut subsistence regulations for the Sitka halibut LAMP:

a) September 1-May 31

30 hooks, power hauling allowed, one stack on hooks per vessel for a total of 60 hooks with either proxy or additional person on board.

10-halibut/day/vessel, no annual limit.

b) June 1-August 31

15 hooks per vessel, no power hauling, no stacking, no annual limit, no longline area four nautical miles south and west of Low Island (see chart).

5-halibut/day/per vessel, no annual limit.

6. The Sitka Fish & Game Advisory Committee requests information from relevant agencies for an annual review of halibut harvest and effort in the Sitka LAMP.

Petersburg Vessel Owners Association

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Petersburg, Alaska 99833
Phone (907) 772-9323 Fax (907) 772-4495

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N.P.F.M.C

April 3, 2002

Mr. David Benton, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Subject: April 2002 Agenda Item C-3: Halibut Subsistence Regulations

Dear Chairman Benton and Council Members:

Petersburg Vessel Owners Association is a diverse group of commercial fishermen who use the resource that will be affected by the proposed amendments to the halibut subsistence regulations. The halibut fishery is one of the primary revenue generators for our community and region. We rely on it for a substantial portion of our livelihood. We recognize and respect the long tradition of subsistence harvests in small, remote communities and support regulations that will legalize this practice at its current level. However, we are uncomfortable with the halibut subsistence regulation package previously passed by the Council due to the potential for large increases in subsistence harvests. Therefore we support the proposed amendments that would institute more restrictive measures in areas where serious concerns exist.

Our primary concern is the 20 fish daily limit in regulatory area 2C. The Council's original action was based on the premise that subsistence is self-limiting. Unfortunately, we have seen many examples in the past of subsistence regulations being abused. We have no reason to believe that halibut regulations will be any different. We also believe that when subsistence users are allowed sell their product, subsistence ceases to be truly self-limiting. Therefore we support reasonable limits on halibut subsistence for regulatory area 2C.

We understand that an attempt is being made to strike a balance between adequately providing for traditional uses and creating a new fishery with the potential for almost unlimited expansion on an already fully utilized resource. Liberal regulations not only encourage waste and provide temptation for subsistence users to sell halibut, but create an expectation that a person should reasonably be able to catch that amount of halibut every day. We are apprehensive that the limit could become an expectation and users who do not reach their limit for any number of reasons will request that other users be curtailed to provide reasonable opportunity.

PVOA members are strong stakeholders in the health of the halibut resource and are greatly concerned about the continued strength of area 2C halibut stocks if the 20 fish per day limit is allowed to stand. We strongly encourage you to examine the suite of options available to limit total removals at reasonable levels. We feel that additional measures are necessary in area 2C to provide subsistence opportunity while protecting other users. We ask the council to consider this balance as you deliberate on this amendment package.

Many of the amendments proposed by the Alaska Board of Fisheries were predicated on concerns about increased effort near population centers causing localized depletion and concerns about increased rockfish and lingcod bycatch. In area 2C, the only community considered for additional restrictions was Sitka, possibly because that community has already completed a local area management plan. However, concerns about localized depletion and rockfish and lingcod stocks extend throughout area 2C. A great deal of testimony at the public meeting held in Sitka explained these concerns and specified that they are area wide. Closures and gear restrictions to protect rockfish and lingcod stocks extend far beyond the Sitka Sound area and localized depletion concerns exist around many communities. In addition, the communities that were identified by the Alaska Board of Fisheries for special restrictions have established commercial fisheries and high non-Tribal populations. Many other communities in area 2C also fit this profile and share many of the same concerns.

We request the Council consider a recordkeeping requirement to go along with this program. Regulations will be enacted that allow liberal harvests and sale of subsistence caught halibut, therefore it will be necessary to institute a recordkeeping and reporting requirement to ensure that subsistence harvesters stay within their designated limit and do not sell more halibut than is allowed by law. The \$400 limit was set to keep subsistence from becoming a commercial enterprise. However, in order for the limit to be effective, adequate monitoring and reporting will be required. Otherwise, the potential exists for serious abuse of subsistence regulations to the detriment of legitimate subsistence users and well as other users of the resource.

Much concern about halibut subsistence regulations was expressed by users at the public meetings held by the Alaska Board of Fisheries. Many comments focused on the potential for increased harvests, abuse of liberal regulations, and the need for more restrictive limits on harvests. The halibut subsistence regulation package previously passed by the Council identified a large number of eligible users. The analysis states that the potential exists for expanded halibut harvests in the future because the recommended eligibility criteria may include participants who do not have the same customary and traditional practices that are described in the analysis as the basis of the Council's previous action. At least 57% of the identified eligible users are non-Tribal and may not share the same traditions. In area 2C, if every user were to harvest the limit, harvests would greatly exceed the exploitable biomass in that area. Clearly, this goes beyond legalizing historical and current levels of use, which was the goal of the original package. Creating an excessive privilege under the assumption that no one will exercise it is not sound management.

We would like to emphasize that none of the proposed amendments would limit the actual subsistence harvest take or the persons eligible to harvest halibut. Reasonable regulations can be adopted for the subsistence fishery without restricting harvests. The analysis clearly states that the alternatives are not intended to decrease the amount of total harvest for subsistence use, but to develop regulations that better reflect local subsistence fishing practices in all areas and complement precautionary measures adopted by the State to conserve local populations of rockfish in waters under its jurisdiction.

In conclusion, we would like to voice our support for reasonable halibut subsistence regulations in area 2C to protect the resources and all users. These regulations should take into account current practices while addressing the concerns of local residents about localized depletion, rockfish and lingcod stocks, dramatic increases in subsistence harvests, and abuse of customary trade. We also support adequate recordkeeping and reporting requirements that will ensure that subsistence harvests do not grow dramatically due to liberal regulations. Thank you for your consideration of these comments.

Sincerely,



Cora Crome
Director