

## City of Ouzinkie

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September 30, 2014

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

Re: Support for an Allocation of Quota to a Community Fishing Association in the Gulf of Alaska Trawl Bycatch Management Program

Dear Council Members;

Fisheries resources represent the backbone of our coastal economy and the lifeblood of our community and culture. It is critical that we maintain access for community residents, and retain community benefits, from these resources for many generations to come.

As the North Pacific Fishery Management Council designs a catch share program to reduce bycatch in the trawl fleet, it is critical that the benefits of a catch share program to the trawl industry do not come at a cost to the viability and stability of our fishing communities in the future.

Allocating quota directly to the community via a Community Fishing Association will provide a mechanism to anchor quota in the community, support new generations of fishermen and crew and amplify community benefits.

The City of Ouzinkie strongly supports development of an allocation of quota to a Community Fishing Association in the Gulf of Alaska Trawl Bycatch Management Program in order to protect our coastal communities.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Clarion', written over a large, light-colored oval scribble.

Dan Clarion,  
Mayor

Agenda Item C7

9/29/2014

Submitted by Jody Cook, owner/operator FV Cape Reliant

Mr. Chairman and Members of the Council,

My name is Jody Cook, I am part owner/operator of the 58' Cape Reliant. I have been involved in the GOA trawl fishery for over 25 years.

### **CFA's**

I am apposed to an additional bureaucracy, for managing quota shares. I believe that Community Fishing Associations would be a step backwards for both fishing communities and fishermen. Almost all the things that have been proposed in regards to CFA's, to protect communities, have been addressed and proposed in the discussion paper, without a need for CFA's. In 2012 a CDQ group paid their CEO \$895,000. I believe that the initiation and the drive behind the CFA's are primarily by legal advisors, lobbyist, and others that would hope to gain possible employment through the organization. I believe that the CFA idea is best suited in a system similar to the CDQ program where the citizens of the community had very little historical involvement in the trawl fisheries of the Bering Sea. In the Gulf of Alaska, the communities are fully engaged, at an individual level, in the fisheries. Individuals have already grown up fishing on local boats and having the best possible opportunities before them. There is no way that a Community Fishing Association could provide a better system than the one that already exists naturally. I came from Washington State in 1976 , to Petersburg. I worked hard and in 2 years I was offered a partnership on a Bristol Bay boat. 2 guys loaned me the money to be an equal partner. 2 years later I was able to secure a loan to buy them out as one of them bought another boat. I crewed on the Cape Reliant for several years and then skippered it for about 10 years. I was offered 20% share and the other owners financed me..

I say this just to give my testimony of how new entrants have normally gotten into this fishery and others. In Petersburg the IFQ program has helped many crew members to make great money and buy IFQ of their own and either take over the family boat or buy their own. The community has a big Freezing facility and many fishermen have joined together in the last years to keep a haul out, repair, and supply operation going. I believe that you keep a fishing community strong by keeping the fishermen strong., financially. There just needs to be measures that keep the wealth spread out, and keeps the money in the community,.. I believe that the CFA's would be a waste of capitol, and a redundancy of the management plan,..

### **Qualifying Years, (at least, for cod)**

I am in favor of the latest years of history being considered for catch history. I would even favor an option of even more recent consideration. We, (Cape Reliant), had an endorsement for pots in Western Gulf. In the years that were considered for "recency," and the elimination of latent permits, we had chosen to focus on trawling. So,. we lost our pot endorsement. I would hope that the council would be consistent as it moves forward . That the same consideration of recent practice and participation patterns would be a major factor that determines who is seriously involved in the current Gulf trawl fisheries.

The late start of January 20, had created a problem for the trawl fleet. In the late 90's and for many years after, the pot sector increased effort every year. More and more of the quota was

caught before January 20. The council stopped this inequity, with sector splits,. but they did not go into effect until 2012. So,. the harvest levels have been significantly different in the last three years. Also, the pollock stocks have been very large in Central gulf . This has caused the cod season to last longer. And this has allowed opportunities in traditional areas in the Shumagin's that have not been fished for many years, due to shorter seasons and Sea Lion regulations..

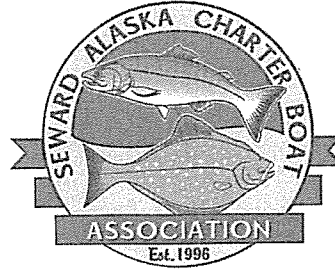
Also,.. I believe that the control dates may have served the purpose of discouraging a significant race for history. I do not think that there has been much of a change in fishing effort or practices by fishermen. So,.. I do not think that there would be a problem, at this point, if the qualifying years were moved to even include 2014.. if possible. For example 2009 -2014. I do not believe, in Western Gulf, that there has been a significant increase in new boats, in the last 4 years. For cod, the sector splits have made a big difference, and also the longer seasons in Central Gulf have brought back traditional opportunities near the Shumagins. I believe that both these patterns will be long term.. and reflect better what the current trend of the fishery is. Where as, the years before were quite different from what has been happening in the last 4 years and going forward...

As I have said before,... the greatest bycatch tool for me, is being able to choose the date and place to fish. With the added benefit of co-op management and shared information of bycatch hotspots, I think that everyone will benefit.

Thankyou,

Sincerely,

Jody R Cook



September 30, 2014

North Pacific Fishery Management Council

Re: GOA Trawl Bycatch Management

Honorable Council Members,

The Seward Alaska Charterboat Association has been representing the local charter fishing fleet since 1996. We currently have 21 member businesses with a total of 41 charter boats in operation from Seward.

The members of the Seward Charterboat Assn. unanimously support further action with regard to bycatch reduction in the GOA trawl fleet. We urge you to take steps that will equate to meaningful savings for King Salmon, Halibut, and crab stocks in the Gulf. Both the directed commercial halibut fishery and the charter industry in 2C and 3A have taken major cuts to protect the halibut resource. It is time that the GOA trawl fleet is held accountable for each and every pound of halibut, salmon, and crab they waste as bycatch.

We support a restructured observer program with 100% coverage on all vessels working in the Gulf of Alaska. With the technology available today including remote video monitoring and satellite tracking combined with manned observers it is easily possible to create full coverage that stops allowing trawlers to "game the system" by making clean tows while observers are aboard and then fishing dirty when they are not.

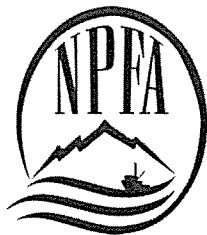
Full observer coverage is the first and most important step toward a solution to trawl bycatch in the GOA. After 100% coverage is in place the Council should look at individual vessel caps for prohibited species. Individual vessel caps would allow those vessels who figure out a way to fish cleanly, ~~through technology and/or gear modifications, to harvest a larger portion of the resource while shutting down the dirtiest vessels when their PSC cap is met.~~ This system has been proven effective on the West Coast of the US and Canada, reducing bycatch by 50% or more in some areas. They have demonstrated that meaningful bycatch reductions can be made without shuttering the trawl industry, but the back-bone of this system must **be full observer coverage.**

The health of the valuable fisheries resources in the Gulf of Alaska depend on your action. We urge you to protect the future of these important resources starting with 100% observer coverage on all trawl vessels in the GOA.

Sincerely

Steven Zernia  
President  
Seward Alaska Charterboat Association

September 29, 2014



***North Pacific Fisheries Association***  
***P.O. Box 796 · Homer, AK · 99603***

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North Pacific Fisheries Management Council  
Agenda Item C7: GOA Trawl Bycatch Management

Dear Mr. Chairman;

NPFA represents fishermen who fish salmon, herring, cod, halibut, sablefish throughout the state of Alaska's waters. We have read the October analysis and the April motion. If the "the primary objective of this action is to improve incentives for PSC reduction and PSC management" (motion), then the Council needs to state the range and magnitude of the halibut PSC reductions, Chinook PSC reductions and GOA crab bycatch reductions. The Council needs to quantify what the goals of the program are so that stakeholders can judge the program elements against those benchmarks. Rationalization, catch history, and coop formation do not achieve bycatch reduction unless caps are lowered.

Many NPFA members fish for halibut and Chinook salmon. Halibut fishermen in the GOA (areas 2c, 3a, 3b) have seen their catch limits reduced over 70% in the last ten years. Many chinook stocks are fluctuating, but it is well understood that overall their levels of northern stocks are less than half of what they were a decade ago. In the case of halibut the analysis is lacking even a discussion about the current levels of the stock.

At the time Amendment 95 was debated the IPHC thought there was a large year class of juvenile halibut that may have eventually entered the fishery and provided some stability to the stock. That year class has disappeared. There is no potential to rebuild the halibut fishery without reduced catches by all sectors. The directed fishery is being managed (70% lower) while PSC caps are mostly static. We would like to see analysis of PSC caps that are indexed to abundance of halibut in the GOA and BSAI.

In addition, crab is a prohibitive species that should be analyzed at this point. The area closures were helpful but the future behavior of the fleet is unknown and now is the time to manage crab PSC.

Also, at the time Amendment 95 was debated the Council seemed to be saying that the trawl fleet needed "tools" in order to reduce their bycatch more than what the 15% Amendment 95 phased in. So now presumably the Council is contemplating giving the trawl fleet the tools they need through a catch share program. What are the stated quantifiable new PSC limits going to be? How can stakeholders judge if this program will achieve the desired results? Where are the incentives? Fish cleaner fish longer? What is built into the program to provide individual incentives to reduce bycatch? What are the tools? Allowing for gear conversion? These questions are core missing elements of the program. We hope these issues will be addressed.

Malcolm Milne  
President, North Pacific Fisheries Association

**Subject:** Trawl Bycatch of Halibut & Chinook

**From:** Laurie Mastrella <l\_mastrella@yahoo.com>

**Date:** 9/30/2014 5:40 PM

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

ISoutheast commercial salmon troll and halibut longline fisheries have supported my family since 1990. It's been hard to swallow all the halibut cuts - 70% in the last ten years - when the trawl fleet kills so many halibut as bycatch. Much stricter trawl management measures are needed to significantly reduce the incidental mortality of halibut and chinook salmon. Trawl bycatch has not been reduced by amounts anywhere near comparable to catch limits in the longline fishery. It's past time for the trawl fleet to do their part to conserve the resource. Please ensure that the NPFMC's Trawl Bycatch Management Action achieves additional, meaningful bycatch reductions.

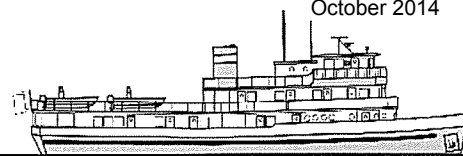
Thank you,

Laurie Mastrella

F/V Teasha, Port Alexander, AK

# T H E BOAT COMPANY

Alaska Conservation and Vessel Support  
417 Arrowhead Street, Sitka, AK 99835 Tel/Fax: (907) 747-9834 Cell: (907) 738-1033



Wilderness Adventure Tours

September 30, 2014

John Henderschedt, Chairman  
North Pacific Fishery Management Council  
605 W. 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

Re: Agenda Item C-7 Trawl Bycatch Management Discussion Paper

Dear Mr. Henderschedt:

Thank you for the opportunity to comment on the October 2014 discussion paper for the North Pacific Fishery Management Council's ("the Council") further development of a bycatch management program for Gulf of Alaska trawl fisheries. I submit the following comments on behalf of The Boat Company (TBC). TBC is a tax exempt, charitable, education foundation that conducts multi-day tours in southeast Alaska aboard its two larger vessels, the 145' M/V Liseron and the 157' M/V Mist Cove, and features sport fishing opportunities for halibut and chinook. Both species are experiencing ongoing declines, resulting in conservation-based harvest restrictions for targeted recreational, commercial and subsistence fisheries. The adequacy of the Gulf of Alaska (GOA) Prohibited Species Catch ("PSC") management controls will have a substantial impact on the recovery – or further decline – of halibut and chinook populations.

These comments respond primarily to Section 1 of the Discussion Paper which evaluates the program in light of Council objectives, and suggests decision points which may be necessary to transform the program structure into alternatives for further analysis. TBC urges the Council to recommend that further development of a formal analysis include alternatives that explicitly reduce the amount of chinook and halibut PSC. The discussion paper is equivocal about whether program design primarily seeks to improve the trawl sector's ability to adapt to existing limits, and Section 2 (p. 26) seeks further Council guidance moving forward. The recent changes to PSC limits implemented through Amendments 93 and 95 were modest relative to declines in abundance and in part reflected the Council's concern that the trawl sector would have difficulty adapting to the limits under the existing management structure. Council deliberations included concerns about whether the limits were sufficient to address resource conditions and implied that further PSC reductions that were more fully responsive to resource needs could occur when a comprehensive program provided the industry additional tools. But it is still unclear whether program design will include mandatory reductions, or merely focus on enabling the industry to adjust to the recent changes. In light of the ongoing population declines, TBC requests that the Council begin to develop specific bycatch reduction goals to be incorporated in further analyses.



### **National Standard 9 Requires Additional Reductions in the Amount of PSC**

Section 1.7 of the discussion paper explains that the main objective of the program is to meet National Standard 9's mandate to minimize bycatch. Congress amended the Magnuson-Stevens Act (MSA) in 1996, adding the bycatch reduction provisions to stop what Senator Ted Stevens described as the "inexcusable amount of waste" associated with bycatch and bycatch mortality in our nation's fisheries.<sup>1</sup> National Standard (NS) 9 thus provides that "[c]onservation and management measures, shall, to the extent practicable, (A) minimize bycatch, and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch." 16 U.S.C. § 1862(a)(1). 50 C.F.R. § 600.350(a). National Standard 9 regulations require an evaluation of net benefits to the Nation which include detailed consideration of impacts to the bycatch species, impacts to directed commercial and recreational fisheries and the existence values of the species itself. 50 C.F.R. § 600.350(b), (d). In selecting measures that minimize bycatch to the extent practicable, fishery managers are to adhere to a precautionary approach when faced with uncertainty regarding, among other things, population effects for bycatch species, changes in the economic, social or cultural value of fishing activities and changes in the distribution of benefits and costs. 50 C.F.R. § 600.350(d)(3).

### **Previous Amendments emphasized flexibility and reflected historical averages rather than population effects and impacts to directed fisheries**

The Council began to consider revisiting halibut PSC in 2009 and NMFS implemented Amendment 95 in 2013 which modified the GOA FMP by changing halibut PSC limits. 78 Fed. Reg. at 53419. For trawl gear, Amendment 95 provides for a 15% reduction from current halibut PSC levels for trawl gear phased-in over 3 years (7% the first year, 5% the second year and the final 3% the third year). *Id.* at 53420. TBC and numerous conservation, sport fishing and commercial fishing stakeholders requested more stringent PSC reductions for, among other reasons, to reflect significant resource uncertainties and to address the inequity caused by placing the conservation burden primarily on directed fishery user groups. Notably, from 2009 through 2013 – the relevant time period for the Amendment 95 process – the directed fishery quota in Areas 2C, 3A and 3B declined by more than 50% - from 37.6 million pounds in 2009 to 18.2 million pounds in 2013.

Over two decades ago, a 1992 Halibut Bycatch Working Group (HBWG) recognized that "PSC limits must be reduced, regardless of stock status" and added that there was some urgency because of a recent and rapid decline in recruitment, and a strong cohort of juvenile halibut was vulnerable to the trawl fishery.<sup>2</sup> The 1992 Report explained that "bycatch is particularly unacceptable when the stock is low or recruitment is weak" and indicated that it would be appropriate for bycatch levels to reflect stock abundance. *Id.* at 19. It identified a range of between 7 million and 9 million pounds taken coast wide between 1983 and 1986 as a reasonable *initial* goal that would reduce coastwide bycatch by more than 50% from the 18 million pounds taken in 1990. *Id.* at 28. The 1992 HBWG recommended that the limits for these areas be re-evaluated and ratcheted downward beginning in 1993 at 10 percent a year. *Id.* at 25, 29. Roughly a decade later, while the halibut population was considered to be stable and healthy, the Council's precautionary approach in the 2004 FMP and PSEIS anticipated reducing

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<sup>1</sup> 142 Cong. Rec. S10810 (daily ed. September 18, 1996)(statement of Sen. Stevens).

<sup>2</sup> Salvesson, S. et al. 1992. Report of the Halibut Bycatch Work Group at 19, 25. IPHC Tech. Rpt. No. 25.

halibut PSC limits “slightly” (0 – 10%) or moderately (10-30%) .<sup>3</sup> Other jurisdictions implemented more stringent measures in order to address halibut bycatch reduction goals - the PFMC’s maximum limit set in 2011 represented a reduction of more than 50% from historical bycatch levels. IPHC Tech. Rpt. 57 at 10-11. Area 2B halibut bycatch consistently ranged between 1 and 2 million pounds from 1984 – 1995; since that time it has achieved an 85% long term reduction from previous levels of bycatch mortality. *Id.* at 33. Taken in this context, it is clear that the Council’s recent adoption of a 15% halibut bycatch reduction from the 1989 PSC limit within the GOA falls well short of addressing contemporary resource concerns, equity between users, and reductions implemented in other jurisdictions. Similarly, chinook PSC limits also should be addressed as part of the program. In July 2012, Amendment 93 established a 25,000 fish limit for the GOA pollock fisheries. 77 Fed. Reg. at 2636. This limit exceeded the recent short-term average (2003 – 2010) by 6,000 fish and the estimated long-term historical annual average by nearly 10,000 fish (1994 – 2010).<sup>4</sup> The rationale underlying the larger limit was largely due to a need to expediently address and prevent the excessive bycatch that occurred in 2010 and the analysis anticipated a subsequent amendment package.<sup>5</sup> Concerns over chinook salmon persist; in 2013, ADF & G determined that there was “clear evidence of recent and persistent statewide declines in Chinook salmon productivity, run abundances, and inshore harvest from available stock assessment data as well as from local and traditional knowledge sources.”<sup>6</sup> Indeed, a federal fisheries disaster declaration for Alaska chinook fisheries was issued roughly a year after NMFS completed the analysis for Amendment 93.

In sum, the limits implemented in both Amendment 93 and 95 accommodated the absence of comprehensive management tools by declining to implement actual reductions except in historically high PSC years and addressed resource conditions that are worse now than they were when the Council and NMFS initiated the analyses. Another review of PSC limits as part of this action is warranted.

**Further program development should provide clarity about the Council’s intent: minimize the rate or the amount?**

As anticipated in the April 2014 discussion paper, it appears likely that PSC quotas will be the preferred means of achieving the Council’s goals for the program. TBC supports further analysis of this option but believes that such analysis should include alternatives directed at reducing the amount of PSC. The April 2014 discussion paper identified two ways to measure PSC reductions – (1) a reduction in the PSC rate per metric ton of groundfish harvested, and (2) a

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<sup>3</sup> NMFS. 2004. Programmatic Supplemental Environmental Impact Statement for the Alaska Groundfish Fisheries Implemented Under the Authority of the Fishery Management Plans for the Groundfish Fishery of the Gulf of Alaska and the Groundfish of the Bering Sea and Aleutian Islands Area at 2-54, 2-57, 4.7-164, 4.8-158 . NMFS Alaska Region, Juneau, AK. June 2004.

<sup>4</sup> NMFS. 2012. Chinook Prohibited Species Catch in the Gulf of Alaska Pollock Fishery, Public Review Draft EA/RIR/IRFA at 23 (average PSC was 15,116 fish). Amendment 91 utilized a similar approach, adopting a 60,000 fish limit rather than the pre-2001 five year average of 29,323 fish recommended by Yukon River fishery managers. The rationale for the higher limit was to preserve flexibility for the groundfish fleet. Fisheries of the Exclusive Economic Zone Off Alaska; Chinook Salmon bycatch Management in the Bering Sea Pollock Fishery. 75 Fed. Reg. 53026, 53035-36 (August 30, 2010).

<sup>5</sup> NMFS. 2012 at 1.

<sup>6</sup> ADF & G Chinook Salmon Research Team. 2013. Chinook Salmon Stock Assessment and Research Plan. 2013. ADF & G Special Publication No. 13-01. Anchorage, Alaska.

reduction in the total amount of bycatch. The October discussion paper revisits the distinction between “minimizing” and “reducing” PSC:

A reduction suggests that PSC limits or the amount of PSC mortality will decrease relative to the status quo., Minimization suggests that PSC levels will be reduced to the extent that a reduction is practicable, considering all the Council’s other responsibilities such as promoting stability in fishery dependent communities, achieving optimum yield, [etc.].

...The Council has not yet indicated whether the considered action might include further off the top reductions in allowable PSC levels. At this time, the primary objective is to help the trawl fisheries continue to function within the recently implemented – and reduced, in the case of the halibut – *cap levels*. A successful program would provide the trawl fishery the ability to operate under the current PSC limit reductions and make the trawl fishery resilient in the face of any further PSC limit reductions that are deemed necessary. (Page 26, emphasis added).

As explained in the preceding section and acknowledged in the above text, previous measures reduced the cap – not the amount. The analysis makes clear that absent reductions in the amount, a potential result of the program is that it is more likely to reduce the PSC rate, but not necessarily the amount. Indeed, the analysis explicitly notes that PSC amounts *could actually increase* as the program may increase the potential for fishing target species right up to the cap. For example, on page 19, the discussion paper indicates that “anticipated improvements in PSC rates should either allow [less valuable, underutilized species] fisheries to be more fully harvested, or result in lower levels of PSC.” Section 1.6, which summarizes management trade-offs, explains that “[s]aving PSC in one target fishery for use in an expanding target fishery ... *would ultimately mean that the overall PSC limit is likely to be fully taken*. However, the limit would be supporting more overall groundfish harvest.” Page 25 explains that the focus of the new program is “on the creation of a management environment in which harvesters are better able to avoid PSC and more efficiently use available PSC.”

Section 2.2., discussing cooperative management, again identifies potential improvements in PSC “performance” and lower rates, but again implies that the likely result of the improvements will enable more groundfish harvest, but not necessarily less PSC:

- “Vessels that catch their allotment of groundfish with less than their [PSC share] ... may have the opportunity to either lease PSC to other vessels within the cooperative or to expand into traditionally underutilized fisheries.”
- Either the ability to lease PSC, or the ability to expand into underutilized fisheries “provides a revenue opportunity, so vessels may still have an incentive to compete with one another on relative PSC performance.”
- “Cooperative management could provide members with benefits such as expanded harvest opportunities through lower PSC rates.”

The discussion paper thus seems to rely primarily on the management structure itself, combined with PSC quotas, to achieve the Council’s goal of National Standard 9 compliance:

The proposed cooperative structure has proved to be an effective tool to minimize bycatch in other Alaska and West Coast fisheries. It is anticipated that the increased sharing of information and freedom to better plan when and where to fish will allow harvesters to avoid PSC to the extent practicable, and to minimize unintended bycatch. (Page 23)..

TBC agrees that bycatch quotas have been a component of management programs that have achieved significant reductions but notes that those programs explicitly sought a mandatory 50% reduction in the total amount of bycatch. For example, Section 8 of the April 2014 discussion paper described the bycatch reduction programs for the British Columbia and Pacific Coast trawl fisheries. A critical component of both programs was a 50% bycatch reduction goal. In particular, the Canadian program reflected a joint U.S./Canada commitment to achieve a 50% reduction in trawl halibut bycatch mortality. In the absence of similar goals, it is unclear to what extent the program will reduce the amount of PSC.

**Management controls are needed to complement target species catch shares in order to achieve ecological objectives**

Numerous recent published articles have addressed environmental effects of catch share programs.<sup>7</sup> Many catch share programs primarily aim towards improving the economics of target fishery harvests, and frequently address management scenarios that involve overcapitalization in target species fisheries and declining target fish stocks.<sup>8</sup> Catch share proponents characterize privatization as an incentive for resource stewardship.<sup>9</sup> The literature does not show that catch share systems necessarily benefit the larger ecosystem or bycatch species – instead, the focus is on *target* fishery practices in order to maintain consistent and predictable harvests.<sup>10</sup> One recent article concluded that:

Proponents of catch shares should acknowledge that, while there may be target-resource conservation benefits from catch share programs like ITQs, broader environmental stewardship by the industry has not been achieved .... Free market ideology, economic efficiency, political considerations or management fatigue may be valid reasons for welcoming the transition to catch shares, but ... efforts on behalf of ecosystems will still be necessary, perhaps even more so, when catch shares are adopted." *Id.*

The literature thus raises questions about whether measures designed for improving economic efficiency adequately address other ecosystem effects, including bycatch. The relationship between privatization and conservation is assumed, but the scientific literature does not document a clear relationship, warranting caution "before broad generalizations about

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<sup>7</sup> See, e.g. [http://www.seaweb.org/science/MSRnewsletters/MSR\\_FA\\_FisheriesManagement\\_4-2013.php](http://www.seaweb.org/science/MSRnewsletters/MSR_FA_FisheriesManagement_4-2013.php)

<sup>8</sup> See e.g. Hannesson, R. Norway's Experience with ITQs. *Marine Policy* 38: 45-53, 2013; Rieser, A., Watling, L. and Guinotte, J. Trawl fisheries, catch shares and the protection of benthic marine ecosystems: Has ownership generated incentives for seafloor stewardship? *Marine Policy* 40: 75-83, 2013; Emery, T.J., Green, B.S., Gardner, C. and Tisdell, J. Are input controls required in individual transferable quota fisheries to address ecosystem based fisheries management objectives? *Marine Policy* 36(1): 122-131, 2012; Nowlis, J. and Van Benthem, A.A. Do property rights lead to sustainable catch increases? *Marine Resource Economics* 27(1): 89-105 (2012).

<sup>9</sup> Nowlis, J. and Van Benthem, A.A. 2012.

<sup>10</sup> Rieser, A., Watling, L., and Guinotte, J. Trawl fisheries, catch shares and the protection of benthic marine ecosystems: Has ownership generated incentives for seafloor stewardship? *Marine Policy* 40: 75-83, 2013.

ITQs and resource outcomes are made.”<sup>11</sup> Two recent reviews of catch share system trends indicated that a more plausible hypothesis is that other components of the new programs – particularly improved catch monitoring and reporting – are the key to achieving conservation benefits.<sup>12</sup> Also, management measures that regulate fisheries in terms of the timing and location of bycatch are more important than economic efficiency measures.<sup>13</sup> Staff analysts briefly reviewed these issues in a September 2013 discussion paper and the review did not identify any clearly established link between target species catch share programs and a reduction in the amount of bycatch.

The Council’s proposal for bycatch quotas obviously adds a potentially important management control on PSC to the target species catch share component of the program, in addition to a monitoring program – 100% observer coverage – that is also likely to lead to improved PSC performance in terms of a reduced rate due to the observer effect. But if those improvements are meant to allow for fishing up to the PSC cap, with no reductions in the overall amount, TBC questions how the program can measure up to National Standard 9’s requirements.

Further, analysis of a GOA bycatch management program should not be limited to bycatch quotas. The amount of additional management controls needed to achieve ecosystem objectives in catch share fisheries can vary by fishery, and non-selective fishing methods require more intensive spatial and temporal management because of habitat effects and non-target species interactions.<sup>14</sup> According to a 2012 review of catch share systems and ecosystem effects, “[i]ndustrial scale fishing methods and oversized and heavy fishing gear can result in high levels of mortality to pelagic marine life caught in or encountering the fishing gear, as well as extensive damage to the seafloor environment” and “[m]arket based instruments such as catch share arrangements are not designed to address these ecological costs.”<sup>15</sup> Thus, “[e]cological losses ... are not diminished unless additional regulations are imposed upon the owners of the fishing quotas.”<sup>16</sup>

In sum, although performance incentives may help in part to achieve program goals, TBC submits that the most critical incentive for bycatch reduction will be mandatory reductions of PSC limits. TBC thus requests that further development of the new program include the establishment of bycatch reduction goals (hard targets, not target rates) up front to inform the development of alternatives. TBC does not necessarily support or endorse any particular performance incentive that would accompany reductions in the amount of PSC, but rather

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<sup>11</sup> Carothers, C., and Chambers, C. Fisheries privatization and the remaking of fishery systems. *Environment and Society* 3: 39-59, 2012 (explaining that catch share proponents overlook how the conservation goal is created by limits on overall harvests, which exist independently of ITQs, which simply divide up the overall harvest among individuals, and thus, where there is a conservation benefit, it results from the presence of a total quota than the division of that quota into shares).

<sup>12</sup> Essington, T.C., Melnychuk, M.C., Branch, T.A., Heppell, S.S., Jensen, O.P. Link, J.S., Martel, S.J.D., Parma, A.M., Pope, J.G., and Smith, A.D.M. Catch shares, fisheries and ecological stewardship: a comparative analysis of resource responses to a rights-based policy instrument. *Conservation Letters* 5(3): 186-195 (2012); Nowlis, J. et al. 2012.

<sup>13</sup> Emery, T.J. et al. 2012.

<sup>14</sup> Emery, T.J. et al. 2012.

<sup>15</sup> Rieser, A. et al 2012.

<sup>16</sup> Id.

submits that the reductions – whether achieved through lower PSC quotas, TAC set asides for performance, or other means – be carried forward in further analyses.

**National Standard 4 requires consideration of allocations in terms of directed fishery losses**

Under National Standard 4, an allocation of fishing privileges in an FMP must be: (1) fair and equitable; (2) reasonably calculated to promote conservation and (3) must not allocate an excessive share to any group. 50 C.F.R. § 600.325(a). Additionally, the regulations require consideration of “*impacts on other fisheries, ... and enhancement of opportunities for recreational fishing.*” 50 C.F.R. § 600.325(c)(3)(iv)(emphasis added). “An allocation need not preserve the status quo in the fishery to qualify as ‘fair and equitable’ and allocations may impose hardships on one group if outweighed by the total benefits received by another group. 50 C.F.R. 600.325(c)(3)(i)(A), (B). The discussion paper’s review of how catch share allocations would be consistent with National Standard 4’s “fair and equitable” requirement fails to address how the allocation would impact directed fishery users in a declining population scenario. [Disc. Paper at 21]. This is a substantial omission, and TBC requests that the Council work with NMFS to ensure further analysis incorporate impacts on other fisheries under National Standard 4.

For example, NMFS and the Council have recognized that only directed fishery users have been impacted by the halibut stock declines. Amendment 95 EA at 309. As the halibut stock has dwindled, the estimated PSC in the GOA has periodically increased from year to year, occasionally approaching the high end of the historical average. RARA 2011 at 384. In 2004, estimated halibut PSC taken by all gear accounted for 10.4% of the Gulf-wide halibut FCEY (5.3 of 51.1 million pounds). From 2008 – 2010, as the FCEY decreased from 41.3 million pounds to 34.2 million pounds, estimated halibut PSC taken by all gear also declined from 4.7 million pounds to 4 million pounds. Despite the estimated decrease in PSC, however, the proportion of the quota taken as PSC increased somewhat - to 11.7%. In 2011, the FCEY steeply declined to 24.2 million pounds and dropped again in 2012 to 19.6 million pounds. The proportion of the FCEY taken as PSC by all gear increased sharply, to 18% in 2012. Under Amendment 95, the PSC limit for trawl gear alone in 2014 was nearly 19% of the amount allocated to directed fisheries (3.1 million net pounds out of 16.4 million pounds).

TBC submits that this ongoing re-allocation is not consistent with National Standard 4 and other applicable FMP requirements. See 16 U.S.C. § 303(a)(15)(when conservation measures are necessary, NMFS must consider the economic impact of harvest restrictions and recovery benefits for each sector, and allocate the costs or benefits “fairly and equitably among the commercial, recreational and charter fishing sectors”). The FMP describes a PSC limit as “apportioned” – and an apportionment is synonymous with an allocation. NPFMC 2012 at 3.6.2. In fact, under quite similar circumstances, NMFS has described the status quo charter sector harvest under the GHF in the declining population scenario as a “reallocation” of halibut from the commercial sector. CSP EA at 68. Under the current and reasonably foreseeable FCEY, a status quo (Amendment 95) would continue to distribute an increased reallocation of halibut fishing privileges to the trawl fleet at the expense of charter, IFQ and subsistence fisheries.

The Amendment 95 and 93 PSC limits are not fair and equitable allocations of fishing privileges because the National Standard 4 findings failed to take into account the increasing share of the resource that has been allocated in particular to the trawl sector through the PSC allocation. As the halibut resource has declined, the PSC allocation has consumed an increasing proportion of total removals in IPHC regulatory areas 2C, 3A and 3B. The trawl sector could

potentially receive more than twice its historical share of the halibut quota in Gulf of Alaska IPHC regulatory areas under a historical averaging approach proposed for the catch share program. This result is inconsistent with NMFS' recognition that a "more transparent and equitable" allocation of the halibut resource would vary with exploitable biomass and specify allocations using the same method. CSP EA at 69. Existing PSC limits promote neither conservation nor equity because they fail to address changes in the exploitable biomass or require the trawl sector to share in the costs of recovering the resource. *See id.* at 68-69. For similar reasons, TBC submits that program impacts to communities that depend on fishery resources taken as PSC should also be factored into the National Standard 8 analysis.

**Conclusion**

TBC thanks the Council for its work on developing a bycatch management program and requests that further analysis consider specific reductions in the amount of PSC in order to meet National Standard 9's mandates and to address the ongoing allocation of halibut from the directed fisheries to trawl PSC.

Sincerely,

Paul Olson, Attorney at Law  
606 Merrill St.  
Sitka, AK 99835  
polsonlaw@gmail.com

**Subject:** trawl bycatch

**From:** Marty Remund <remundmarty@yahoo.com>

**Date:** 9/30/2014 4:04 PM

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

Our family depends on the halibut and salmon fisheries. We commercial, subsistence and sport fish for both. The GOA trawl bycatch management program was started to reduce bycatch. It is imperative that the program focus on bycatch reduction to achieve meaningful savings of Chinook salmon and halibut. We commercial subsistence and sport fishermen have all been forced to make extremely hard sacrifices in our harvests to protect Chinook salmon and halibut. Commercial halibut limits in the GOA have been reduced 73% since 2005. Trawl bycatch has not been reduced in comparison to the directed fisheries. To rebuild stocks everyone has to conserve. The council's Trawl Bycatch Management Action must achieve more bycatch reductions. Sincerely, Marty Remund





September 27, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501

RE: Agenda item C-7 Gulf of Alaska Trawl Bycatch Management

Dear Acting Chair Henderschedt and Council members:

We appreciate the opportunity to comment on the issue of Gulf of Alaska (GOA) Trawl Bycatch Management. We submit these comments on behalf of the Alaska Marine Conservation Council (AMCC). AMCC is a non-profit organization committed to the long-term ecological health and social and economic well-being of Gulf of Alaska communities. AMCC is dedicated to protecting the long-term health of Alaska's oceans and sustaining the working waterfronts of our coastal communities. Our members include fishermen, subsistence harvesters, marine scientists, small business owners and families.

The Gulf of Alaska trawl bycatch management program was initiated, as the name suggests, to manage bycatch in the GOA trawl fisheries. As currently constructed, and reflected in the most recent Council motion, the program structure chosen by the Council is a catch share program. Reducing bycatch is an important goal, and AMCC has supported moving forward with this program to achieve this goal. However, it is absolutely critical for the long-term sustainability of Gulf of Alaska fisheries resources and fishing communities that the program achieve meaningful and substantial bycatch reductions, and must include community protections which will provide a means to protect fishery dependent communities from negative impacts from a catch share program. To that end, as the Council moves forward in program development at this meeting, we urge the Council to:

- 1. Include specific targets for bycatch reduction of Chinook salmon, halibut and Tanner crab;**
- 2. Include an allocation to a Community Fishing Association as a component/option within the overall program; and**
- 3. In addition to a CFA, consider other mechanisms for community protections including active participation requirements, requiring a community sign-on on co-op contracts and meaningful consolidation limits.**

Including these program elements (discussed in greater detail below) at this stage is critical to the Council's ability to design a program which meets its goals and objectives, and provides for a program which benefits all stakeholders.

1. Include specific targets for bycatch reduction of Chinook salmon, halibut and Tanner crab;

The Gulf of Alaska trawl bycatch management program was initiated to reduce bycatch. In numerous earlier decisions in which the Council selected levels of bycatch reduction of Chinook salmon and halibut, the Council clearly stated that they were selecting bycatch levels/reductions as an initial step, in the context of the trawl fleets current management system. Additional reductions would come when the trawl fleet had the "tools" to reduce bycatch. This bycatch management program is intended to provide the fleet with the tools, and it is imperative that it also provides for additional bycatch reductions at the same time. **To be clear, the intent of this program is not merely to provide the trawl fleet with the tools to adapt to the current bycatch limits, but to reduce bycatch further.**

The current outline for the bycatch management program contains a great deal of detail about how quota will be allocated, and how the program will function for the fleet. The program at present, however, contains no specific targets for bycatch reduction and very little detail about how bycatch reduction will be achieved. As the Council moves forward with the program at this meeting, it is critical that specific ranges are defined for the levels of bycatch reduction of Chinook salmon, halibut and Tanner crab that will be achieved in this program. While industry action within the co-ops is an important piece of bycatch reduction, the Council needs to define expectations for what level of bycatch reduction is expected, and to establish limits within which the co-ops can work to achieve these limits.

The status of Chinook salmon and halibut stocks demands that bycatch reduction of these iconic Alaskan species remains a key focus of this program. Chinook salmon stocks throughout the Gulf of Alaska remain at extremely depressed levels. Again in 2014, commercial, sport and personal use fishermen around the Gulf of Alaska sacrificed their historical harvests to conserve Chinook salmon. Gulf of Alaska halibut stocks also continue to struggle. As the stock has declined, commercial and charter catch limits have declined as well. Over the last ten years, the commercial halibut catch limit in the Gulf of Alaska (IPHC areas 2C, 3A and 3B) has declined by 73%. The charter bag limits have been reduced to one fish of limited size in Southeast Alaska for years, and in 2014 charter bag limits were reduced in Southcentral Alaska as well. The commercial Tanner crab fishery in the Kodiak Island district was closed in 2014 due to low crab abundance and the need to rebuild the

stocks. Fishermen dependent on the long term health of the resource recognize the need for the closure but are experiencing economic hardship with the loss of this important winter revenue. In this climate of resource decline and uncertainty, and extreme sacrifice on the part of directed users, it is critical that all users are contributing to rebuilding the stocks. While bycatch limits or reductions have been set for trawl fisheries, they are far less than the reductions borne by participants directed fisheries. It is critical that this program includes meaningful bycatch reductions which will ensure that Chinook salmon and halibut, which are an essential component of Alaska's economy and culture, have a chance to rebuild and that Tanner crab are protected.

2. Include an allocation to a Community Fishing Association as a component/option within the overall program;

At the April 2014 Council meeting, the Council passed a motion to examine the option of a Community Fishing Association (CFA). A Community Fishing Association offers significant benefits and opportunities for fishing communities beyond what is presented in the Council's initial program design. The program design, allocating transferable quota shares and using co-operatives to manage the Gulf of Alaska trawl fisheries, will undoubtedly rearrange the fisheries' relationship to Alaska coastal communities, and present a fundamental shift in management. It is critical that we include measures at the outset to protect fishing communities. The Council's initial program design provides mechanisms to protect harvesters and processors via direct allocations, co-op formation rules, and other measures. It is critical that an allocation to a Community Fishing Association is considered as a component of the overall program to provide community protections at the same time.

A Community Fishing Association provides unique and additional benefits beyond those included in the Council's current program design. Specifically, a Community Fishing Association offers an opportunity to strengthen the relationship of captain, vessel, vessel owner and crew to the community, to address transitional entrance into the trawl fisheries and provide opportunity for future generations, and to encourage equitable crew compensation. In addition, a Community Fishing Association is the only mechanism being considered which directly anchors fishing quota in the community, ensuring community access to the fishery into the future. A Community Fishing Association can provide an accessible and flexible way to address community concerns. Anchoring a portion of quota in the community ensures that the community—and community residents—retain access to some portion of the fishery over the long-term. The community can use this quota to maintain a local fleet, provide opportunities for transition and entry into the fishery (for example, by serving as a stepping stone for residents to transition into quota ownership), and ensure access to the resource for future generations. A Community Fishing Association also provides a mechanism

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for maintaining equitable crew compensation and maintaining local crew hire. Because the community owns the quota in a Community Fishing Association, they have the ability to set rules on how that quota is used, much as an individual quota owner does.

Impacts from catch share programs are difficult to predict. A Community Fishing Association, managing quota, will have the ability to adaptively respond to unexpected programmatic community impacts. Nothing in the current motion provides this flexibility to address unexpected or unanticipated community impacts. This ability to adapt and address impacts as they arise is critical - experience in the North Pacific shows that once quota is allocated it is very difficult if not impossible for the Council to address these impacts (see, for example, ROFRs in the crab program).

The Council clearly has the authority to allocate to a fishing community under the Magnuson-Stevens Fisheries Conservation and Management Act (MSA) §303a(c)(3).<sup>1</sup> A recent NOAA guidance confirms this authority to allocate directly to fishing communities: “Fishing community allocations can be used in tandem with individual allocations (e.g. as a set-aside), or they can be used as the sole means by which limited access privileges are allocated in a fishery.”<sup>2</sup> The Council can utilize the authority provided in the MSA to consider a direct allocation to a Community Fishing Association via the “fishing community” language in §303a(c)(3) of the MSA.<sup>3</sup>

The October 2014 discussion paper contains a discussion of delegation of authority issues which references the CIFT proposal from 2003.<sup>4</sup> This discussion, and legal analysis, pre-dates the introduction of 303(a)(c)(3) during the 2007 reauthorization of the MSA, and is no longer relevant. We recommend that the Council consider an allocation to a CFA expressly under the language of 303(a)(c)(3).

We urge the Council to include an allocation to a Community Fishing Association as a component of the overall program at this meeting. The NOAA Guidance provides significant information about the Council’s role in establishing an allocation to a fishing community.<sup>5</sup> This includes establishing community eligibility criteria and requirements for a community sustainability plan, and could also include establishing general goals and objectives for a Community Fishing Association. A Community Fishing Association, as we and other community representatives have presented it, is

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<sup>1</sup> 16 USC § 1853a(c)(3).

<sup>2</sup> See Josh S. Stoll & Mark C. Holliday, U.S. Dept. of Commerce, NOAA, *The Design and Use of Fishing Community and Regional Fishery Association Entities in Limited Access Privilege Programs*, NOAA Technical Memorandum NMFS-F/SPO-138 at 29 (2014).

<sup>3</sup> 16 USC § 1853a(c)(3).

<sup>4</sup> North Pacific Fishery Management Council, Discussion Paper, Community Fishing Association and Adaptive Management Quota for Gulf of Alaska Trawl Bycatch Management, Oct. 2014 at 17.

<sup>5</sup> See Stoll & Holliday, *supra* note 2.

intended as part of the overall program. To properly analyze the potential costs and benefits of a Community Fishing Association, as well as how it fits in with the overall program, it is important that the Community Fishing Association is included as a component of the overall program at this time.

3. In addition to a Community Fishing Association, consider other mechanisms for community protections including active participation requirements, requiring a community sign-on on co-op contracts and meaningful consolidation limits.

At this stage in the process, it makes sense for the Council to continue to look at a variety of avenues for providing community protections within the overall motion. In addition to a Community Fishing Association, we urge the Council to consider active participation requirements, requiring a community sign-on on co-op contracts and meaningful consolidation limits.

Active participation requirements should remain as a component within the motion. Options for requiring active participation to acquire quota and for ongoing active participation should be considered. Community entities (such as CQEs or a CFA) should be exempt from active participation requirements, as in other programs. In addition, some portion of quota share should be reserved for active, boots-on-deck fishermen.

The requirement for community sign-ons on co-op contracts should also be retained as a component of the program. For this provision to be effective, the community would have to have full signatory (veto) power over the contract. In addition, a community structure would need to be developed to ensure that the “community’s” opinion is not simply the opinion of one single designated community representative. For this to work, co-ops would have to agree to waive confidentiality rights and essentially open up their contracts for public review. It would not be sufficient for the co-ops to waive confidentiality rights only for a single designated community representative. A broader community group would have to be provided with access to co-op contracts to ensure adequate community participation. We support continued development and refinement of this option, with particular attention to the issues raised above. Overall, a Community Fishing Association may prevent a more efficient and viable option for community protections.

Meaningful consolidation limits are another key component for community protection. In addition to the options in the current program design, we encourage the Council to examine the effects and impacts of grandfathering in those who are above the consolidation limits. In addition to

considering a grandfather provision as an option which the Council can choose whether or not to select, we also urge the Council to consider whether grandfather provisions should be in place permanently, or should sunset, requiring divestment at that time.

As the Council moves forward with developing a bycatch management program for the Gulf of Alaska trawl fleet, we ask that you include meaningful and substantial bycatch reductions, a direct allocation to a Community Fishing Association and additional community protection measures as components of the program design at this meeting. Thank you for your consideration of our comments and for your continued attention to this important issue.

Sincerely,



Theresa Peterson  
Kodiak Outreach Coordinator



September 30, 2014

Mr. Jon Henderschedt, Acting Chair  
North Pacific Fishery Management Council  
605 W. Fourth Avenue, Suite 306  
Anchorage, AK 99501-2252

Dr. James Balsiger, Regional Administrator  
NOAA Fisheries, Alaska Region  
709 West Ninth Street  
Juneau, AK 99802-1668

RE: C-7: Gulf of Alaska Trawl Bycatch Management

Dear Mr. Henderschedt, Dr. Balsiger, and Council members:

We commend the North Pacific Fishery Management Council (NPFMC) for taking some steps to cap and reduce Pacific halibut and Chinook salmon bycatch in the Gulf of Alaska trawl fisheries. As the NPFMC considers a new management regime for the trawl fisheries, it should further those efforts by designing a program that will reduce bycatch, protect habitat, increase the ecological sustainability of the fisheries, and provide stability to coastal communities.

A new program must support progress towards ecosystem-based fishery management and ecologically sustainable fisheries, and it should not simply divide up historical trawl bycatch among participants. Standards for such a program must include at a minimum:

- Ecologically sustainable quotas;
- 100% observer coverage and estimation of the catch and bycatch of all species, including benthic invertebrates;
- Clear annual catch limits, overfishing limits, and bycatch caps for all marine life;
- Requirements to reduce bycatch, including bycatch of prohibited species;
- Incentives for one-way transfer of quota to lower impact gears;
- A timeline to reach a goal of no discards of edible fish that could not otherwise be released alive and without harm;
- Protection of important ecological areas and sensitive habitats;
- Mitigation of any cumulative impacts on areas supporting remaining open-access fisheries, including fisheries in Alaska state waters;
- Collection of royalties to pay for monitoring, research, and management of the fishery;
- Transparency, including public release of fisheries data;
- Annual reports to the Council, Secretary of Commerce, and the public; and
- Adaptive management that can respond to environmental concerns as they arise.

Implementing standards like these when designing a fisheries management program will prioritize healthy ocean ecosystems and ecologically sustainable fisheries. We will continue to work with you to find ways to protect the health, productivity, and biodiversity of the North Pacific marine ecosystem while maintaining fishing opportunities and vibrant coastal communities.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan J. Murray".

Susan Murray  
Deputy Vice President, Pacific  
Oceana



September 30, 2014

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

Re: Gulf of Alaska Trawl By-Catch Management

Dear Council Members:

The mission of Trout Unlimited is to conserve, protect and restore salmon and trout fisheries and their watersheds in North America. We have approximately 900 members in Alaska who are associated with sport, commercial and subsistence fisheries across the state.

Trout Unlimited supports a robust observer program for Gulf of Alaska Trawl fisheries so that more and better data can be compiled on the role by-catch plays in king salmon population dynamics in the region. We believe 100% observer coverage for all Gulf trawl vessels regardless of their size, whether through electronic monitoring or human observers, is essential to the compilation of accurate and timely data.

As more fisheries across the state are impacted by declining king salmon stocks, it is only fair and sensible that data for all fisheries which contribute to king salmon mortality is compiled. Management decisions must incorporate data from as many source-fisheries as possible to effectively reverse these declines. We encourage the Council to mandate 100% observer coverage for all Gulf of Alaska Trawl vessels as a critical step in this very important process.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Bristol".

Tim Bristol  
Alaska Program Director





224 Kenai Avenue, Suite 102  
Soldotna, Alaska 99669  
907-262-8588

September 30, 2014

John Henderschedt, Acting Chair  
North Pacific Fishery Management Council  
Attention: Chris Oliver, Executive Director  
604 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, Alaska 99501-2252

**RE: Comments on Agenda Items C-7 & D-2**

Dear Chair Henderschedt and Members of the Council:

Kenai River Sportfishing Association (KRSA) is a 501(c) 3 non-profit association of anglers and conservationists dedicated to the sustainability of fisheries resources in Alaska. We would like to provide comment on agenda items C-7: GOA Trawl Bycatch Management and D-2: Charter Halibut Common Pool – Catch Proposal.

Southcentral Alaska supports the state's largest personal use fisheries for salmon and the largest sport fisheries for salmon and halibut. Sport fish license sales in Southcentral Alaska account for more than half of all such sales in Alaska. Angler days for salmon and halibut account for more than 80 percent of the overall angler activity in the region. The socio-economic values associated with these activities are substantial. According to the 2007 Report on Economic Impacts and Contributions of Sportfishing in Alaska by the Alaska Department of Fish and Game (ADFG), the socio-economic values in Southcentral Alaska include:

- ❖ \$989 million in sportfishing expenditures
- ❖ more than 70 percent of all angler activity in Alaska
- ❖ more than 11,000 jobs
- ❖ more than \$380 million in income
- ❖ more than \$180 million in federal, state and local tax revenues

According to visitor surveys, sportfishing is the number one day activity that draws visitors and Alaskan residents to the Kenai Peninsula. In a 2004 survey by *Field and Stream*, the Kenai River king salmon sport fishery was ranked the # 1 sport fishery in North America. Seward and Homer are the largest recreational saltwater fisheries in Alaska. Salmon and halibut are the top draws for anglers. An example

of the substantial economic values generated by anglers in Alaska is that non-residents generate \$744 per day spending for guided, saltwater trips and \$790 per day spending for guided, freshwater trips – while in contrast the average expenditure for a non-resident to Alaska per trip (with an average stay of 8.8 days) is \$760. Maintaining healthy access by anglers to these fishery resources is fundamental in generating healthy socio-economic values in the personal use and sport fisheries of Southcentral Alaska.

### **C-7 GOA Trawl Bycatch Management**

The GOA trawl bycatch management program was established to reduce bycatch – as such the efforts of the NPFMC must keep this program focused on bycatch reductions that achieve meaningful and significant savings of Chinook salmon and halibut beyond just the status quo. Southcentral sport fisheries and their counterparts in the commercial fisheries have seen significantly reduced directed harvests of Chinook salmon and halibut stocks, with sport harvests of kings on the Kenai River reduced by more than 85 percent and commercial halibut catch limits in the GOA reduced by more than 70 percent in the past decade. 2007 was the last year in Cook Inlet that the sport and personal use fisheries did not have restrictions and or closures for king salmon. King salmon emergency closures in 2012 for sport, personal use and commercial fisheries in Cook Inlet resulted in economic losses of more than \$20 million in direct expenditures and more than \$10 million in indirect expenditures. 2014 saw the early-run Kenai River king salmon fishery closed for the first time in 50 years, at an estimated cost of \$7 million in economic expenditures due to lost angler days in our community. King salmon stamp sales for Southcentral have declined by more than 50 percent in the past decade and in 2012 and 2013 were surpassed for the first time by those in Southeast Alaska.

GOA trawl bycatch has not been reduced in a similar manner as we have seen in the directed fisheries for salmon and halibut in Southcentral Alaska. To rebuild the GOA and Southcentral Alaska salmon and halibut stocks, all user groups must share in the burden of conservation, including the trawl fisheries. To bring parity to the burden of conservation among user groups, the Council's Trawl Bycatch Management Action must realize additional bycatch reductions.

### **D-2 Charter Halibut Common Pool – Catch Proposal**

In contrast to the directed commercial fisheries in Alaska that target twenty-plus species for harvest, the number of species that sport, personal use and subsistence fisheries in Alaska target primarily for harvest is more confined to a much smaller handful of species. As noted, salmon and halibut are the two primary preferences for harvest by anglers in Southcentral Alaska and account for 80 percent of angler effort. Providing clear, concise and consistent regulations, and retaining access and opportunity to harvest meaningful numbers of salmon and halibut is important to anglers.

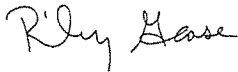
A primary consideration since the adoption and implementation of the Catch Share Plan (CSP) has been the decrease in sector allocation below what provides for traditional bag limits in the guided charter sector. A more permanent and effective transfer mechanism for compensated reallocation between the commercial and charter sectors is desirable, as the current GAF provision has proven ineffective on many fronts. Providing for a high degree of stability in regulation through a return to a one fish and two fish bag limit in Southeast (2C) and Southcentral (3A) Alaska, respectively, is desirable.

KRSA supports the sportfishing charter industry work to develop the “Catch Accountability Through Compensated Halibut” or CATCH proposal. We commend the efforts of the Alaska Charter Association (ASA) and the Southeast Alaska Guides Organization (SEAGO) to generate a more effective and reliable market based approach to the issue of compensated reallocation between sectors.

While still in a preliminary stage of discussion, we think further exploration of a market-based compensated reallocation mechanism is worthwhile. We encourage the NPFMC to move the CATCH proposal forward for further development, consideration, technical analysis and vetting by all impacted stakeholders. We look forward to having this issue move forward for a more robust investigation and scrutiny by all interested parties. While Councils by definition are regional in nature, we note that the issue of compensated reallocation between sectors is a national issue that other Councils are also grappling with. We believe that through further consideration and refinement by the NPFMC, constructive results can be established that can also serve as a template for other regions of the country that are grappling with this very same issue.

Thank you for your time and consideration of these important matters.

Respectfully,

A handwritten signature in cursive script that reads "Ricky Gease".

Ricky Gease, Executive Director  
Kenai River Sportfishing Association

**Subject:** GOA Bycatch  
**From:** Matt Kopec <matt@fishwhittier.com>  
**Date:** 9/30/2014 9:27 AM  
**To:** "npfmc.comments@noaa.gov" <npfmc.comments@noaa.gov>

Dear Sir or Madame,

This letter is in regard to GOA Bycatch reductions. As both a concerned citizen as well as someone who in part makes a living from the resource, I find that it is imperative that the bycatch program focus on reduction and achieve meaningful savings of Chinook salmon and halibut beyond the status quo. It is appalling to all in our coastal community that current levels of bycatch are allowed while much smaller user groups are cut. This practice is especially troubling in light of our continuing Chinook problems and now that halibut coastwide management may suggest that halibut killed to the west -if they had survived- may have contributed to spawning biomass in areas currently in decline. Please put politics aside and do everything possible to reduce bycatch.

Thanks for your time.

Matt Kopec

Whittier Marine Charters  
Whittier Boat Rental



TRIDENT SEAFOODS CORPORATION

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September 22, 2014

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

Dear Chris:

At the North Pacific Fishery Management Council's April meeting, counsel for NOAA questioned whether the Magnuson-Stevens Act authorized the Council's proposed Gulf Trawl Bycatch Management structure. The issue is whether the proposal linkage between harvesting vessels and processing plants is authorized under the MSA. In response to that question I have drafted the attached memo.

The memo describes in detail the NOAA legal opinions on this issue. NOAA expressly acknowledges that the interests of on-shore processors can be protected within the term "conservation and management." NOAA has questioned whether the MSA provides the authority to regulate activities on-shore, however, including implementation of delivery requirements on harvesters to protect on-shore processors' interests.

The memo mentions three separate ways in which the Council's proposed Gulf Trawl Bycatch measure can be authorized. NOAA's 1989 Roe Stripping Opinion noted that the Council could prohibit the harvesting of pollock that would later be used for roe stripping on-shore (even though the opinion stated there is no authority to prohibit on-shore processors from stripping roe.) Presumably, then, the Council could prohibit the harvest of groundfish that were delivered to a processor with whom the vessel did not have a cooperative contract. The memo also notes that section 303(a)(9) of the MSA requires possible mitigation measures for "fishing communities" (defined to include on-shore processors) which are affected by a plan. These required mitigation measures would authorize linkage between vessels and processors.

The memo's focus is the so-called "Basket Clause" found at section 303(b)(14) of the Act. The Basket Clause authorizes the councils and Secretary to "*prescribe such other measures, requirements, conditions, and restrictions as are determined necessary and appropriate for the conservation and management of the fishery.*" The

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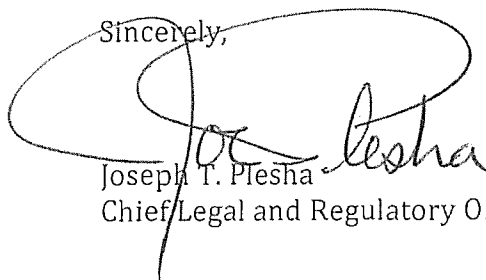
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memo describes a number of regulations promulgated under the MSA regulating on-shore activities, including many that specifically regulate on-shore processing. When challenged, NOAA has consistently cited the authority provided in Basket Clause to regulate activities on-shore, including the regulation of on-shore processors in the North Pacific, and courts have unanimously upheld these regulations under the Basket Clause.

In summary, the memo describes how the Basket Clause of the MSA provides clear authority to regulate on-shore processing given a legitimate conservation and management purpose.

Sincerely,



Joseph T. Plesha  
Chief Legal and Regulatory Officer

MEMO

SEPTEMBER 4, 2014

TO: FILE

FROM: JOE PLESHA

RE: AUTHORITY TO REGULATE ON-SHORE ACTIVITIES UNDER THE  
MAGNUSON-STEVENSON ACT

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**I. Introduction.**

The North Pacific Fishery Management Council is considering trawl bycatch management measures in the Gulf of Alaska. The management measures under consideration include rationalization of the trawl sector through an inshore cooperative structure that has “linkage” between vessels and the plants to which those vessels historically delivered.

Under the Council’s proposal, this linkage comes in three forms: (1) Vessels cannot join a cooperative unless they have a contractual agreement with the on-shore processor to whom they delivered a majority of their catch during a historical period of time; (2) there is a prohibition against the vessel leaving its original cooperative during an initial two-year period; and (3) cooperative agreement must contain clear provisions for how a harvester and processor may dissolve their contract after the cooling off period of two years.

At the Council’s April 2014 meeting, NOAA regional counsel questioned whether the Magnuson-Stevens Act authorized adoption of plans with this type of linkage between harvesters and processors.

Section 303 of the Magnuson-Stevens Act outlines the provisions that the councils and the Secretary may use to manage a fishery. There are required provisions listed in section 303(a) and discretionary provisions that are listed in section 303(b). The list of discretionary management measures includes the so-called “Basket Clause”<sup>1</sup> now found at section 303(b)(14) of the Act, which authorizes the councils and Secretary to “*prescribe such other measures, requirements, conditions, and restrictions as are determined necessary and appropriate for the conservation and management of the fishery.*”

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<sup>1</sup> The citation for this provision has at times been in the Magnuson-Stevens Act at §303(b)(8), §303(b)(10), and is now is found at §303(b)(14). To avoid confusion, hereafter this memo refers to the provision as the “Basket Clause” without reference to a specific section of the Act.

This memo discusses the legal issue of whether fishery management plans that include cooperatives with linkage between harvesting vessels and shore-based processing plants can be authorized under the Basket Clause in section 303(b) of the Magnuson-Stevens Act.

## II. Background.

The issue of whether the Magnuson-Stevens Act authorizes regulation of on-shore activities has a long history. To answer the question of whether the Basket Clause in section 303(b) of the Magnuson-Stevens Act authorizes cooperatives with linkage between vessels and on-shore processors, it is important to understand that history in detail.

### 1. 1978 NOAA General Counsel's Legal Opinion No. 61.

In the early days of the implementation of the Magnuson-Stevens Act, NOAA's office of General Counsel issued a number of formal legal opinions discussing the operation of the Act. In 1978, the NOAA General Counsel's office wrote a legal opinion on the issue of whether processors interests can be considered as part of "conservation and management" of the fisheries under the Act. ("Opinion No. 61").<sup>2</sup>

The issue arose because in 1977 the Secretary of Commerce received applications for permits to operate foreign-flag vessels to process and transport fish harvested by U.S. fishermen. In June of that year, the National Marine Fisheries Service published an Advance Notice of Proposed Rulemaking and in July through August, held eighteen public hearings on the issue. In February of 1978 a proposed interim policy was published in the Federal Register for review and comment. The proposed policy stated that permit applications for foreign processing ships would be granted only if the U.S. harvesting capacity for the proposed species to be processed exceeded the domestic processing capacity for that species. Comments received by NMFS questioned whether the Magnuson-Stevens Act gave the Secretary authority to regulate foreign processing ships except for reasons concerning "conservation and management."

The matter addressed in Opinion No. 61 was whether the Secretary had the authority under the Magnuson-Stevens Act to deny the application of foreign processing ships because domestic on-shore processors (there was no domestic at-sea processing at that time) had the capacity and intent to process the same resource.

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<sup>2</sup> General Counsel Opinion No. 61 (1978).



Opinion No. 61 noted that the Secretary could deny the permits to foreign vessels if the proposed foreign at-sea processing operation did not meet the requirements of the Act. One of those requirements was “any other condition and restriction related to fishery *conservation and management* the Secretary prescribes as necessary and appropriate.”<sup>3</sup> It is under this provision of the Magnuson-Stevens Act that Opinion No. 61 addresses the issue of whether the economic interests of on-shore processors lie within the definition of “conservation and management” and are therefore protectable.

Opinion No. 61 recites the Act’s definition of “conservation and management” and then claims that the term does not appear to take into account the interests of on-shore processors. “The failure of this definition to refer to fish processors suggests that the effect which approving a permit application may have on domestic fish processors is not relevant to whether the decision is consistent with the ‘conservation and management’ of the fishery concerned.”<sup>4</sup>

After determining that the definition of “conservation and management” does not appear to address the on-shore processors, Opinion No. 61 rhetorically asks whether “one might argue, through references to several other definitions in the [Magnuson-Stevens Act], *that the interests of on-shore processors are among the interests to be protected by ‘conservation and management’ considerations.*”<sup>5</sup>

Opinion No. 61 goes on to state that the term “conservation and management” refers to “fishery resources” which is defined as “any *fishery*, any stock of fish, any species of fish, and any habitat of fish.”<sup>6</sup> “Fishery” is defined as “one-or more stocks of fish... and any *fishing* for such stocks.”<sup>7</sup> Thus, *if* the term “fishing” is defined to include on-shore processing, *then* on-shore processors interests might be protected under the definition of “conservation and management.”

Opinion No. 61 expresses the view that the definition of “fishing” under the Magnuson-Stevens Act does not include on-shore processing and thus, “[i]t follows from the foregoing discussion of the phrase “conservation and management” and the definition of this term in section 3(2) that the Secretary is not required under [the Magnuson-Stevens Act] to protect domestic processors in granting or denying the applications in question.”<sup>8</sup>

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<sup>3</sup> Magnuson-Stevens Act §204(b)(7)(D). Now found at §204(b)(7)(F).

<sup>4</sup> Opinion No. 61, p. 6.

<sup>5</sup> Id.

<sup>6</sup> Magnuson-Stevens Act §3(9). Now found at §3(15).

<sup>7</sup> Magnuson-Stevens Act §3(7). Now found at §3(13).

<sup>8</sup> Opinion No. 61, p. 7.

The ultimate holding of Opinion No. 61, is that on-shore processors interests are not among those interests that can be taken into consideration under the Magnuson-Stevens Act's definition of "conservation and management" and therefore protection of domestic on-shore processors was not justification for the Secretary to deny a permit application to operate foreign processing vessels.

2. The 1978 "Processor Preference Amendment."

Opinion No. 61 resulted in foreign factory ships having the right to purchase fish harvested by U. S. vessels from the United States Exclusive Economic Zone, even if domestic on-shore processors wanted to utilize those same resources. Within a few months of Opinion No. 61's publication, Congress passed an amendment to the Magnuson-Stevens Act giving preference to U.S. processors.<sup>9</sup>

As the final version of the legislation was enacted by the House, a discussion occurred regarding the intent of the legislation. The Chairman of the House of Representatives Merchant Marine and Fisheries Committee, Congressman John Murphy, described the legislation's intent:

Mr. Speaker, since the 18<sup>th</sup> of last month (June of 1978) the staffs of the House Committee on Merchant Marine and Fisheries and the Senate Committee on Commerce, Science and Transportation have been working toward resolving the differences between the two versions of this provision. ...

Briefly explained, the compromise language makes it clear that it is the intent of Congress to encourage the development by the U.S. fishing industry, in particular by U.S. fishermen and U.S. fish processors, of the currently underutilized fisheries off the United States. ... In addition, the compromise language would give a preference to U.S. fish processors of U.S harvested fish and it would authorize the Secretary to allow U.S. fishermen to transfer at sea to foreign fishing vessels only the excess of such fish that the Secretary has determined that would not be utilized by U.S. fish processors.<sup>10</sup>

Chairman Murphy also discussed the issue of the definition of "fishing."

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<sup>9</sup> The amendment provides that if U.S. processors have the capacity and intent to utilize fishery resources, they have first preference to those resources. P.L. 95-354 (1978).

<sup>10</sup> Statement of Congressman John Murphy, 124 Cong. Rec. H8266, Aug. 10, 1978.

In the course of our discussions of the bill, some question was raised about whether the definition of “fishing” under section 3 of the [Magnuson-Stevens Act] includes “processing.” ... In the end, we decided to leave the [Magnuson-Stevens Act’s] definitions unchanged on this point while, at the same time, making clear the Act was intended to benefit the entire fishing industry. ... [I]t is the understanding of the House that “fishing” in section 3 of the [Magnuson-Stevens Act] does include “processing” and that, for that reason, the proposed clarification is unnecessary.<sup>11</sup>

Congressman Murphy’s floor statement regarding the importance of “processing” being included within the definition of “fishing” is a statement of Congressional intent and should guide interpretation of this provision in the Magnuson-Stevens Act. Whether the definition of “fishing” includes “processing”, however, soon became irrelevant to whether on-shore processors interests could be considered under the term “conservation and management.”

### 3. 1979 NOAA General Counsel’s Legal Opinion No. 80.

In 1979 NOAA General Council reviewed the issue of whether the Magnuson-Stevens Act authorizes the Secretary to implement Fishery Management Plan recommendations designed to promote interests beyond protection of the resource, such as public health and safety (“Opinion No. 80”). The examples of the promotion of interest beyond protection of fish stocks are numerous. The Mid-Atlantic Council closed areas over ocean dumpsites for mackerel, squid and butterfish to avoid the harvest of contaminated or poor-quality fish. The Gulf of Mexico Council prohibited fishing for shrimp in crab grounds to avoid gear conflict and the resulting potential for violence between fishermen. The New England Council developed a no discard rule to prevent the waste of protein. The Pacific Council allowed fishing on anchovies only when the yield of oil is highest and the catch therefore most valuable. The North Pacific Council allowed fishing for Tanner crab only well after molting season to avoid poor-quality meat and processors rejecting dead crabs.

Opinion No. 80 held that interests of public health and safety could be included in the definition of “conservation and management.” The opinion noted that “[t]he expansive scope of sections 2 [Findings, purposes, and policies], 3(18) [definition of “optimum yield”], and 301 [National Standards] and their legislative history suggest that section 2(3) [definition of “conservation and management”] should be read broadly to achieve the greatest overall benefit to the nation.”<sup>12</sup>

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<sup>11</sup> Statement of Congressman John Murphy, 124 Cong. Rec. H8266, Aug. 10, 1978.

<sup>12</sup> Opinion No. 80, p. 6.

The opinion concluded by saying that because protection of health and safety are valid conservation and management issues, the only remaining issue is whether the proposed regulation to protect health and safety is “necessary and appropriate.” The Opinion ended by saying, “[a] case-by-case analysis and consultation with other agency [sic]<sup>13</sup> should establish whether the proposed public-health regulation is ‘necessary and appropriate’ for the conservation and management of the fishery.”<sup>14</sup>

In holding that the interests to be considered by “conservation and management” measures included concerns beyond fish stocks, Opinion No. 80 overturned Opinion No. 61’s holding that “conservation and management” did not include the interests of on-shore processors. Opinion No. 80, however, included one short paragraph that said all “necessary and appropriate” measures were limited to activities at sea. That paragraph stated:

Section 303(a)(1) limits conservation and management measures in an FMP to measures which are “applicable to foreign fishing and fishing by vessels of the United States”. This limitation applies to *all* conservation and management measures, because section 303(b) merely lists the provisions which may be selected under section 303(a)(1) as “necessary and appropriate.” Thus an FMP may contain only those conservation and management measures which pertain to fishing or to fishing vessels.<sup>15</sup>

This paragraph in Opinion No. 80 argues that, regardless of the conservation and management purpose, “necessary and appropriate” measures may only regulate operations at sea because all of section 303 is limited to measures that pertain to fishing or fishing vessels. Opinion No. 80 stands for the proposition that on-shore processors interest can be considered in the conservation and management of the fishery, but all “necessary and appropriate” measures to deal with on-shore processors’ interest are limited to activities at sea.

#### 4. 1988 NOAA General Counsel Memo Regarding Limited Entry.

In the late 1980s, both the Pacific and North Pacific councils began considering fishery rationalization programs. In 1987 the North Pacific Council established the Future of Groundfish Committee (“FOG Committee”). The FOG Committee began discussing rationalization of all of the groundfish fisheries off Alaska and seriously

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<sup>13</sup> So in original.

<sup>14</sup> Opinion No. 80, p. 9.

<sup>15</sup> Id., p. 4.

considered the inclusion of processors in rationalization, perhaps for the first time.<sup>16</sup>

The General Counsel for NOAA Fisheries provided a memo on the authority of the Magnuson-Stevens Act to implement various rationalization measures in response to questions from the Alaska and Northwest regions.<sup>17</sup> Below is the response given to the question of whether the Act authorized rationalizing processors:

Question: Could an IFQ system be applied to processors, including floating processors at sea, floating shoreside processors, or shore-based processing plants?

Answer: Possibly. Assuming the Councils could establish a rational connection to the conservation and management of fish within the EEZ, I believe, in theory, they could regulate access to the fishery indirectly by *regulating the right to process fish*. Obviously, the Councils cannot regulate fishing in state waters in this manner, but the Magnuson Act does not explicitly preclude them from regulating processors that receive fish from the EEZ.

On the east coast, the Secretary will soon be asked to approve a five-Council plan that will allocate billfish exclusively to recreational users by prohibiting the sale of billfish taken from the Atlantic stock. Most likely, approval of this plan would result in regulation of processors and dealers as well as fishermen because trade in billfish from the Pacific would be permitted. Arguably, a restriction on authorized buyers of EEZ fish may not even constitute a system for limited access since anyone could participate in the fishery if they had a purchase contract.

The Councils should proceed with caution, however, to break this new ground. Dick Gutting<sup>18</sup>, speaking for the National Fisheries Institute, has stated that the Councils and the Secretary may only regulate fishing, not trade in fishery products, and we expect litigation over the billfish plan.

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<sup>16</sup> The Future of Groundfish Committee final report to the North Pacific Council suggested alternatives for trawl groundfish rationalization that included allocating harvesting quota to both vessel owners (specifically excluding crew) and processors. FOG Committee Report to the Council, p. 13 and 19, (June 1988).

<sup>17</sup> Memo from Jay S. Johnson, General Counsel for NOAA Fisheries to Doug Ancona, General Counsel Northwest Region and Jon Pollard, General Counsel Alaska Region, Mar. 1, 1988.

<sup>18</sup> Richard "Dick" Gutting, then a vice president of the National Fisheries Institute, was formerly in the NOAA General Counsel's office and Mr. Gutting was the lead author of Opinion No. 61.

There are some practical-legal problems in using a processor-based limited access system due to the proximity of Canada and the positions the U.S. has taken with respect to that nation's restrictive fish export laws. While it is possible that the Magnuson Act could be used to limit the rights of U.S. firms to purchase EEZ fish, it probably could not be used so as to restrict Canadian firms without violating the free trade principles of this Administration. As a result, a processor-based limited access system would not work if fishermen used the opportunity to sell fish to Canada to evade the market controls.

This memo expressed the National Marine Fisheries Service General Counsel's opinion that on-shore processors could be regulated, even limited, as part of conservation and management measures that were necessary and appropriate to protect the interests of the on-shore processing sector. At that time authority under the Magnuson-Stevens Act to regulate on-shore activities seemed resolved.

5. 1989 Memo on the Authority to Prohibit Pollock Roe Stripping.

In early 1989 factory trawler<sup>19</sup> vessels fishing for pollock in both the Gulf of Alaska and Bering Sea engaged in pollock roe stripping, removing the roe from female pollock while discarding male pollock and the flesh from female pollock.<sup>20</sup> The legal issue before the Council was whether regulatory measures could be implemented prohibiting roe stripping.

NOAA General Counsel's office offered its opinion on whether the Council and Secretary can take measures to prevent wasteful practices by domestic processors (Roe Stripping Opinion).<sup>21</sup>

The Roe Stripping Opinion noted that:

Not since 1978 has the definition of "conservation and management" stood in the way of Secretarial action under the Magnuson-Stevens Act. In fact, the definition was broadly construed in General Counsel Opinion No. 80 (1979), which addressed public health and safety measures, to allow any purpose that can be inferred from the Act as the basis of an FMP provision. Strict application of a narrow

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<sup>19</sup> Now referred to as "catcher/processor" vessels.

<sup>20</sup> See, Fleet dumps thousands of tons of fish, Anch. Daily News, Mar. 24, 1989, p.1.

<sup>21</sup> Memo from Margaret H. Frailey, Assistant General Counsel for Fisheries, to the North Pacific Fishery Management Council, Dec. 1, 1989.

interpretation of the term would eliminate probably half the FMP measures currently in place. ...

We believe a strict reading of the definition of “conservation and management” is inconsistent with the Act’s many expressions of permissible economic and social goals. Optimum yield cannot be achieved if FMPs can only address the restoration or maintenance of stocks of fish. Many purposes of the Act cannot be fulfilled if the Councils and the Secretary are so limited.<sup>22</sup>

The 1989 Roe Stripping Opinion specifically *rejected* Opinion No. 61’s conclusion that on-shore processors’ interests were not included within the definition of “conservation and management.”

This [“conservation and management”] is one of the provisions that was narrowly interpreted in General Counsel Opinion No. 61 (1978), which concluded that the Act did not authorize the Secretary to deny applications for joint-venture permits on the basis that U.S. processors could process the fish. This ruling resulted in the processor-preference amendment, P.L. 95-354. *The implication of Opinion No. 61, that “conservation and management” does not encompass consideration of the economic interests of on-shore processors, is inconsistent with Opinion 80 and subsequent practice of the agency.*<sup>23</sup>

The Roe Stripping Opinion therefore concluded that the Magnuson-Stevens Act definition of “conservation of management” included the potential to limit wasteful practices by processors.

The next issue addressed by the Roe Stripping Opinion was what measures could be used to implement the conservation and management concern of wasteful discards by processors? Like Opinion No. 80, the Roe Stripping Opinion<sup>24</sup> cited section 303 as being limited to “only conservation and management measures ‘applicable to foreign fishing and fishing by vessels of the United States.’”<sup>25</sup> Although roe stripping

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<sup>22</sup> Roe Stripping Opinion, p. 7.

<sup>23</sup> *Id.*, p. 6. The fact that on-shore processors interests can be considered in conservation and management measures is now beyond dispute. Specifically regarding fishery rationalization, Pub. L. 109-479 (2006) amended the Magnuson-Stevens Act to require allocations include consideration of “employment in the harvesting and *processing* sectors”, “*investments* in, and *dependence* upon, the fishery”, and “the current and historical and historical participation of *fishing communities*” (which is defined to specifically include processors). Magnuson-Stevens Act §303A(c)(5)(A).

<sup>24</sup> The same NOAA lawyer authored both the Roe Stripping Opinion and Opinion No. 80.

<sup>25</sup> Roe Stripping Opinion, p. 12.

could be prohibited, it could only be prohibited on at-sea processing operations and not by processors located on-shore.<sup>26</sup>

6. Status of NOAA's Opinion of the Authority to Regulate On-Shore Activities After the 1989 Roe Stripping Opinion.

There have been at least six additional written opinions by NOAA lawyers since the Roe Stripping Opinion discussing whether on-shore activities can be regulated under section 303 of the Act.<sup>27</sup> The formal view of NOAA on this issue has not changed since the Roe Stripping Opinion in 1989.

The opinion of NOAA regarding the ability of the councils and Secretary to regulate activities on-shore can be summarized as follows:

- \* Given an appropriate administrative record justifying the action, the councils and Secretary can protect the interest of on-shore processors as part of "conservation and management" of the fishery. The North Pacific Council, for example, would recommend allocations of pollock and cod between the inshore and offshore processing sectors to protect Alaska shore-based processors in 1991.
- \* *Necessary and appropriate* management measures to implement conservation and management of the fisheries are limited to activities at sea because section 303(a)(1) of the Magnuson-Stevens Act "limits conservation

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<sup>26</sup> During the Roe Stripping debate at the North Pacific Fishery Management Council meetings, NOAA's Alaska regional counsel proposed a ban on harvesting fish that would later be used in roe stripping on-shore. Some members of the North Pacific Council were uncomfortable with restricting fishing for purposes of roe stripping because the vessel delivering the pollock to an on-shore processor would be responsible for a practice over which it had no control. The Roe Stripping Opinion claimed, however, that this type of plan would be authorized under the Act. (See, Roe Stripping Opinion, p. 11.)

An analogy to this proposal for purposes of harvester-processor linkage would be that no fish could be harvested (regulating an activity at sea) which was not delivered to a processor with whom the vessel had a cooperative contact as specified in the regulations.

<sup>27</sup> The six written opinions are: (1) Memo from Lisa L. Lindeman, NOAA General Counsel – Alaska Region, to the North Pacific Fishery Management Council, Sept. 20, 1993, (1993 Processor Privileges Opinion); (2) Memo from Lisa L. Lindeman, Alaska Regional Counsel to Stephanie Madsen, Chair, North Pacific Fishery Management Council, Feb 3, 2005; (3) Letter from Eileen M. Cooney, NW Regional Counsel to Donald K. Hansen, Chairman, Pacific Fishery Management Council, June 10, 2005; (4) Letter from Eileen M. Cooney, NW Regional Counsel to Donald K. Hansen, Chairman, Pacific Fishery Management Council, Oct. 30, 2007; (5) Memo from Lisa L. Lindeman, Regional Council NOAA General Counsel, Alaska Region, to the North Pacific Fishery Management Council, Sept. 30, 2009; and, (6) Memo from Lisa Lindeman, Chief, Alaska Section to Glenn Merrill, Assistant Regional Administrator for Sustainable Fisheries, NOAA Fisheries, Alaska Region, Dec. 16, 2011 (2011 On-Shore Processing Privileges Opinion).



and management measures in an FMP to measures which are ‘applicable to foreign fishing and fishing by vessels of the United States.’”<sup>28</sup>

### III. Analysis of Authority to Regulate On-Shore Processing Under the Magnuson-Stevens Act.

1. NOAA’s Rationale for Limiting “Necessary and Appropriate” Management Measures to At-Sea Activities.

The rationale NOAA has given why management measures outlined in the Basket Clause of section 303(b) are limited exclusively to activities at sea was articulated by one paragraph in Opinion No. 80.<sup>29</sup> That paragraph reads as follows:

Section 303(a)(1) limits conservation and management measures in an FMP to measures which are “applicable to foreign fishing and fishing by vessels of the United States”. This limitation applies to *all* conservation and management measures, because section 303(b) merely lists the provisions which may be selected under section 303(a)(1) as “necessary and appropriate.” Thus an FMP may contain only those conservation and management measures which pertain to fishing or to fishing vessels.<sup>30</sup>

Section 303(a)(1) of the Magnuson-Stevens Act reads as follows:

303(a) Required Provisions.—  
Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—  
(1) contain the conservation and management measures, applicable to foreign *fishing* and *fishing by vessels of the United States*, which are—  
(A) *necessary and appropriate* for the conservation and

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<sup>28</sup> Opinion No. 80, p. 4.

<sup>29</sup> Only two other NOAA opinions have even touched upon the reason that the Basket Clause of section 303(b) is limited to at sea activities. The 1993 Processing Privileges Opinion focuses on the definition of “fishing” noting that the Magnuson-Stevens Act’s definition of “fishing” did not include on-shore processing and therefore the Councils do not have the authority to create and allocate on-shore processing privileges. Regarding the Basket Clause of section 303(b), the 1993 Processing Privileges Opinion stated that, “there is nothing within [the Basket Clause] to expand the definition of fishing.” The 2011 On-Shore Processing Privileges Opinion again notes that the definition of “fishing” under the Act does not include on-shore processing. The opinion summarily states that section 303 of the Magnuson-Stevens Act “consistently refers throughout to the Agency’s authority as focused on ‘fishing’ which is most reasonably read as referring to multiple different activities at sea, but not on-shore.”

<sup>30</sup> Opinion No. 80, p 4.

management of the fishery;  
(B) *described in this subsection or subsection (b), or both*; and  
(C) consistent with the national standards, the other provisions of  
this Act, and any other applicable law;

Section 303(a)(1) states that a required provision in a fishery management plan shall contain conservation and management measures, applicable to fishing by vessels of the United States, which are "*necessary and appropriate for the conservation and management of the fishery,*" and "*described in this subsection or subsection (b), or both.*"<sup>31</sup>

Section 303(a)(1) is arguably limited to management measures applicable to foreign fishing and fishing by vessels of the United States. But nowhere else in section 303 is the same limitation expressed. Just because section 303(a)(1) is limited to measures that occur at sea does not limit other sections of 303 to that requirement.

For section 303(a)(1) to restrict all of section 303 to at sea activities, no provision "described in subsection (a) or subsection 303(b), or both" can include management of activities on-shore. Opinion No. 80's position restricting all "necessary and appropriate" measures to fishing and fishing vessels only makes sense if every provision of section 303(a) and (b) is limited to management measures that regulate only at sea activities. The argument that every section 303(a) and (b) is limited to management of activities that occur at sea is not possible. Provisions of the Magnuson-Stevens Act have been amended so that section 303 specifically includes management measures relating to on-shore processors. Currently section 303 provides:

Any fishery management plan with to respect to any fishery —

- \* Must assess and specify the capacity and extent to which *United States fish processors*, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States.<sup>32</sup>
- \* Must specify the pertinent data which shall be submitted to the Secretary with respect to *...fish processing* in the fishery, including... the estimated processing capacity of, and the actual *processing* capacity utilized by, *United States fish processors*.<sup>33</sup>
- \* Must include a fishery impact statement for the plan or amendment which shall assess, specify and analyze the likely effects ...of the conservation and

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<sup>31</sup> Magnuson-Stevens Act §303(a)(1)(B).

<sup>32</sup> Magnuson-Stevens Act §303(a)(4)(C).

<sup>33</sup> Magnuson-Stevens Act §303(a)(5).

management measures on, and possible mitigation measures for *participants* in the fisheries and *fishing communities*<sup>34</sup> affected by the plan or amendment.<sup>35</sup>

- \* May require *fish processors* who first receive fish that are subject to the plan to submit data which are necessary for the conservation and management of the fishery.<sup>36</sup>
- \* May require a permit to be obtained from, and fees to be paid to, the Secretary with respect to any *United States fish processor* who first receives fish that are subject to the plan.<sup>37</sup>

Opinion No. 80's argument that the management measures in section 303 of the Act are all restricted to "fishing by vessels of the United States," just because section 303(a)(1) is arguably so limited, is patently wrong. Other provisions in section 303(a) and section 303(b) expressly authorize regulation of on-shore activities and specifically on-shore processing.

## 2. Agency Practice of Regulating On-Shore Activities Under the Magnuson-Stevens Act.

Regional fishery management councils, including the North Pacific Council, and the Secretary have frequently used the broad discretion provided in the Basket Clause in section 303(b) — *other measures, requirements, or condition and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery* — to regulate activities on-shore and on-shore processors.

The Roe Stripping Opinion contains a footnote acknowledging that regulation of on-shore processors has "long been *accepted* under the Magnuson Act as a *necessary concomitant* of the regulation of harvesting activities."<sup>38</sup> This is an acknowledgement by NOAA that the Magnuson-Stevens Act *does* provide authority to regulate on-shore activities. When regulation of an on-shore activity is

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<sup>34</sup> Processors are "participants" in the fisheries, and the definition of "fishing community" specifically includes "United States fish processors." Magnuson-Stevens Act §3(17). This section 303(a) alone provides authority for linkage between vessels and onshore processing plants as a method to mitigate the negative impacts of rationalization to on-shore processors.

<sup>35</sup> Magnuson-Stevens Act §303(a)(9).

<sup>36</sup> Magnuson-Stevens Act §303(b)(7).

<sup>37</sup> Magnuson-Stevens Act §303(b)(1)(C).

<sup>38</sup> Roe Stripping Opinion, p. 12.

challenged, however, the defense given by the agency is *not* that the activity is a “necessary concomitant” to harvesting activities, but instead the defense is that the regulation is “necessary and appropriate” to conservation and management of a fishery and thereby authorized under the Basket Clause of section 303(b) in the Magnuson-Stevens Act. The phrase “necessary concomitant” is not found in the Magnuson-Stevens Act, any federal register notice supporting the Act’s authority to regulate on-shore activities, or any cases interpreting the Magnuson-Stevens Act’s authority to regulate on-shore activities. The authority for the councils and Secretary to regulate on-shore processors is always found under the Basket Clause in section 303(b) of the Magnuson-Stevens Act and not because the regulation is a “necessary concomitant” to harvesting activities.

If *some* on-shore activities can be regulated under the Basket Clause, then *all* on-shore activities can be regulated under the Basket Clause as long as there is a legitimate conservation and management purpose. There is no distinction in the Magnuson-Stevens Act for activities that are a “necessary concomitant” to harvesting. The issue is whether the conservation and management rationale is legitimate. Opinion No. 80 was correct when it noted that “[a] case-by-case analysis and consultation with other agency should establish whether the proposed public-health regulation is ‘necessary and appropriate’ for the conservation and management of the fishery.”<sup>39</sup>

To follow is just a small sample of regulation of on-shore activities promulgated under the Magnuson-Stevens Act:

a. The North Pacific Observer Program. Amendment 18 to the Gulf of Alaska FMP<sup>40</sup> and Amendment 13 to the Bering Sea Aleutian Islands FMP<sup>41</sup> amended groundfish plans off Alaska to establish mandatory observer coverage for both fishing vessels and on-shore processing plants. The observer program imposed significant costs and regulatory burdens to shore-based processors as they were required to hire and pay for observers certified by NOAA.

Comments were submitted to the Secretary opposed to the plans, arguing that observers at shore-plants were redundant to observers on fishing vessels, the costs imposed exceeded the benefits and mandatory observer coverage was not authorized by the Magnuson-Stevens Act. Nowhere in section 303, or elsewhere in the Magnuson-Stevens Act, was there express authority for management measures to require fishing vessels, or on-shore plants, to hire observers. The Secretary, however, had no difficulty approving the plan amendments, specifically citing the conservation and management purpose of reliable information and the authority of

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<sup>39</sup> Opinion No. 80, p. 9.

<sup>40</sup> 54 Fed. Reg. 50386, Dec. 6, 1989.

<sup>41</sup> 55 Fed. Reg. 4839, Feb. 12, 1990.

the Basket Clause in section 303(b) to “prescribe measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.”<sup>42</sup>

b. The Multi-Region Billfish plan. The five region Billfish Fishery Management Plan was approved in September of 1988.<sup>43</sup> The plan eliminated the existing commercial fishery for Atlantic billfish. It prohibited the sale of any Atlantic billfish — even legally harvested billfish — *anywhere* in the United States, it prohibited the importation of Atlantic billfish, and the plan required that any billfish outside of Pacific coast states have documentation showing it was taken from the Pacific Ocean.

The Billfish plan was extremely controversial and 413 comments were submitted to the Secretary on the draft plan. Both the Office of Management and Budget and the Small Business Administration recommended disapproval of the plan. The Small Business Administration noted that the Regulatory Impact Review document accompanying the plan “shows significant societal losses for the no sale provision.” The scope of the Secretary’s authority to implement the plan was among the issues raised by the plan’s opponents.

Despite the controversial nature of the plan, and the fact it regulated activities on-shore, the agency rather summarily found that the Secretary had authority to approve and implement the plan. “NOAA believes that the provisions of the rule contribute to conservation of the resource, are necessary to the effectiveness of the FMP, and are within the authority of the Magnuson Act.”<sup>44</sup>

c. Haddock Bycatch in the Atlantic Herring Fishery. On-shore processors of Atlantic herring must separate out and retain all haddock offloaded from a vessel. The haddock may not be sold, purchased, traded, bartered, or transferred, and must be retained, after having been separated from the herring, for at least twelve

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<sup>42</sup> 54 Fed. Reg. 50391 (1989). Mandatory observer coverage for on-shore processors in the North Pacific was specifically implemented under the authority of the Basket Clause in section 303(b) of the Magnuson-Stevens Act. Later, Pub. L. 101-627 amended section 303(b) to provide that management measures may “require that observers be carried on board a vessel of the United States engaged in fishing...” [Now found at section 303(b)(8) of the Magnuson-Stevens Act]. There is no similar provision in section 303(b) of the Magnuson-Stevens Act to authorize observers to be hired to work in on-shore processing plants. Pub. L. 101-627 also contained the North Pacific Research Plan that authorized placing observers at processing plants in Alaska. This legislation was not signed into law until November 28, 1990, however, well after publication of the regulations mandated observers at shore-based processing plants, and regulations implementing observer coverage under the North Pacific Research Plan were not promulgated until April of 1994.

<sup>43</sup> 53 Fed. Reg. 37765 (1988).

<sup>44</sup> 53 Fed. Reg. 37767 (1988).

hours.<sup>45</sup>

d. On-shore Processor Privileges. A surprisingly large number of fishery management plans give on-shore processors the right to sell fish when others cannot. Thus, the Gulf of Mexico Council's prohibition against the sale of reef fish during a fishery closure does not apply to fish landed ashore, held in cold storage and sold by a processor.<sup>46</sup> The prohibition against the sale of Royal red shrimp during a closure does not apply to shrimp landed ashore and sold by a processor.<sup>47</sup> The prohibition in the South Atlantic against sale of wreckfish during a closed season does not apply to fish landed ashore prior to the closure and held in cold storage by a processor.<sup>48</sup> The prohibition against the possession and sale of shark during a closed season does not apply to a processor with a valid permit that off-loaded and purchased the fish prior to the closure.<sup>49</sup> There are many other similar regulations granting processors an exclusive privilege to sell fish during periods of time when non-processors cannot.

In summary, it is NOAA's well-established practice to regulate on-shore processing when it is considered "necessary and appropriate" to help achieve conservation and management of the fisheries. The agency has repeatedly relied on the Basket Clause in section 303(b) to regulate shore-based processors.

### 3. Judicial Review of Magnuson-Stevens Act Regulation of On-Shore Activities.

There have been three published judicial challenges to fishery management measures that regulate on-shore activities. In every reported case, those necessary and appropriate regulations have been upheld under the authority of the "Basket Clause" of section 303(b) in the Magnuson-Stevens Act. The three cases challenging regulation of on-shore activities are summarized below:

#### a. Stinson Canning Co. v. Robert Mosbacher.<sup>50</sup>

In October of 1987 the Stinson Canning Company challenged regulations which prohibited the *importation* or *possession* of otherwise legally harvested, but

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<sup>45</sup> 50 CFR §648.15(d).

<sup>46</sup> 50 CFR §622.39(b)(1).

<sup>47</sup> 50 CFR §622.57(a)(1).

<sup>48</sup> 50 CFR § 622.183(b)(2).

<sup>49</sup> 50 CFR §635.28(b)(5).

<sup>50</sup> Stinson Canning Co., Inc. v. Robert A. Mosbacher, et al, No. C 87-0328 B (Dist. of Maine, Feb, 5, 1990).

undersized (by U.S. standards), groundfish. These are fish that were harvested legally by Canadian fishing vessels in Canadian waters, but importing, or possessing, those fish in the United States was illegal under this regulation.

This “no importation or possession” rule clearly regulates on-shore activities and the Stinson Canning was concerned that this rule would hurt its ability to purchase fish at reasonable prices. The rule even regulates foreign commerce such that the Canadian government commented in opposition to the plan. The plaintiff in this case specifically alleged that the Secretary had exceeded his statutory authority under the Magnuson-Stevens Act by approving the rule.

The Secretary defended the rule as necessary and appropriate for the conservation and management of the fishery as it aided enforcement efforts because “officers will not have the burden of proving where undersized groundfish were taken.”<sup>51</sup>

Specifically citing and quoting the Basket Clause of section 303(b), the court held that the Magnuson-Stevens Act authorized promulgation of the rule. The fact that the activity was on-shore did not stop the court from holding that the Basket Clause of the section 303(b) authorized the plan. The court stated:

Here, as noted above, there has been a broad delegation of authority to the Secretary and regional councils to take whatever measures are “necessary and appropriate for the conservation and management of the fishery”.<sup>52</sup>

b. National Fisheries Institute, Inc. v. Robert Mosbacher.<sup>53</sup>

As mentioned in the 1988 NMFS General Counsel’s memo regarding Limited Entry, the National Fisheries Institute (NFI) challenged the five-council plan which set aside billfish exclusively for recreational users. One of the specific provisions challenged was the prohibition against the purchase, barter, trade or sale in any state of an otherwise legally harvested billfish (the “no sale” provision).

The NFI also challenged the provision that billfish possessed by a seafood processor will be presumed to have been harvested from the Atlantic Ocean unless it is accompanied by documentation that it was harvested from the Pacific Ocean (the “paper trail” provision). “When combined with the no sale provision discussed previously, the paper trail provision forces seafood dealers and processors, in most

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<sup>51</sup> Stinson, p. 10.

<sup>52</sup> Stinson, p. 9.

<sup>53</sup> National Fisheries Institute, Inc. et al, v. Robert A. Mosbacher and Coastal Conservation Assoc., No. C 88-3103 (Dist. Of Col. Mar.12, 1990).

instances, to either forego selling any billfish whatsoever or document that each billfish they possess was harvested from somewhere other than its management unit in the Atlantic Ocean.”<sup>54</sup>

The NFI argued that nowhere in the Magnuson Act or its legislative history did Congress indicate that the Secretary can regulate the sale of legally-caught fish.

Again, this prohibition regulated on-shore activities, even activities occurring in States beyond those represented by the five management councils. The court easily upheld the “no sale” and “paper trail” provisions: With regard to the No Sale provision the court noted: “The Magnuson Act vests broad authority in the Secretary to promulgate such regulations as are necessary to carry out the conservation and management measures of an approved FMP.” ..... Merely because Congress chose to also specify certain actions as unlawful per se in section 1957(1)(B)-(I) does not mean that it intended those prohibitions to be the boundaries of the Secretary’s broad rulemaking authority.”<sup>55</sup>

Ultimately, the conservation and management rationale allowed regulations to take action the Secretary thought necessary and appropriate, despite the fact they regulated on-shore activities. “Both provisions are designed to avoid a problematic scenario: in their absence a commercial market for Atlantic billfish may develop and anybody selling a billfish could baldly assert that it was harvested from the Atlantic Ocean beyond the EEZ, or, in the alternative, from the Pacific Ocean.”<sup>56</sup>

c. *Byrne v. Lovgren*.<sup>57</sup>

Saving the best for last, *Byrne v. Lovgren* is a fishery enforcement case worthy of telling in some detail. On an early spring morning in 1983, Mr. Gösta (“Swede”) Lovgren was working on the dock of his fish processing plant when agents of the National Marine Fisheries Service arrived and asked permission to climb onto a platform at his dock to inspect fish that recently had been landed. It was a routine inspection. There was no suspected violation. Using rather colorful and forceful language, however, Mr. Lovgren denied the agents’ request.

Mr. Lovgren later admitted that he tends to be “volatile” and he was upset at the time, but he should have known that it is never wise to shout obscenities at enforcement officers. For refusing to allow the inspection and forcefully resisting

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<sup>54</sup> *NFI*, p. 15.

<sup>55</sup> *NFI*, p. 14.

<sup>56</sup> *NFI*, p. 17.

<sup>57</sup> *John Byrne v. Gösta (“Swede”) Lovgren*, 787 F.2d 857 (3<sup>rd</sup> Cir. 1986).



the inspection, the temperamental Mr. Lovgren was charged with violating two regulations issued pursuant to the Magnuson-Stevens Act. The Administrative Law Judge found him guilty on both counts. Lovgren's petition to the Administrator of NOAA for review of his case was denied, and he filed a suit challenging the violations in U.S. District Court for the District of New Jersey. The district court upheld the civil penalties. Mr. Lovgren next appealed the district court's decision to the Third Circuit of United States Court of Appeals. By now Mr. Lovgren's legal fees far exceeded the government's proposed fine of \$5,000.<sup>58</sup>

The issue before the court was whether the warrantless search was legally authorized. The Magnuson-Stevens Act specifically authorizes searches of fishing vessels without a warrant.<sup>59</sup> There is no similar provision in the Act for inspections on-shore. The Secretary promulgated regulations under the Magnuson-Stevens Act extending the authority for warrantless searches to various on-shore facilities, including buildings and docks, "where groundfish may be found" in the Mid-Atlantic region.<sup>60</sup> Lovgren challenged the authority of the Secretary to establish this regulation.

The court had no difficulty upholding the regulation, even though it authorized warrantless searches on-shore! Noting that the conservation and management purpose of the regulation was to "monitor compliance with the plan" the court specifically cited the Basket Clause of section 303(b) in ruling the regulations were authorized. "A plan may 'prescribe' all 'measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.'"<sup>61</sup>

The fact that activities on-shore were being regulated under the Magnuson-Stevens Act, and the fact that these regulations allowed warrantless searches of buildings, did not deter the court because of the legitimate conservation and management purpose served by the regulation.

If inspecting officials were able only to observe fish remaining on board a vessel, the agency's efforts to gather accurate information would be substantially frustrated. Those wishing to evade inspection would be aware that once the fish have reached the dock, they are safe from inspection unless the official has previously obtained a search

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<sup>58</sup> The government asked for a fine of \$5,000, but Mr. Lovgren so impressed the Administrative Law Judge that he fined Mr. Lovgren \$50,000, of which all but \$10,000 was suspended upon the condition Mr. Lovgren's cooperate with the government during the pendency of any appeal.

<sup>59</sup> Magnuson-Stevens Act §311(b)(1)(A)(ii).

<sup>60</sup> Lovgren, p. 863.

<sup>61</sup> Lovgren, p. 863.

warrant, a difficult task where the fishermen keep to no prearranged schedule.<sup>62</sup>

Gösta Lovgren is currently living in Lavallette, New Jersey, and publishing a blog entitled "Swede's Dock." (See Figure One, below.) For those wondering if Mr. Lovgren has mellowed over the years, he can be contacted at his email address: NMFS\_Bites\_Big\_Time@SwedesDock.com.<sup>63</sup>



Figure One. From "Swede" Lovgren's Blog.

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<sup>62</sup> Byrne v. Lovgren, p. 864.

<sup>63</sup> Mr. Lovgren's email address can be accessed at the bottom of the left hand column of Swede's Dock blog by selecting the "Write Me" icon.

#### IV. Conclusion

If the Magnuson-Stevens Act provides authority to regulate on-shore activities, then the Act provides authority to include “linkage” between vessels and shore-based processing plants. Since 1979 NOAA has acknowledged that interests beyond simple protection of the resource are incorporated within the term “conservation and management” as defined under the Magnuson-Stevens Act. NOAA specifically stated that the economic interests of on-shore processors can be considered as part of “conservation and management” in its 1989 Roe Stripping Opinion. Given a legitimate conservation and management rationale to regulate on-shore activities, the only remaining issue NOAA has raised concerning “linkage” between harvesters and processors is whether “necessary and appropriate” measures under the Basket Clause of section 303(b) of the Act allow regulation of on-shore activities.

The rationale given by NOAA for limiting the Basket Clause to authorizing regulation only of activities at sea — that all of section 303 [Contents of Fishery Management Plans] is limited to at sea activities — is not valid. Regulating processing by on-shore facilities is specifically referenced throughout various sub-sections of section 303.

Furthermore, on-shore activities, including on-shore processing, have been frequently regulated under the Basket Clause of section 303(b) in the Magnuson-Stevens Act. Given a legitimate conservation and management purpose, it has been NOAA’s longstanding practice to regulate on-shore processors under the Basket Clause. NOAA cannot logically claim the Basket Clause authorizes regulations that require shore-based processors to hire observers but not regulations that require “linkage” between harvesters and on-shore processors. Courts reviewing the issue have unanimously upheld regulation of on-shore activities under the Basket Clause in section 303(b).

There are ample conservation and management reasons that linkage between harvesters and on-shore processors may be appropriate if the trawl groundfish fisheries are rationalized in the Gulf of Alaska. Those conservation and management interests include the economic considerations of both on-shore processors and trawl vessels delivering to on-shore plants; preserving historical fishing practices; protecting those dependent upon the fishery; protect employment in the processing sector; protect investments in the fisheries; and protecting the current and historical participation of fishing communities, among other reasons. Given these legitimate conservation and management rationales, it is irrelevant that the “necessary and appropriate measures” happen to regulate on-shore activities by linking harvesting vessels to processing plants because the Magnuson-Stevens Act authorizes regulation of on-shore activities under the Basket Clause of section 303(b).

North Pacific Fishery Management Council  
605 W. 4<sup>th</sup> Ave., Suite 306  
Anchorage, Alaska 99501

August 25, 2014

**RECEIVED**  
AUG 29 2014

Dear Council Members,

I am a lifelong resident of Sand Point. I have been involved in the Western Gulf pollock trawl, Pacific cod trawl, and P. cod pot fisheries since the 1980s.

This month I have worked with all of the local trawlers to put together a voluntary coop for the pollock C season so that we can catch the C season quota without exceeding the chinook salmon cap for this area. This has been a difficult process, but we are committed to avoiding salmon bycatch.


We should all learn a lot during this season. I am beginning to think about next January's cod trawl fishery. With the current season opening date at January 20<sup>th</sup>, we will be facing problems with small cod and halibut.

I noticed that during your June, 2014 meeting in Nome, the Council encouraged the Bering Sea/Aleutian Islands fishermen to work out voluntary measures to avoid bycatch. I would encourage you to consider providing the GOA trawl fleets direction to do the same. I hope that with your guidance, we can put together another voluntary coop to delay the cod season until we get a build up of larger cod that are less intermixed with halibut.

I plan to submit a proposal to change the opening date for the WGOA P. cod trawl fishery as soon as time allows.

Thank you for your consideration of this important issue.

Sincerely,



Dwain Foster, Sr.

Magic Fish Co.  
59065 Meadow Ln  
Homer, AK 99603

September 29, 2014

North Pacific Fisheries Management Council

C-7 GOA Trawl Bycatch Management

Dear Mr. Chairman;

Magic Fish Company is a small family-owned fishing business that owns two LLPs with trawl endorsements in the GOA. I have a new 58 foot vessel under construction that will participate in the CG and WG groundfish fisheries.

I have read the October 2014 analysis and have the following comments:

Inactive Licenses: This GOA trawl bycatch management is not intended to be a recency action. One LLP I own has extensive trawl history. Depending on which qualifying years are chosen one of my LLPs may or may not have catch history under the proposed plan. Regardless of whether an LLP has history under the GOA action it should be allowed to either fish in an open access fishery, acquire quota and join a cooperative, or have an entry level fishery similar to the Rockfish Pilot program.

I would like to see entry level provisions including an entry level fishery be added to the analysis. New equipment, new technology, new emphasis may all lead to better results (lower bycatch). These are not over-capitalized fisheries, and in fact Optimum Yield is in many seasons not even achieved in the trawl fisheries in the GOA. This is a bycatch reduction action.

“When developing a LAP program to harvest fish a Council or the Secretary shall: .... include measures to assist, when necessary and appropriate, entry level and small vessel owner-operators, captains, crew and fishing communities through set asides of harvesting allocations including providing privileges, which may include set asides or allocations of harvesting privileges or economic assistance in the purchase of limited access privileges.”

Furthermore, if catch history is not included in one area an LLP holder with both CG and WG area endorsements should not lose the ability to fish in the other area (by acquiring quota and joining a coop, fishing open access, or fishing an entry level fishery.)

“Goal 6: The proposed program limits consolidation, provides entry opportunities through the sale of license and quota, maintains employment opportunities associated with consolidation limits, and increases economic viability of businesses by providing a cooperative structure that could result in stable or higher groundfish harvests levels under reduced PSC limits. While there are still opportunities to enter the fishery, the introduction of the catch share program will increase the cost of doing so. “ pg 24

Allocated species under the program: The Council should not add species to this program as NMFS is advocating (Table 1 pg 13). Neither as an LLP holder with extensive history in the cod and pollock fisheries in the WG, nor as an LLP holder with limited RECENT history in the WG, it is not a good idea to allocate species like rockfish and flatfish in the WG. There is very little history for CV's in those fisheries because King Cove and Sand Point processors have not processed those species from CVs. In effect NMFS's suggestion would allocate entire fisheries to the CP's, and those fish will never come on-shore. This is not a community protection measure and does not facilitate local participation in the fisheries which are stated goals, and it does not provide any future opportunity for CVs in those fisheries. It also allocates additional PSC to the CP sector. (Figure 1 page 15)

Species that are not fully utilized should not be allocated under this bycatch reduction program. Gear conversion allowing vessels that use pots to catch cod to save PSC should be enabled to develop under-utilized species within their coop.

Analysis of processor owned or processor affiliated or controlled vessels: It is difficult to understand how coop formation and functionality is possible without knowing the extent of processor ownership of catching vessels and how a non-affiliated vessel would operate. I would like to see a section added to the analysis.

Gear conversion: I think this is potentially beneficial. If a LLP holder with both trawl and pot endorsements can fish cod trawl quota with pots it will save halibut PSC for further utilization in other fisheries. I would like to see the analysis further flesh out how many vessels and how much halibut Psc this element could reduce.

Performance: When this plan was originally proposed I was most interested in the "fish cleaner fish longer" concept at the individual vessel level. What are the incentives built into the program? Where are the PSC set-asides for performance? This looks most like a catch share program, not a bycatch management program.

*Goal 13. Minimize adverse impacts on sectors and areas not included in the program:*  
How is the pot fishery protected from a vessel that puts its cod quota in a coop then fishes the pot sector's allocation? Many vessels in WG that have a trawl endorsement also have a pot endorsement. I have an LLP with both trawl and pot endorsements in the WG. I believe there will be significant impacts on the pot sector, if this is not addressed.

It seems imperative that the pot sector have some protection. It would be rational for a fisherman to compete in the unrationalized pot sector knowing that his trawl cod quota could be either fished by a coop partner or fished later after the pot sector was closed. This would have a major adverse impact on the pot sector.

Co-op structure: The analysis mentions that co-ops must be voluntary, and open access must be available to fishermen. It then devotes most of its effort making an open access fishery so untenable that no rational fisherman could participate. Co-op structures with linkages are anti-competitive. Refer to the 2013 Safe economic chapter 6.6.5 Revenue

Performance Metrics for the existing Rockfish program:

“While both sectors had nearly identical revenues in 2007 (CV sector=\$4.6 million and CP sector=\$4.55 million), the CP sector experienced a much larger gain in revenues between 2007 and 2012 with their revenues increasing by 142% while the CV sector revenues increased by only 36% over the same time period.” The Council’s Goal 5 is to “Balance interests of all sectors and provide equitable distributions and similar opportunities for increased value.” That program is struggling with regards to increasing value to fishermen and community tax revenue, and the Council’s intent is to mimic it, and NMFS wants to combine the Rockfish program with the GOA Trawl Bycatch program. The cumulative effects on the ex-vessel price of fish of co-ops, company owned and affiliated vessels, and potential regionalization of deliveries are difficult to understand as a stakeholder. Co-ops may be an easier structure for NMFS to manage in a multi-species fishery. For an individual small boat fisherman incentives to avoid and minimize bycatch are not articulated in the program except somehow within the co-op structure. There are inherent disadvantages in arriving at a price within a co-op structure as proposed, and there are increased costs to stakeholders.

Analysis of catch from state waters: 53%-74% of the WG Pollock catch in recent years comes from state waters. The analysis does not include any information about how this important component of the catch accounting system might work. If differential shares are not allowed under the Alaska state constitution, how will catch shares be accounted for in state waters?

Sincerely,

Buck Laukitis



# City of Old Harbor

P.O. Box 109  
Old Harbor, Alaska 99643  
(907) 286-2204  
Fax (907) 286-2278  
City of the Three Saints

## RESOLUTION 14-52

### **A RESOLUTION SUPPORTING PROTECTIONS FOR KODIAK ISLAND'S FISHERY DEPENDENT COASTAL COMMUNITIES IN THE GULF OF ALASKA TRAWL BYCATCH MANAGEMENT PROGRAM.**

**WHEREAS**, healthy fisheries are the backbone of the economies and cultures of Kodiak Island's fishery dependent rural communities --- including fishermen, processors, support businesses and community residents;

**WHEREAS**, the North Pacific Fishery Management Council (NPFMC) is currently considering a bycatch management program for the Gulf of Alaska groundfish trawl fisheries which includes a catch share or "rationalization" program; and

**WHEREAS**, catch share programs can provide economic and conservation benefits, but past catch share programs have also resulted in significant harm to Kodiak Island's fishery dependent rural communities and tribal communities in terms of vessel consolidation, loss of crew jobs, and loss of local access to fisheries; and

**WHEREAS**, a Gulf of Alaska trawl catch share program can achieve bycatch reduction while maintaining coastal communities' economies and fisheries access if designed correctly; and

**WHEREAS**, direct allocations of fishing quota to a Community Fishing Association can help ensure coastal fishing community economies remain intact under a catch share program by anchoring quota in the community, supporting new generations of fishermen and crew and amplifying community benefits; and

**WHEREAS**, Community Fishing Associations are currently being considered by North Pacific Fisheries Management Council for inclusion in the Gulf of Alaska Trawl Bycatch Management Program and the allocation of groundfish quota; and

**THEREFORE BE IT RESOLVED** that the Old Harbor City Council requests the NPFMC include Community Fishing Associations as part of the Gulf of Alaska Trawl Bycatch Management Program and provide an initial allocation of quota to a Community Fishing Association as a component of the Gulf of Alaska Trawl Bycatch Management/ catch share program; and



**BE IT FURTHER RESOLVED** that the Old Harbor City Council requests the NPFMC ensure that the Gulf of Alaska Trawl Bycatch Management/ catch share program includes adequate fishery dependent community protections to sustain fisheries access for Kodiak's rural and tribal communities, provide opportunities for new entrants and maintain community benefits including crew jobs to adequately protect the vibrant coastal economies and cultures of Kodiak Island's fishing communities.

**PASSED AND ADOPTED** by the Old Harbor City Council this 25<sup>th</sup> Day of September, 2014.

**ATTEST:**



**Rick Berns, Mayor**



**Russell Fox, Treasurer**

The Kodiak trawl captains have formed a group in order to try and provide the best plan to combat the highly contentious issue of trawl bycatch. We believe we are the people whom not only have the most control over it, but can provide the best workable solutions which will benefit not only the resource but the environment and livelihoods of all involved.

We ask the council to consider 4 points we think are very important with any catch shares enacted in the future.

One, we believe captains should receive 15% of any catch or bycatch shares enacted or awarded. We are the ones responsible to alleviate bycatch and should be awarded with part of any shares. This is not to award windfall profits, but rather to afford job security with the inevitable consolidation to follow. Also, investing in these shares should be limited to captain and crew with minimum of one year experience.

This minimizes the possibility of outside investors, and is similar to the IFQ program.

Two, we believe that any shares awarded to a captain must remain as captain shares. They could not be sold or transferred to vessel owners, although they could be taken with captains whom become owners. Boat shares could be bought by captains/crew, but captain's shares could not be bought by boat owners. This would allow captains/crew to invest in the fishery, and provide job security.

Three, no long term leasing of quota should be allowed. This would prevent absentee owners from collecting checks on the beach, while no longer having anything to do with the fishery. Boats and captains/crews must remain active to hold quota. Short term leasing in the event of emergencies would be acceptable. "Fish or sell it" allows up and coming captains/crews or boat owners to invest in the fishery.

Four, we believe vessels and captains whom receive catch or bycatch share should be able to form co-ops amongst vessels and captains whom have the same interests, separate of canneries or processors. However, we believe if vessels wish to form co-ops around processors, that would be acceptable as well. This would allow corporate vessels to have their own co-ops, and allow individual vessels and other like minded groups of vessels or captains to work together. No one wants to be in the same co-op as others whom they might not normally associate with, and perhaps loose fish to bad actors. This would provide the best team efforts to reduce bycatch. We can hire our own co-op managers, work together to demand the best fair price for our fish, and fish cleaner with less bycatch.

We hope to be more involved at the council level. We already are the most involved at the ground zero level. We hope you sincerely listen to our opinions and hopes for a cleaner, more lucrative fishery. Thank you Chairman Hall and members of the council.

Georg Hutchings

GEORGE HUTCHINGS F/V ELIZABETH F

DAVID DAHL DAVE DAHL F/V ROSELLA

~~DAVID DAHL~~ DENNIS EGGERS F/V BUSK

~~RON KEESEE~~ RON KEESEE F/V EXCALIBUR II

~~CHARLIE FREEBURG~~ CHARLIE FREEBURG F/V ALASKA BEAUTY

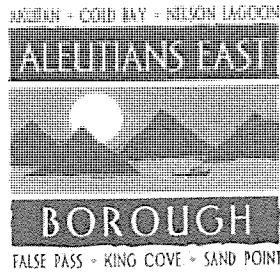
CHANDLER JOHNSON F/V WALTER N

WAYNE A TIPLEN MANPACIFIC

DON SUTTON F/V SEA MAC

RICHARD STARR F/V ANTHEM

KEITH REYNOLDS F/V DAWN



September 12, 2014

To: Acting Chairman John Henderschedt, North Pacific Fishery Management Council

Re: Comment on October 2014 Agenda Item C7, Gulf of Alaska Trawl Bycatch Management

Dear Chairman Henderschedt,

The Aleutians East Borough Assembly submits these comments regarding your October 2014 agenda item C7, Gulf of Alaska Trawl Bycatch Management. The Assembly met on September 10<sup>th</sup>, just one day after the release of the recent discussion paper Review of Proposed Program Framework for Gulf of Alaska Trawl Bycatch Management. We will continue to study this and the other documents when they become available in preparation for your October meeting.

First of all, we would like to thank the Council for the Outreach meetings in Sand Point and King Cove during the week of May 12<sup>th</sup>. We feel these meetings were extremely productive. Our community members and fishermen in attendance received a good presentation of the GOA trawl bycatch proposal, and insight to some of the challenges up ahead. We hope your representatives were able perceive the uniqueness of the trawl fishery in the Western Gulf due to our small boat fleet and one processor towns.

The Aleutians East Borough is concerned about possible adverse impacts any new fishery management regime could have on our communities and fishermen. We have recently contracted to study potential socio-economic impacts to Borough residents from the proposed GOA trawl bycatch management program. We look forward to sharing the results of this study with you in the near future.

We want to bring to your attention a recent effort by our local trawl fishermen to come to an agreement in the days leading up to the pollock C season, to work in a voluntary catch share plan to harvest pollock in a safe, fair and timely manner, while limiting bycatch of chinook salmon. We applaud these efforts and will continue to monitor their success. We believe this agreement could serve as a template for future trawl bycatch management.

Finally, we reaffirm our nine goals for fishery management programs, as outlined in AEB Resolution 13-16. <http://www.aebfish.org/res1316.pdf>.

1. Provide effective controls of prohibited species catch and provide for balanced and sustainable fisheries and quality seafood products.
2. Maintain or increase target fishery landings and revenues to the Borough and AEB communities.
3. Maintain or increase employment opportunities for vessel crews, processing workers and support industries.
4. Provide increased opportunities for value-added processing.
5. Maintain entry level opportunities for fishermen.
6. Maintain opportunities for processors to enter the fishery.
7. Minimize adverse economic impacts of consolidation of the harvesting or processing sectors.
8. Encourage local participation on harvesting vessels and use of fishing privileges.
9. Maintain the economic strength and vitality of AEB communities.

The Aleutians East Borough Assembly urges the Council to continue to advance the GOA Trawl Bycatch Management proposal **only as it meets these goals**. Please consider our communities first as you move forward with this program.

Sincerely,



Mayor Stanley Mack



**Kodiak Island Borough**  
710 Mill Bay Road, Rm. 101  
Kodiak, AK 99615  
907.486.9310



**City of Kodiak**  
710 Mill Bay Road, Rm. 216  
Kodiak, AK 99615  
907.486.8636

September 26, 2014

Acting Chairman John Henderschedt  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501

Re: Agenda item C-7, GOA Trawl Bycatch Management

Dear Chairman Henderschedt:

The City of Kodiak and Kodiak Island Borough continue to actively participate in the GOA Trawl Bycatch Management action to provide the North Pacific Council with the views of our community as a whole. The Kodiak Fisheries Work Group has discussed the GOA TBM at monthly public meetings since April, understanding the outcome of this action will have profound effects on our community as well as on harvesters and processors. Kodiak municipal leaders consider the community to be the necessary "third leg of the stool." The welfare of all three of these sectors will continue to be our focus as the Council moves forward.

By Resolution (attached), the City and Borough identified ten community goals, which continue to guide the community in discussing the proposed management program. First on this list is to provide effective controls of prohibited species catch and other bycatch, to provide for balanced and sustainable fisheries and healthy harvesting and processing sectors. We continue to strongly support the Council's initiative to reduce bycatch and encourage timely Council progress in advancing a cooperative management program as a tool in this effort.

The City and Borough welcome the opportunity to comment on several key components of the GOA TBM motions that apply specifically to community concerns. The following are the key areas for community consideration:

**1. Consolidation.** Quota consolidation limits (quota control caps and vessel use caps) and processing caps for processors.

Consolidation of licenses on fewer trawl vessels does not affect the total amount of harvest or the associated landing taxes/processing revenues and processing employment opportunities (assuming historic community delivery patterns are maintained), but it can impact the number of available crew jobs, shares paid to crew, and the amount of demand for shore-based support services.



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Agenda item C-7, GOA Trawl Bycatch Management  
September 26, 2014  
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The community recognizes avoiding all consolidation could reduce the management efficiencies that are the heart of a cooperative structure, and at this point supports the range of consolidation limits for both harvesters and processors in the April Council motion, pending further analysis. In addition, the community supports further analysis of grandfathering in quota control and processing levels in excess of the caps, including analysis of the concept of specifying a time period after which quota control in excess of the cap must be divested (sunset provision).

The community also recognized the importance of retaining and further analyzing vessel use caps that are applicable within cooperatives.

**2. Regionalization.** Regionalization of quota based on historical delivery patterns;

Regionalization applies to target species only and is a measure to preserve historical delivery levels to shore-side processors in each management area. As the regional landing requirement would specify landings only as Central Gulf (CG) or Western Gulf (WG), the motion also contains an option that would require target species CG quota historically landed in the port of Kodiak to continue to be landed in the port of Kodiak.

The intent of regionalization (and port of landing requirement) is to maintain processing levels and the associated employment opportunities at or near historical levels. At this time, the community supports keeping both the regional and the port delivery requirements as elements for further analysis in the proposed program.

**3. Fishery participation criteria.** Participation criteria thresholds that define eligibility for the purchase of trawl licenses and/or history/quota.

Currently persons (the definition of which includes individuals, corporate entities and government and community entities) must be able to document a fishing vessel to hold and purchase an LLP, and to purchase and hold quota. The proposed program does not currently include additional participation criteria for the applicable fisheries.

The FWG wants to retain the ability for communities to hold quota in the program.

**4. Community representative in cooperative.** An option where the community in which the processor is located would also be required to sign the cooperative contract, potentially allowing the community to support cooperative practices that meet community goals and objectives.

There are two levels at which the community can play an active role in the contract development process – the regulatory level and the cooperative management level. At the first level, the community believes that the cooperative contracts should embody the goals of the community, which should be built into the contract requirements by regulation.

Regarding the cooperative management level, the community supports further analysis of the concept of community participation and approval at the inter-cooperative level.

In addition, the community supports cooperatives providing quarterly performance reports to the community.

**5. Ability to sever target quota from a license.** The ability to sever target species history from a license and transfer it to another license.

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September 26, 2014  
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This element would allow for a smaller piece of target species history to be severed from a trawl license (as opposed to purchasing the entire license), and used on a latent trawl license, allowing for new entry at lower cost. The community supports this concept going forward for analysis, including the concept of providing for a maximum amount of history that could be severed from each license.

#### **6. CFA proposal.**

Despite not yet having the discussion paper on the CFA proposal, the community supports moving the CFA concept forward for further analysis. We would like to see a side-by-side analysis of the proposed management program's potential attainment of the Council's goals and objectives both with a CFA, and without a CFA.

#### **7. Additional comments on proposed management design.**

The community supports expanded analysis of the potential inclusion of target species in addition to pollock and cod, particularly the implications for the limited access fishery and new entrants.

The community also recognizes the potential difficulties in opening a limited access fishery with a small amount of quota, and supports continued analysis on this aspect of the proposed program.

Thank you for undertaking the important work of designing and implementing this trawl bycatch management program, for the benefit of the harvesters, processors and Gulf of Alaska communities. The City of Kodiak and the Kodiak Island Borough look forward to continuing their active involvement in the process.

Sincerely,



Jerrol Friend, Mayor  
Kodiak Island Borough



Pat Branson, Mayor  
City of Kodiak

Enclosures: City of Kodiak Resolution No. 2012-31  
Kodiak Island Borough Resolution No. 2013-10

**CITY OF KODIAK  
RESOLUTION NUMBER 2012-31**

**A JOINT RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK AND  
THE KODIAK ISLAND BOROUGH ASSEMBLY SUPPORTING COMMENTS TO THE  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL ON PENDING ACTIONS  
REGARDING COMPREHENSIVE MANAGEMENT OF PROHIBITED SPECIES  
CATCH BY THE TRAWL FISHERY IN THE CENTRAL GULF OF ALASKA**

WHEREAS, the North Pacific Fishery Management Council is considering the need for and beginning development of a comprehensive program to manage prohibited species catch by the trawl fleet of the central Gulf of Alaska; and

WHEREAS, any such comprehensive management program for fisheries in the central Gulf of Alaska will have major and direct effects on the economy and well-being of residents of the Kodiak region; and

WHEREAS, National Standards of the Magnuson-Stevens Fishery Conservation and Management Act require that federal fishery management decisions take into account the importance of fishery resources to fishing communities, in order to provide for the sustained participation of such communities and minimize adverse economic impacts on such communities; and

WHEREAS, the City of Kodiak and the Kodiak Island Borough represent the communities of the Kodiak region, rather than individual user groups or fishing interests; and

WHEREAS, the City of Kodiak and the Kodiak Island Borough have begun a program to participate directly in public processes for fishery policy decision-making as outlined in Resolution No. 2012-30 of the City of Kodiak.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Kodiak and the Assembly of the Kodiak Island Borough that these bodies support the Kodiak Fisheries Workgroup's proposed overarching purpose for consideration of fishery management issues of interest and concern to the Kodiak region as follows:

Overarching Purpose:

1. Maintain healthy, sustainable resources in the central (and western) Gulf of Alaska.
2. Promote a sustainable, vigorous economy in the Kodiak region with healthy and competitive harvesting and processing sectors and support industries.
3. Maintain quality of life and social well-being in Kodiak.

BE IT FURTHER RESOLVED by the Council of the City of Kodiak and the Assembly of the Kodiak Island Borough that these bodies support the Kodiak Fisheries Workgroup's proposed goals for management programs as follows:

Goals for Management Programs:

1. Provide effective controls of prohibited species catch and other bycatch to provide for balanced and sustainable fisheries and healthy harvesting and processing sectors.
2. Maintain or increase target fishery landings and revenues to Kodiak.
3. Maintain or increase employment opportunities for vessel crews, processing workers, and support industries.
4. Provide increased opportunities for value-added processing.
5. Maintain opportunities for fishermen to enter the fishery.
6. Maintain opportunities for processors to enter the fishery.
7. Minimize adverse economic impacts of consolidation of the harvesting or processing sectors.
8. Maximize active participation by owners of harvesting vessels and fishing privileges.
9. Maintain the economic strength and vitality of Kodiak's working waterfront.
10. Establish methods to measure success and impacts of all programs, including collection and analysis of baseline and after-action data.



CITY OF KODIAK

A handwritten signature in cursive script, appearing to read "Pat Pina", is written over a horizontal line.

MAYOR

ATTEST:

A handwritten signature in cursive script, appearing to read "Debra Mauer", is written over a horizontal line.

CITY CLERK

Adopted: September 27, 2012

Introduced by: Borough Assembly  
Requested by: Kodiak Fisheries Workgroup  
Drafted by: Borough Clerk  
Introduced on: 09/20/2012  
Adopted on: 09/20/2012

**KODIAK ISLAND BOROUGH  
RESOLUTION NO. FY2013-10**

**A JOINT RESOLUTION OF THE KODIAK ISLAND BOROUGH ASSEMBLY AND THE  
CITY OF KODIAK COUNCIL SUPPORTING COMMENTS TO THE NORTH PACIFIC  
FISHERY MANAGEMENT COUNCIL ON PENDING ACTIONS REGARDING  
COMPREHENSIVE MANAGEMENT OF PROHIBITED SPECIES CATCH (PSC) BY THE  
TRAWL FISHERY IN THE CENTRAL GULF OF ALASKA**

**WHEREAS,** the North Pacific Fishery Management Council is considering the need for and beginning development of a comprehensive program to manage prohibited species catch by the trawl fleet of the central Gulf of Alaska; and

**WHEREAS,** any such comprehensive management program for fisheries in the central Gulf of Alaska will have major and direct effects on the economy and well-being of residents of the Kodiak region; and

**WHEREAS,** National Standards of the Magnuson-Stevens Fishery Conservation and Management Act require that federal fishery management decisions take into account the importance of fishery resources to fishing communities, in order to provide for the sustained participation of such communities and minimize adverse economic impacts on such communities; and

**WHEREAS,** the Kodiak Island Borough and the City of Kodiak represent the communities of the Kodiak region, rather than individual user groups or fishing interests; and

**WHEREAS,** the Kodiak Island Borough and the City of Kodiak have begun a program to participate directly in public processes for fishery policy decision-making as outlined in Resolution No. FY2013-09 of the Kodiak Island Borough

**NOW, THEREFORE BE IT JOINTLY RESOLVED BY THE KODIAK ISLAND BOROUGH ASSEMBLY AND THE CITY OF KODIAK COUNCIL** that these bodies support the Kodiak Fisheries Workgroup's proposed overarching purpose for consideration of fishery management issues of interest and concern to the Kodiak region as follows:

**Overarching Purpose:**

1. Maintain healthy, sustainable resources in the central (and western) Gulf of Alaska.
2. Promote a sustainable, vigorous economy in the Kodiak region with healthy and competitive harvesting and processing sectors and support industries.
3. Maintain quality of life and social well-being in Kodiak.

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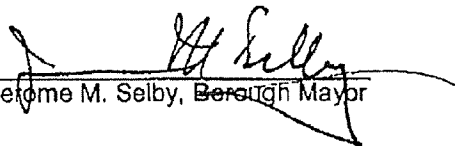
**NOW, THEREFORE BE IT FURTHER JOINTLY RESOLVED BY THE KODIAK ISLAND BOROUGH ASSEMBLY AND THE CITY OF KODIAK COUNCIL** that these bodies support the Kodiak Fisheries Workgroup's proposed goals for management programs as follows:

**Goals for Management Programs:**


1. Provide effective controls of prohibited species catch and other bycatch to provide for balanced and sustainable fisheries and healthy harvesting and processing sectors.
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3. Maintain or increase employment opportunities for vessel crews, processing workers, and support industries.
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5. Maintain opportunities for fishermen to enter the fishery.
6. Maintain opportunities for processors to enter the fishery.
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8. Maximize active participation by owners of harvesting vessels and fishing privileges.
9. Maintain the economic strength and vitality of Kodiak's working waterfront.
10. Establish methods to measure success and impacts of all programs, including collection and analysis of baseline and after-action data.

**ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH  
THIS TWENTIETH DAY OF SEPTEMBER, 2012**

KODIAK ISLAND BOROUGH

  
Jerome M. Selby, Borough Mayor

ATTEST:

  
Nova M. Javier, MMC, Borough Clerk



# Alaska Longline

## FISHERMEN'S ASSOCIATION

Post Office Box 1229 / Sitka, Alaska 99835 907.747.3400 / FAX 907.747.3462

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue Ste 306  
Anchorage, AK 99510

September 30, 2014

Dear Members of the Council,

I am submitting these comments from the Alaska Longline Fishermen's Association (ALFA) on: **Agenda Item C-7 GOA trawl bycatch management.**

ALFA is an organization of vessel owners and deckhands who depend on the halibut, sablefish and salmon fisheries. Most of our members have fished commercially for decades and many are second or even third generation fishermen. Since ALFA was formed in 1978, members have worked to promote sustainable fisheries both within and outside our fleet. We have supported dramatic reductions in both sablefish and halibut catch limits despite the significant investments members have made in quota share. In the past ten years we have organized a voluntary network within our membership to control rockfish bycatch rates and minimize habitat disruption. In short, we take seriously our responsibility to resource stewardship.

The current status of halibut, salmon and some crab populations in the North Pacific demands that all sectors take meaningful and significant action to conserve and rebuild stocks. As the Council is aware, the halibut biomass in the North Pacific has plummeted over the past decade, with survey catch rates in some areas now at historic low levels. Many salmon stocks are imperiled, with low abundance levels triggering closures of commercial, sport and subsistence fisheries. The fishermen who have depended on these fisheries for sustenance or livelihood are struggling with significant and ongoing hardships.

Without question, bycatch reductions have lagged far behind. For example, in one Bering Sea halibut area the 2104 directed fishery catch limit is one quarter of the total removals, with trawl bycatch accounting for the rest. In the Gulf, catch limits for the directed halibut fishery have been reduced 73% on average while trawl bycatch limits have been reduced 15%--with the reduction phased in over three years. This gross inequity indicates a dramatic imbalance in existing management, which is clearly skewed toward optimizing yield over minimizing bycatch, protecting historical fisheries, and providing for the sustained participation of fishery dependent communities.

It is time for the Council to correct this imbalance and to set a course that protects and rebuilds these culturally, economically and ecologically important fisheries. ALFA urges the Council to move ahead


with Gulf of Alaska trawl bycatch management strategies that have at their core a commitment to reducing bycatch. We ask that the Council focus on creating a new management structure that:

“...eliminates wasteful fishing practices, provide mechanisms to control and reduce bycatch, and create accountability measures when utilizing PSC, target, and secondary species.” (Purpose and Need statement, October 2014 Discussion Paper, p.6)

We recognize that meaningful reductions in bycatch will most easily be achieved by creating individual or cooperative accountability for bycatch within the trawl fisheries and we support the Council moving in this direction. We understand creating this level of accountability is complex and poses challenges. We are also aware that any management plan can be expected to have significant impacts and to encounter substantial resistance. ALFA asks the Council to remember the sacrifices directed fishermen have made and remain committed to rapid reductions in bycatch with or without individual accountability. Protecting the rebuilding potential of the stock depends on your actions.

Thank you for the opportunity to comment.

Sincerely,



Linda Behnken  
(Executive Director)



September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As an Alaskan and a resident benefiting from healthy salmon runs, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

Sincerely,

William Armbruster  
Fairbanks, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As a retired AK commercial fisher, life long Alaskan and coastal community resident, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

Sincerely,

Sonja Tobiessen  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As an Alaskan and a interior community resident( we in interior Alaska also depend on our fisheries), I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program. A better word for bycatch is NEEDLESS WASTE! Unless you are a seagull. It is time to step up and address this issue aggressively .Thank you and Happy Trails

Sincerely,

Scott Bredbenner  
Fairbanks, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As an Alaskan and a coastal community resident, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

More than simply reducing the bycatch, the Council should adopt regulations requiring trawlers to process all salmon and halibut bycatch, and donate it free of charge to villages and food banks in Alaska.

Sincerely,

Richard Schmidt  
Seward, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As an Alaskan and a coastal community resident, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

I COMMERCIAL FISH HALIBUT AND SALMON. OUR QUOTE HAS BEEN CUT OVER 66% OVER THE PAST 5 YEARS! WE ALSO MAKE BIG INVESTMENTS INTO BUYING THE QUOTA AND THE EQUIPMENT. WE ARE GETTING THE CUTS, BUT NOT THE BYCATCH BOATS!!!

Sincerely,

Linda Bassett  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As an Alaskan and a coastal community resident, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

The industrial approach to fisheries is appalling. These practices need to be stopped. Being pragmatic I realize with the money involved there is very little chance of that happening. At the very least reign in this non-sustainable money grab. Thank You.

Sincerely,

Larry Casey  
Eagle River, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

Fish are a healthy source of protein , Fish are renewable resource when managed thoughtfully, More and more people are turning away from beef and chosing to eat fish as their protein. Its a viable way of life for many Alaskans. Reduce Salmon and Halibut bycatch because its the right thing to do.

As an Alaskan and a coastal community resident, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

Sincerely,

Kaye Holowatch  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As an Alaskan and a coastal community resident, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

Better yet, shut the Trawl fisheries down if they can't fish without catching non targeted Salmon and Halibut bycatch !

Sincerely,

AD Granger  
Fairbanks, AK



September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As an Alaskan resident, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

Sincerely,

William Schmidt  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Scott Chesney  
Fairbanks, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Stefanie Tatalias  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As an Alaskan and a coastal community resident, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

Sincerely,

Stephen Lewis  
Tenakee Springs, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Sue Crothers  
Salem, OR

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Suzanne Schafer  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As an Alaskan and a coastal community resident, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

Sincerely,

Suzanne Walsh  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Sylvia Maiellaro  
Anchorage, AK



September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Terry Cummings  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Thomas Young  
Homer, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Tina Brown  
Juneau, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Tyler Harrington  
Schuyler Falls, NY

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Werner Rhein  
Whitehorse, Yukon

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Marguery Lee Zucker  
Eugene, OR

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Max von Hippel  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Maxine Franklin  
Wasilla, AK



September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Melissa Simpson  
Fairbanks, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Michele Cornelius  
Haines, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Mike Sallee  
Ketchikan, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Miriam Dunbar  
Cordova, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Mrs James Denison  
Long Beach, CA

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Nina Cornett  
Cooper Landing, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

Every fish counts. Every fish matters.

As an Alaskan and a coastal community resident, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

Sincerely,

Rebecca Goodrich  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Rebecca Knight  
Petersburg, AK



September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

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Sincerely,

Richard Rothstein  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Rick James  
Wasilla, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Rob Lund  
Homer, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

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Sincerely,

Ronald Stanek  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Sarah Lawrie  
Sitka, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

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Sincerely,

Aase Dane  
Cantwell, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

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Sincerely,

Amanda Gain  
Seattle, WA

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Ann L Barron  
Tucson, AZ



September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Anne Weaver  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

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Sincerely,

Art Trenholme  
Kodiak, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Becky Roberts  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Bishop David Mahaffey  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Carol Kasza  
Fairbanks, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Cathy Hart  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As an Alaskan and a coastal community resident, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

Sincerely,

Charles Bingham  
Sitka, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As an Alabamian and once-visitor to Alaska, I care deeply about Alaska's halibut and king salmon as they are critical to the state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

Sincerely,

Christopher Reardon  
Birmingham, AL



September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Claire Norton-Cruz  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Claudia Widdis  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Craig Murdoch  
Gustavus, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

David Grimes  
Cordova, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Deborah Retherford  
Palmer, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Dee Longenbaugh  
Juneau, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Deirdre Booth  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As an Alaskan and a coastal community resident, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

Sincerely,

Derek Poinsette  
Haines, AK



September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As an Alaskan and a subsistence user of salmon, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

Sincerely,

Diane Calamar Okonek  
Talkeetna, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Dr. Suzanne Marcy  
Eagle River, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Edwina Horn  
Kodiak, Ak

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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I also like viewing belugas, so their food chain matters!

Sincerely,

Elaine Hulse  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

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Sincerely,

Eric Lantzman  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Gary Moore  
Eagle River, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Glen Van Valin  
Craig, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Gordon Howell  
Anchorage, AK



September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Guy Lopez  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

James Keeley  
Washington, Vancouver

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

James Horn  
Kodiak, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

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Sincerely,

Jeff Lebegue  
Talkeetna, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Jennifer Armstrong  
North Pole, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Jeremy Irons  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

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Sincerely,

Jim Steffen  
Sitka, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

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Sincerely,

Joel Jackson  
Kake, AK



September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

John Dodge  
Homer, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

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Sincerely,

John Breiby  
Wasilla, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

John Ippolito  
Eagle River, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

John S. Sonin  
Juneau, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Julie K Wahl  
Anchorage, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

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Sincerely,

Karen Gross  
Boulder, CO

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda item C-7, Bycatch Reductions in the Gulf of Alaska Trawl Bycatch Management Program**

Dear Chairman and Members of the Council,

As an Alaskan and a coastal community resident, I care deeply about Alaska's halibut and king salmon as they are critical to our state's economic, cultural, and social well-being. Chinook salmon and halibut populations are in decline across Alaska, and commercial, recreational, subsistence and personal use fishermen have faced tremendous hardships as their harvest of these important species has been cut dramatically. At the same time, bycatch in the trawl fisheries continues at an extremely high level. I urge the North Pacific Fishery Management Council to require meaningful reductions of Chinook salmon and halibut bycatch beyond the status quo as a central component of the Gulf of Alaska trawl bycatch management program.

Sincerely,

Kate McLaughlin  
Chenega Bay, AK

September 30, 2014

North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

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Sincerely,

Katherine Schake  
Anchorage, AK



September 30, 2014

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Sincerely,

Kathleen Pearson  
Anchorage, AK

September 30, 2014

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Sincerely,

Kelly Riley  
Hatfield, PA

September 30, 2014

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Sincerely,

Ken Hart  
Anchorage, AK

September 30, 2014

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Sincerely,

Ken Green  
Cooper Landing, AK

September 30, 2014

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Sincerely,

Kimberly McConkey  
Anchorage, AK

September 30, 2014

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605 West 4<sup>th</sup> Avenue, Suite 306  
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Sincerely,

Kristine Hutchin  
Eagle River, AK

September 30, 2014

North Pacific Fishery Management Council  
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Sincerely,

Lloyd Hunt  
Anchorage, AK

September 30, 2014

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Sincerely,

Lynn Wilbur  
Sitka, AK



September 30, 2014

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Sincerely,

Lynn Driessen  
Appleton, WI

September 30, 2014

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Sincerely,

Margi Mulligan  
Douglas, AK