



10,000 years in our Traditional Homeland, Prince William Sound, the Copper River Delta, and the Gulf of Alaska

September 29, 2020

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

Submitted electronically

Re: Agenda Item C6 Halibut ABM Initial Review and associated documents

Chairman Kinneen and Council Members:

On behalf of the Native Village of Eyak, please accept the following comments regarding agenda item C6, *BSAI Halibut Abundance Based Management (ABM)*.

In general, we are deeply concerned by the treatment of directed halibut users in the current management scenario as it is inequitable, particularly at low levels of halibut abundance. The Council's Purpose and Need Statement for the action acknowledges this inequity. The Council on Environmental Quality (CEQ) environmental justice guidance under NEPA specifically calls for "consideration of potential disproportionately high and adverse impacts to Indian Tribes beyond a more general consideration of potential disproportionately high and adverse impacts to minority populations" (Council on Environmental Quality 1997). When such an effect is identified, this should heighten agency attention to alternatives, mitigation strategies, monitoring needs, and preferences expressed by the affected community or population. Additionally, National Standards 1, 3, 4, 5, and 8, collectively require conservation and management measures to prevent overfishing, rebuild depleted stocks, and ensure the long-term health and sustainability of fisheries. National Standard 8 in particular requires management and conservation actions to consider effects on fishing communities, ensure sustained participation of fishing communities and to the extent practicable, minimize adverse economic impacts on such communities.

However, several alternatives in the current DEIS do not appear to consider the disproportionately high and adverse impacts on direct halibut users – most of whom represent minority populations. For example, communities are presented in the Social Impact Analysis (SIA) as being represented by the respective Community Development Quota association (i.e., if the CDQ group benefits from an action, the community benefits as well). For some communities this may be a fairly accurate representation of the community itself, for other communities it is not accurate and there needs to be much closer attention to the impacts as they may differ between the CDQ group and the community itself. There has been a wealth of public testimony and written comments to the Council in recent years calling attention to the lack of community engagement beyond CDQ groups in ways that are effective, equitable, and accessible to our community members. Although there has been progress to address these issues, those efforts with the most promise have fallen short of their potential because of the rigidity of Council processes.

Further, protection of tribal fishing rights is a vitally important shared role of the government-to-government relationship the federal government holds with federally recognized tribes (K. Washburn, BIA letter to NMFS, 2015, attached as an appendix). The fiduciary trust responsibility towards Native Americans and Alaska Natives is well recognized by several Supreme Court cases (Seminole Nation v. U.S. [1942], and U.S. v. Mason [1973], Morton v Mancari [1974], and U.S. v. Mitchell [1983]). The American Indian Policy Review Commission further details this trust responsibility, "The purpose behind the trust doctrine is and always has been to ensure the survival and welfare of Indian tribes and people. This includes an obligation to provide those services required to protect and enhance tribal lands,



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The Tribal members and their families that comprise the 17 communities described in the [Social Impact Analysis](#) depend on halibut for a significant share of their livelihoods; there are numerous potential economic impacts on each and every fishery community. Part of what makes quantification of these economic impacts on fisheries-dependent communities confusing and challenging is the complexity of the mechanisms by which impacts may occur. The distribution of impacts, not just aggregate economic impacts matter. Additionally, there are non-economic social impacts that must be acknowledged and analyzed with the best available information. It is important to include these non-economic impacts as well because there are constraints to the Social Impact Analysis such as: certain kinds of data are not collected; much of the data that are collected are confidential; and data collection, verification of data (i.e., checking for omissions and errors), and analysis is time-intensive and expensive. The best information comes directly from our communities and necessitates two-way communication and engagement by the Council and staff—an effort we would like to see further refined in the current analysis.

In short, equity among user groups must be restored. The current management regime has resulted in directed fisheries losing access to a fair share of the exploitable halibut biomass – threatening Alaska’s coastal communities, family-owned businesses, ways of life, and our historical dependence on halibut. The Prohibited Species Catch (PSC) cap system must be replaced with a management system that sets the PSC cap in accordance with halibut abundance and links with spawning stock biomass. Action to implement a new management system must include a starting point below current use, or this action has no benefit to the directed fisheries in the Bering Sea and Aleutian Islands (BSAI) and Gulf of Alaska (GOA). Finally, every pound of bycatch reduction directly benefits the directed fisheries in the BSAI and GOA. Unless these elements are part of the chosen action, those of us who depend on halibut as a critical resource will continue to pay the exceedingly high costs of bycatch and bear the full burden of conserving halibut at low levels of abundance, as has occurred in recent years.

Thank you for the opportunity to provide these comments on behalf of our Tribe/community. The North Pacific Fishery Management Council has a mandated responsibility to reduce bycatch and to provide sustained fishing opportunities for fishery-dependent communities such as ours. We ask that you evaluate the alternatives for this issue with equity and sustainability in mind. We look forward to providing additional feedback throughout this process.

Respectfully,

Darrel Olsen

Darrel Olsen
Tribal Council Chairman
Native Village of Eyak