

# Groundfish Forum

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North Pacific Fishery Management Council  
1007 W 3rd Avenue  
Anchorage, AK 99501  
Attn: Simon Kinneen (Chairman) and David Witherell (Executive Director)

## Agenda Item C2: Bering Sea / Aleutian Islands Halibut Abundance – Based Management

Thank you for providing Groundfish Forum (GFF) the opportunity to comment to the North Pacific Fishery Management Council's (the Council) final action for Agenda Item C-2: Bering Sea / Aleutian Islands (BSAI) Halibut Abundance Based Management (ABM). GFF is a trade association whose five member companies operate 19 trawl catcher processor vessels in the federal fisheries of the BSAI and Gulf of Alaska (GOA). This fleet is known as the Amendment 80 Sector (A80). Our companies directly employ approximately 2,150 crew members annually and support approximately 2,800 year-round jobs in the remote Alaskan communities in which we make port calls, as well as approximately 2,000 additional maritime support sector jobs in the Puget Sound region. Our vessels and crews sustainably harvest yellowfin sole, rock sole, flathead sole, Pacific cod, Atka mackerel and Pacific Ocean perch.

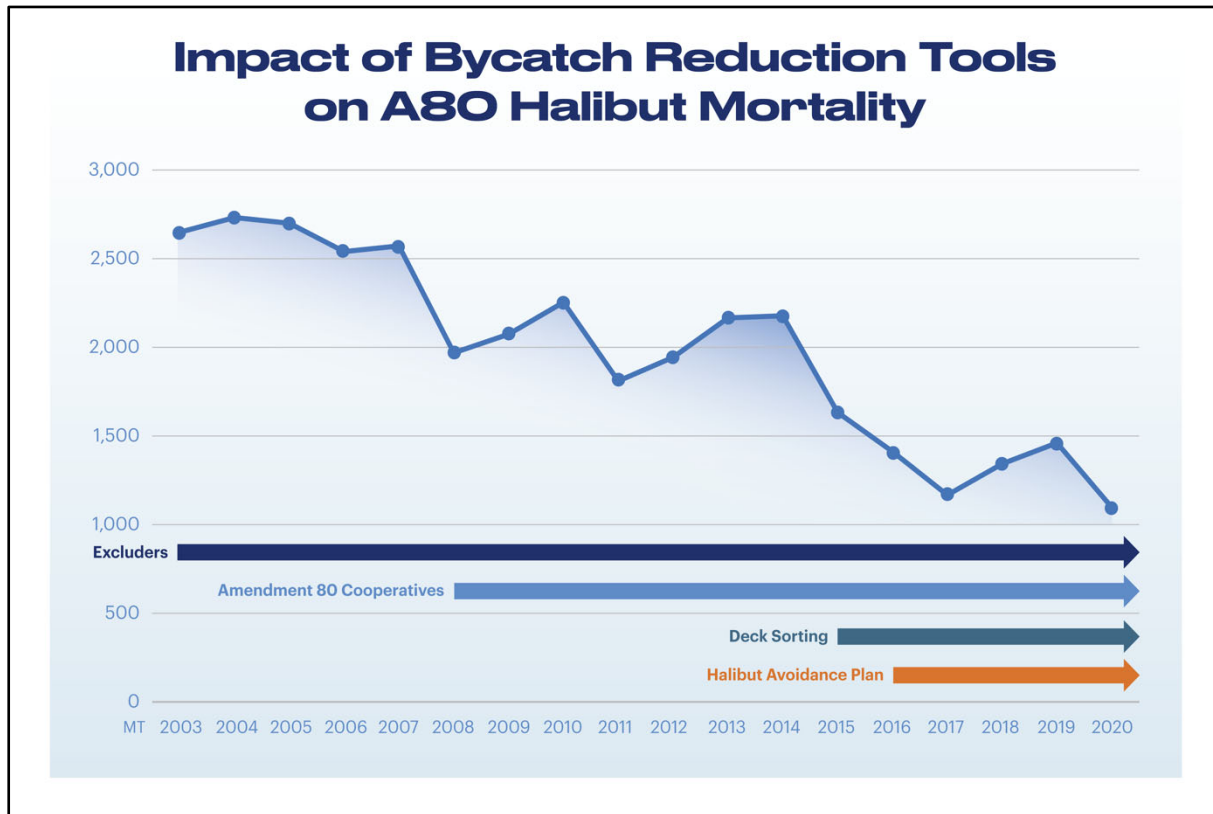
These fisheries meet the highest sustainability standards in the world and are certified as well-managed and sustainable both by the Marine Stewardship Council (MSC) and the Responsible Fishery Management (RFM) program. With 200% observer coverage, fully - implemented halibut PSC catch handling practices called "deck sorting" to minimize mortality, and a Halibut Avoidance Plan (HAP) which is supported by real-time data collection and monitoring capabilities, the vessels within the A80 sector represent a model bottom trawl fishery whose focus on minimizing halibut bycatch to the extent practicable is unsurpassed.

Since 2015, GFF has been fully engaged in the Council's process (via public and written testimony) commenting extensively on previous analyses related to the Council's proposed halibut ABM actions. We have attached a copy of our comments on the DEIS as an appendix to this letter.

## 1. General Comments

Since 2007, the A80 sector has undergone two major halibut prohibited species catch (PSC) reductions and is currently looking at *a third reduction* with this agenda item. As the Council has noted repeatedly, the A80 groundfish fisheries cannot be prosecuted without some level of halibut bycatch because groundfish and halibut occur in the same area at the same times and

no fishing gear or technique has been developed that can avoid all halibut bycatch. With the establishment of the A80 regulatory program in 2008, the Council established a fixed PSC limit for halibut of 2,525 metric tons (MT). The Council then reduced this A80 PSC limit by 50MT a year for four consecutive years from 2008 – 2012 for a cumulative reduction of 200MT (8%). Separately in 2015, the Council again reduced the A80 PSC catch limit for halibut by 580MT to a new fixed PSC limit of 1,745. With both the 8% PSC reduction in 2008 and then the additional 25% reduction in 2015, Council action provided the A80 sector specific tools which allowed the sector to remain under the PSC cap.



The DEIS describes these tools in detail and clearly establishes that these existing tools are being used to the maximum extent practicable. Our boats frequently move away from halibut, we use deck sorting and excluders extensively, and have rigorous internal cooperative management under our halibut avoidance plan which incentivizes minimizing halibut bycatch throughout the year. Under these current measures, each vessel loses approximately 20% of its catch (a tow a day) avoiding halibut when fishing flatfish due to the operational impacts caused by deck sorting. Vessels using excluders can further lose up to 30% - 50% of their target catch.

From 2007 - 2020, overall A80 halibut bycatch mortality is down 57%. To minimize the impacts of individual years, we have also estimated halibut bycatch mortality reductions by averaging the five years of halibut mortality before A80 (2003 – 2007) and comparing that to the average mortality from 2015 – 2020. Using the averages of those two time series, A80 halibut PSC mortality is down 49%.

Frustratingly, the proposed ABM action recommends additional PSC cuts between 20% - 40% below current caps (at current Low / Low levels of abundance), yet provides no additional tools which would allow the A80 sector to practicably achieve those reduced caps. In fact, the only clear method available to the fleet to accommodate new PSC reductions under Alternatives 2- 4 will be to reduce harvests of A80 target fisheries. The predicted outcomes under these alternatives as described in the DEIS are devastating to the A80 sector and seemingly throws in the towel on managing to National Standards of the Magnuson – Stevens Act. Most pertinent, the precept that bycatch be reduced to the maximum extent practicable in National Standard 9 is violated by the unattainable cuts to PSC limits of the action alternatives. In addition, the fisheries will be unable to achieve maximum sustainable yield, as required by National Standard 1, if those PSC cuts are implemented.

If adopted, Alternatives 2 – 4 will result in widespread and significant negative economic impacts to the A80 sector and the overall economy at large exceeding \$100M annually for any action alternative. Negative social impacts would occur for the large number of underserved crewmembers employed in the A80 sector. Wage decreases would immediately affect A80 sector’s 2,150 crew members and their families; food production of affordable flatfish for U.S. and international consumers will decline and vessels shutdowns will result in crew layoffs. Additional downstream effects include harming scores of maritime support sector businesses in Alaska and Washington State and greatly reducing Fishery Resource Landing Taxes (FRLT) paid to the State of Alaska and the eleven rural Alaskan maritime communities where we operate.

Given the overwhelming negative net benefits to the Nation, the explicit lack of measurable conservation benefit to halibut spawning stock biomass (SSB), and only slight benefits to directed Area 4 halibut fishery participants and individual communities, the Council’s only defensible course of action is to take No Action.

## **2. Halibut ABM Results in Negative Net Benefits to the Nation**

The DEIS states unequivocally that “Overall net benefits to the Nation are expected to be negative.” The DEIS demonstrates that even large reductions in PSC limits show very little economic benefit to the directed halibut fisheries and only an extremely small benefit to select BSAI fishing communities, even when those benefits are inflated by the revenue calculations using prices higher than those that are actually paid for halibut in the BSAI fishery.

Interestingly, the analysis arrives at this conclusion despite numerous instances where it relies on dubious assumptions that inflate benefits to the halibut fishery and minimize costs to A80 fisheries. As we noted in our comments on the DEIS, in order to estimate revenue impacts to both the A80 sector (Table ES-7) and the Area 4 directed fishery (Table 5 – 15), the analysis must take a hard look, carefully consider, and properly weigh input variables such as time

series datasets, groundfish harvest levels, ex – vessel vs. 1<sup>st</sup> wholesale value, % O26 bycatch. We believe that analysis fails to do so in several instances.

## **A. Significant A80 Revenue Losses**

Selection of Time Series Datasets in Table ES-1: Given changing environmental conditions (bottom temperature, aggregation of target and bycatch species, location of sea ice / ice edge) and high variances between fishing years, using a broader suite of years to estimate revenue impacts would more fully capture an array of fishing conditions and expected PSC encounters on the grounds. In contrast, using a narrow set of years will capture and may over-emphasize conditions in fleet operations which are unlikely to be repeated or repeatable into the future.

Using more years brings in greater variability which when understood, improves the understanding of the impacts. Unfortunately, the methodology for estimating impacts used in the analysis groups data from the analyzed years, effectively averaging the impacts. This method fails to consider the effects of variability, which, particularly in years of high halibut encounters, could be devastating to the A80 fleet, its crews, and dependent communities. A review of recent years highlights our concerns with using narrowly defined datasets and a methodology that averages those impacts across years.

- 2013 – 2014: These years can be characterized by steep reductions in Aleutian Islands fishing for Atka mackerel as a result of Stellar Sea Lion restrictions. Companies with Atka mackerel shifted operations into Bering Sea flatfish fisheries in those years. This not only reduced revenues but also increased halibut bycatch mortality.
- 2016: The 2016 flatfish harvest in the Alaska Groundfish Cooperative (AGC) was 45% lower than in the previous 4 years (2012-2015). This low flatfish catch was due to the AGC fleet (at the time four vessels operated by Fishing Company of Alaska (FCA)) choosing to greatly limit flatfish harvests as a way to reduce halibut PSC usage in response to the Council's 2015 25% PSC reduction action. The loss of the FCA-owned vessel Alaska Juris due to flooding and sinking in June 2016 further contributed to this reduction in flatfish harvest.
- 2017: GFF has consistently testified that 2017 was a year where PSC usage was unusually low because 4 of the A80 sector's 19 vessels had very limited fishing time / operations in the 1<sup>st</sup> quarter due to the sale of FCA. Three FCA vessels were purchased by other A80 companies in January of 2017 and it took several months for the new owners to re-crew and integrate the former FCA vessels into their operations.
- 2019: Within the context of determining an appropriate time series, 2019 was unusual due to relatively high halibut encounter rates, likely brought on by high temperatures in the Bering Sea. However, given the projections for warming ocean conditions in the BSAI, 2019 could be the "new normal" or may even just be the tip of the iceberg for an extended series of warm water years.

- 2020: While 2020 began as a relatively normal year with sea temperatures being closer to “normal” during winter fishing, the emergence of the COVID pandemic in March and resulting restaurant closures / stay at home orders severely curtailed markets for A80 harvested product. In addition to impacting market conditions which led to unprecedented fishing slow downs for flatfish species, COVID – 19 directly impacted fishing operations by reducing the number of crew members (which affected deck sorting) and temporarily shutting down vessels. Combined, these issues greatly reduced fishing effort which in turn resulted in lower halibut bycatch mortality.

These annual variations show that the methodology of the analysis should consider that conditions will change unpredictably, in some cases between extremes year to year. For example, one of the lowest halibut encounter years, 2018, was followed by one of the highest, 2019. Instead of considering the effects that these swings might have on a business confronted with constraining bycatch limits, the analysis simply averages the two together analyzing only the impact of that average, as if the business need only plan on every year being average. For these reasons, we believe using the (2010-2019) dataset is most appropriate to use for estimating impact revenues to the A80 sector because it reflects a wider set of environmental and operational conditions.

Level of Expected Groundfish Harvest: Another key variable that must be chosen is a total groundfish limit of 290,000 MT or 310,000 MT. The DEIS varied the groundfish catch limits to reflect maximum groundfish catch in the three most recent years (290,000 MT) and the maximum groundfish catch throughout the decade (310,000 MT). Based upon our analysis of the Five - Year Review of the Effects of Amendment 80 (page 67), the 2021 Economic SAFE (Chapter 9, page 222), and the Alaska Seafood Cooperative’s annual report to the Council on its Halibut Avoidance Plan, the DEIS is underestimating this critical variable. Based on our catch data and these other references, the maximum groundfish catch throughout the decade should be 319,000 MT and the maximum groundfish catch in the three most recent years should be 310,000 MT. This error needs to be corrected and the revenue impacts table re-run as the current values underestimate the overall negative impacts (e.g., revenue losses) to the A80 sector under each of the alternatives. Until the table can be corrected, the only reasonable variable to select for the groundfish harvest level is 310,000 MT.

Summary - Overall Sector and Crew Impacts to A80 Sector: After choosing the variables, it is clear from DEIS Table ES-7 that the costs of the alternatives to the A80 sector are staggering, conservatively ranging from \$68M - \$138M in annual losses.<sup>1</sup> A80 crews are paid a percentage (~30%) of the vessel’s gross revenue, meaning that 30% of these overall revenue losses will be borne by A80 crew. We estimate that an average A80 crew position will annually lose between \$24,006 to \$48,390 depending on the alternative chosen. Revenue reductions as envisioned by

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<sup>1</sup> Revenue reductions estimates are upon the following variables: Groundfish catch @ 310K, Random, (2010 – 2019) time series.

the DEIS at this level will have a devastating impact to these crew members and their families.<sup>2</sup> According to the DEIS, about 68% of our crew members are minorities who often come from disadvantaged communities characterized by low incomes, high unemployment, and limited access to healthcare. Losses at this level raise significant social and environmental justice issues which are not adequately addressed by the DEIS.

## **B. Minimal Gains in the Area 4 Directed Halibut Fishery**

Revenue impacts for the Area 4 directed halibut fishery (Table 5 – 15) for Alternatives 2 – 4 are calculated by considering the following variables: The time series for ex - vessel value (or 1<sup>st</sup> wholesale value) (2019) or (2015 – 2019) and the % of O26 bycatch from the A80 sector.

Ex – Vessel vs. 1<sup>st</sup> Wholesale and Time Series: We chose ex – vessel pricing based on the DEIS assessment that “ex vessel prices are the most appropriate value to represent halibut fishery revenues given that this is the most common halibut supply chain in Alaska” and that ex – vessel value is what is actually paid to halibut fishermen in the directed fishery (as opposed to 1<sup>st</sup> wholesale value). We chose the (2019) time series given the DEIS’ compelling arguments that ex-vessel values tend to be lower in Area 4 due to lack of transportation infrastructure and that markets for all Alaska halibut face strong headwinds. According to the DEIS, domestic demand has been depressed by the ongoing global health crisis, air services to transport fresh product has been impacted by the pandemic which has added to a backlog of frozen inventories, and Alaska caught halibut facing increased competition from foreign imports of farmed halibut from Norway, Atlantic halibut from eastern Canada, and Russian and Chinese imports.

% of PSC Bycatch from the A80 Sector: As noted in the DEIS, the size of halibut taken as A80 bycatch mortality will vary over time. In Table 5 – 13, these values are enumerated and the ten-year average % of O26 bycatch is 45.1% (with a range between 28.2% and 60.6%). Over the most recent six years, the average was 44.1%. We chose the 10-year average of 45.1%.

Overall Sector and Crew Impacts to the Area 4 Directed Halibut Fishery: The DEIS presents an enormous range of potential impacts to the halibut directed fishery from the proposed halibut PSC reductions with particular regard to % O26 bycatch. Instead of focusing on extreme values within the given ranges, it is more appropriate to choose the most likely values (such as the ten – year average provided in Table 5 - 13). Based upon the values selected and choices in the previous paragraphs of this section, Table 5 – 15 predicts that the overall increase in revenues for the Area 4 directed halibut fishery (IFQ and CDQ combined) would range between \$1.1M and \$2.2M.<sup>3</sup> Furthermore, the DEIS estimates that approximately 18% of total revenues is paid to crew members in Area 4 directed halibut fishery and that there are approximately 387 crew

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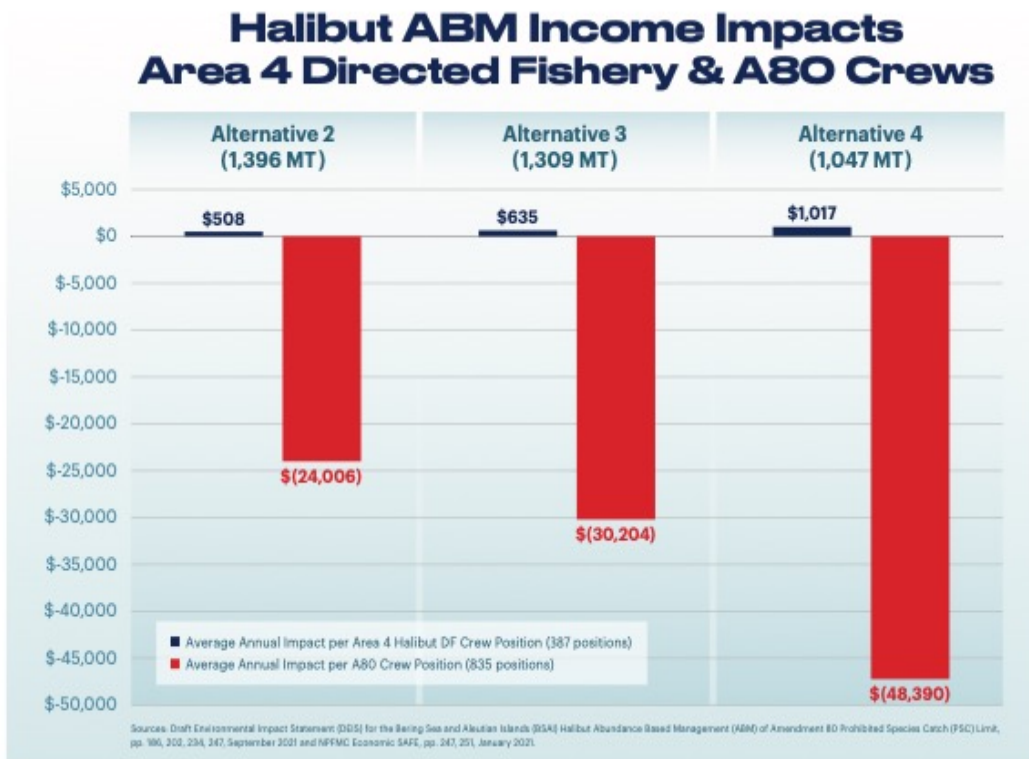
<sup>2</sup> Notably, these revenue impact estimates are based on the methodology used in the analysis, which has an averaging effect as described above. In individual years with high halibut encounters, the impact to crews could be far greater than those predicted by the analysis.

<sup>3</sup> Revenue increase estimates are upon the following variables: % O26 based upon 10 year average (45.1%), ex – vessel value based upon 2019 price data (\$4.33 / lb).

positions. As such, we conservatively estimate that an average Area 4 halibut crew position is projected to make an additional \$508 to \$1017 annually (depending on the alternative).

**C. Comparison of Crew Impacts Between A80 Sector and Area 4 Directed Halibut Fishery**

The table below provides a useful comparison to separately assess revenue increases to an average crew position in the Area 4 directed halibut fishery across the alternatives and revenue losses to an average crew position within the A80 fishery across the alternatives. An average crew position in the directed halibut fishery would gain between \$508 - \$1017 annually whereas an average crew position in the A80 fishery would lose between ~ \$24,006 - \$48,390 annually.



**D. Reduction in Food Production to U.S. Consumers / National Standard 1**

In April 2021 Groundfish Forum raised concerns regarding lack of information within the IRDEIS on potential impacts of food production as a result of the halibut ABM action. The DEIS is now similarly deficient in that neither document attempts to quantify “the benefits of food production derived from providing seafood to consumers...utilizing the capacity of the National fishery resources to meet nutritional needs...and worldwide nutritional needs.” This reference from the National Standard 1 Guidance published in 50 CFR 600.310 (e) is particularly compelling as it provides focus beyond overall revenues and economic impacts for different sectors affected by ABM and instead provides the ability to quantify how fishery management

decisions may promote the availability of sustainable, U.S. harvested high-quality protein to domestic and international consumers alike. Calculations provided in GFF's April 2021 letter concluded under Alternatives 2 – 4 the production of 4 oz protein servings (aka "a meal") would result in 132 groundfish meals being lost for every 1 halibut meal gained.

In this letter we provide an update to estimate the number of meals produced by the A80 sector that are consumed in the United States. Based on the most recent NOAA Alaska Groundfish and Crab Wholesale Market Profiles as well as the NOAA Fisheries 2021 Economic SAFE report, we estimated that the number of A80 harvested flatfish meals (produced from various sole, flounder, and Alaska plaice) which are consumed in the United States ranges from 90,000,000 meals to 126,000,000 meals in 2019. This calculation is based upon the following conservative derivations:

- In 2019 the A80 sector exported 81,651 MT of flatfish to China and 22,597 MT to other countries.
- NOAA estimates that 25% - 35% of Alaska's total flatfish which is exported to China for re-processing is shipped back to the U.S. as fillets.
- Based upon NOAA's 25% - 35% figure, in 2019 between 22,500,000 and 31,500,000 pounds of A80 harvested flatfish fillet (and block) product is shipped back to the U.S. (using industry estimated product recovery rate for flatfish fillets.)
- This volume of fillet product is equivalent to 90,000,000 to 126,000,000 meals (4 oz. fillet portions) that were sold to American consumers.

Total Estimated Loss in Food Production to U.S. Consumers: Based on the expected declines in groundfish catch as provided in Table 5 – 6, Alternative 2 – 4 will result in 18,000,000 – 25,000,000 fewer U.S. harvested servings of flatfish being available to budget conscious U.S. consumers on an annual basis. Instead of maintaining (or increasing) the consumption of sustainably harvested Alaska flatfish species, the Council's action will trigger substitutions in retail markets and will lead the way to increased consumption of tilapia and swai which are farm raised products imported primarily from China and other countries in southeast Asia. In contrast to the A80 sectors losses which total in the millions, the number of halibut meals would increase from 83,000 – 666,000 depending upon the alternative.

#### **E. Loss of Fishery Resource Landing Taxes to Unalaska / Dutch Harbor**

A significant economic benefit to Alaska communities is the Fishery Resource Landing Tax (FRLT) that is paid to the State of Alaska and local communities. The tax is levied at 3.5% of the ex – vessel value of the offloaded product as estimated in the State of Alaska's Commercial Operators Annual Report (COAR). The A80 sector lands over 99% of its harvest in Alaskan ports with approximately 73% of that offload activity occurring in Unalaska / Dutch Harbor. While



the DEIS does not quantify the value of offloads by specific ports, it does quantify (in Table 3 – 16) the total FLRT that the A80 sector pays which on average is \$4.8M annually (50% to the State of Alaska and 50% to the community where the offload occurred) or \$48,300,000 over the last ten years. Based upon this general information, Groundfish Forum estimates that the City of Unalaska will lose between \$640K - \$1.28M annually due to A80 harvest reductions brought about by the impacts of Alternatives 2 – 4.<sup>4</sup>

### **3. Halibut ABM Provides No Conservation Benefit to the Halibut Resource**

Protection of halibut spawning stock biomass (SSB), even at lower levels of abundance, will not be achieved by any of the alternatives under consideration. Modeling shows that changes to the halibut SSB across the range of alternatives under consideration are negligible. The DEIS clearly discloses this fact: “impacts to the halibut biomass under all the alternatives are expected to be similar and result in no impact to SSB.” Yet this key conclusion and the lack of this fundamental requirement for action under the MSA is largely ignored in the DEIS. There is no conservation benefit to this action.

#### **A. Consideration of National Standard 4**

To the extent that the Council takes into account the importance of a fishery resource to a fishing community, it may only do so after establishing that an action serves a conservation purpose that is consistent with the MSA. Because the proposed halibut ABM action is not reasonably calculated to promote conservation, the evaluation of National Standard 4 is limited to the impacts on the potentially affected sector, in this case the A80 sector. To this end, the DEIS is correct in stating that considerations under National Standard 4 pertain only to the A80 fleet as it is directly affected by the proposed action. In contrast, the National Standard 4 considerations (in particular the argument that allocations be fair and equitable) do not apply because no direct allocation or assignment of fishing privileges is being considered for the Area 4 directed halibut fishery. Such decisions concerning the annual allocation and apportionment of halibut are made by the International Pacific Halibut Commission (IPHC).

#### **B. Impacts on BSAI Subsistence and Recreational Fishing**

According to the DEIS, subsistence harvest and recreational fishing of halibut will not be directly affected by the proposed action alternatives. Further, unlike the commercial halibut fishery, the subsistence harvest and recreational harvest would not benefit from potential incidental re-allocative effects that may occur under the proposed action alternatives. The reason there will be no impact (positive or negative) to subsistence harvest or recreational fishing is that the IPHC accounts for incidental halibut removals in the groundfish fisheries, recreational and

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<sup>4</sup> Blend Estimate: 2021 NOAA Fisheries Amendment 80 Cost Recovery Report, 2021 Groundfish Economic SAFE, AKSC Product Transfer Reports (2016 – 2020).

subsistence catches, and other sources of mortality *before* setting commercial halibut catch limits each year. While subsistence removals are accounted for in setting the commercial halibut catch limits, subsistence halibut harvests are not constrained. There are no caps on removals from Area 4 in the subsistence halibut fishery analogous to quotas established annually for the commercial halibut fishery, nor are there size limits on halibut harvested for subsistence use.

While ABM will not have an impact on subsistence fishing in the BSAI, it should be noted that along the western Alaska coast our fleet is subject to mandatory area closures totaling over 129,177 square miles which ensures local protection and access to subsistence halibut for over 50 western Alaska communities. In addition, the Alaska Seafood Cooperative has voluntarily enacted several measures which restrict cooperative vessels from fishing in areas known to be important to subsistence fishermen in western Alaska. It is not known whether these voluntary closures and standdowns are observed by the directed halibut fishery, who may impact the availability of large halibut to the subsistence and recreational users in those areas.

#### **4. Halibut ABM Alternatives Are Not Practicable**

Guidance and case law on how to define practicability within the context of National Standard 9 is sparse. In considering this proposed action for ABM, it is important to note determining “practicability” is highly fact dependent. In addition to reviewing scientific data, the Council is required to consult with fishery participants to determine whether bycatch reduction measures would be effective and practicable, and to understand the magnitude of economic impacts on regulated entities. Given the previous history of A80 halibut PSC reductions, it is important to consider how the Council determined what level of PSC reductions were “practicable” in 2015.

In 2015, NOAA adopted Amendment 111 reducing halibut PSC available to A80 fisheries by 25%. In the proposed rule and final rule for Amendment 111, NOAA carefully analyzed practicability on a sector-by-sector basis, considering bycatch usage and operational issues for each sector. In the final rule, the Council and NOAA concluded that “larger reductions [greater than 25% for the A80 sector] are not practicable and would reduce net benefits to the Nation ‘because the socio - economic benefits from the potential increase in harvest opportunities would be less than the negative socio - economic impacts from foregone BSAI groundfish harvests.’” In arriving at this conclusion, the Council considered three key factors which serve as precedent for the current ABM action:

##### **A. Groundfish Harvest - Whether the sector would be able to harvest groundfish TACs with lower amounts of halibut PSC?**

NOAA accurately predicted that “this rule [Amendment 111] will reduce halibut PSC limits and likely result in reductions in groundfish harvests.” The rule further went on to estimate that the A80 sector would lose up to 25,700 MT annually valued at \$18.7M (maximum values). Since

2015, PSC reductions from Amendment 111 have led to a decrease in A80 flatfish harvest of 34,000 MT annually (exceeding the maximum estimate) and have reduced annual 1<sup>st</sup> wholesale value in the flatfish fisheries by \$18.5M (meeting the maximum loss estimate).

In contrast, the current DEIS predicts that harvest and revenue under Alternatives 2 – 4 would be greatly reduced, ranging from 59,000 MT – 119,000 MT (valued at approximately \$68,000,000 - \$138,000,000) at current halibut abundance levels (Low / Low). In other words, the A80 sector will not be able to harvest their groundfish TACs at lower halibut PSC levels and the projected foregone harvest and likely economic losses from Alternatives 2 – 4 are clearly of the magnitude that were rejected by NOAA in 2015 because they were not practicable.

**B. Tools - What “tools” or changes in fishery operations are available to the sector to adapt to reductions in halibut PSC limits?**

From an operational perspective, the tools available to achieve bycatch reduction outcomes determine the practicability of a proposed reduction. Prior to 2008, the “race for fish” and a short-term economic outlook dominated pre-A80 fishing practices. The implementation of A80 with vessel specific allocations created the underpinnings for a cooperative fishery structure which facilitated a long-term investment and outlook in the fishery. The A80 program included a 200 MT reduction in halibut PSC available to the sector phased in over 4 years. The sector responded with innovations such as on-the-grounds information sharing, more selective fishing using smaller test tows, modified trawl sweeps, and halibut excluders. These measures, all of which contribute to bycatch reduction, would never have been practicable in a pre-A80 “race for fish” environment.

From 2014 - 2018, concurrent with a 580 MT (25%) reduction to A80 halibut PSC, the Council supported the sector’s development of the deck sorting Exempted Fishing Permits (EFPs) and directed the A80 sector to develop a halibut avoidance plan (HAP), through which the fleet fully realized coordination of mortality reduction efforts. These tools were both critical to limiting the costs and revenue losses arising from complying with the 25% reduction.

Section 3.4.5 of the DEIS illustrates in great detail the numerous actions (cooperative fishing practices, excluders, deck sorting, and our halibut avoidance plan) that the A80 sector is undertaking to minimize halibut PSC mortality. The DEIS notes the A80 sector has successfully eliminated “outliers” whose PSC use exceeds those of other members of the A80 fleet. The DEIS concurs that there are no new PSC reduction tools on the horizon as there were in 2008 and 2015. Without such tools, the DEIS correctly predicts that measurable improvements in halibut avoidance or mortality reductions are not expected, and that the only remaining option will be to reduce harvest of target species to achieve additional halibut PSC savings.

The sector has achieved a level of PSC reduction that so far has allowed it to operate below the existing PSC cap, but at significant cost with the sector foregoing approximately 34,000 MT (\$18.5M) annually. Given the relatively short period of time with the halibut PSC reduction

measures in place, however, there is only a limited track record to establish whether the sector can stay under the status quo halibut PSC limit while harvesting groundfish at today's levels. This is particularly true in face of the prospects of how climate change will affect the sector's ability to avoid bycatch.

The 2015 proposed rule noted, "it is not clear that additional changes in fishery operations could accommodate these high levels of reduction other than foregoing substantial harvest and revenue." Based on the 2021 DEIS it is abundantly clear that there are no additional tools (in place or under development) which can reduce bycatch further without significant impacts to the sector's harvest or revenues. The revenue impact analysis estimates a minimum of \$68M in lost revenue to the sector at current levels of halibut abundance. Even this minimum estimated loss is over three times greater than the losses already incurred by the sector from the 2015 halibut reduction. These kinds of impacts are not practicable.

**C. Socio-economic Impacts – What are the potential adverse socio-economic impacts of halibut PSC reductions from reduced BSAI groundfish harvests on harvesters that participate in the groundfish fisheries?**

In 2015, the Council and NOAA concluded that adverse impacts to the A80 sector of halibut PSC reductions greater than 25% outweighed the limited socio-economic benefits to the directed halibut fishery and the communities. This remains the case today and the DEIS is explicit: adopting any of the action alternatives will result in significant socio-economic harm to A80 crews and provide minimal benefits to the Area 4 directed halibut fishery participants.

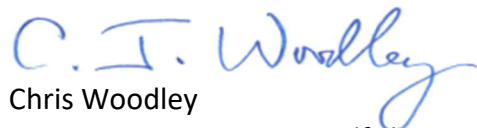
As noted previously, projected fleet-wide revenue reductions for the A80 sector range from \$68,000,000 to \$138,000,000. These reductions will disproportionately impact the A80 sector's blue collar fish processing workforce – of which over 68% are minority workers. A80 crew member contracts are typically 60 - 75 days in length and a crew member usually works multiple contracts a year. Under the alternatives described in the DEIS and based upon supplemental information from the 2021 NPFMC Economic SAFE, an average A80 fish processing crew member would lose between 20% - 40% of their annual income derived from these positions. According to A80 human resources personnel, these positions are the only income source for the vast majority of our fish processing crew members and other employment opportunities between contracts are limited. The large socio-economic impacts further demonstrated the impracticability of the proposed action alternatives.

Overall, Alternatives 2 – 4 reductions are not practicable for our sector to achieve without any new tools. The most likely outcomes will be reduced groundfish harvests which will greatly impact food production for global and U.S. consumers, disproportionately harm A80 crew members through greatly decreased wages, and place individual companies on the brink of failure. These significant costs will occur without any substantive benefit to halibut SSB or the Area 4 directed halibut fishery.

## Conclusion

For over six years the Council has struggled with halibut ABM. Despite the significant work and dedication of the Council staff and Council members, in this final assessment the proposed action does not meet the rigorous and demanding science – based standards of either the National Environmental Protection Act (NEPA) or the National Standards of the Magnuson Stevens Act. As we emphatically noted in our earliest letters to the Council in 2021, the DEIS’ treatment of impacts of climate change are inadequate and do not meet the best available science standards of National Standard 2 or applicable Executive Order requirements to consider the impact of climate change. Furthermore, the DEIS concludes that the action will have “negative net benefits to the Nation.” This blasé phrase masks a hard truth - the scale of predicted direct and overall losses to the A80 sector easily exceeds \$100M. Alternatives 3 – 4 will have immediate and devastating impacts to crew members on A80 vessels but will scarcely provide any benefits to Area 4 directed fishery participants. With no new tools to practicably reduce bycatch, A80 vessels will be forced to forego groundfish harvests with several vessels tying up and crews being laid off. Instead of maintaining or increasing food production from these sustainably harvested A80 species, these fisheries will severely contract, harming U.S. fishermen while simultaneously eroding food security for American consumers as markets substitute imported farmed-raised tilapia and swai. Lastly, the DEIS unequivocally states the proposed action will not provide conservation benefits to halibut spawning stock biomass. Given these unmistakable and unignorable shortcomings, the Council’s only option is to take No Action.

Thank you for this opportunity to comment.



Chris Woodley  
Executive Director, Groundfish Forum

Encl: Groundfish Forum public comment letter dated October 25, 2021

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October 25, 2021

Mr. Glenn Merrill  
Assistant Regional Administrator, Sustainable Fisheries Division  
Alaska Region National Marine Fisheries Service (NMFS)  
P.O. Box 21668  
Juneau, AK 99802 – 1668  
Attn: Records Office

Subj: Draft Environmental Impact Statement for the Bering Sea and Aleutian Islands Halibut Abundance – Based Management of Amendment 80 Prohibited Species Catch Limit.  
(Public Docket # NOAA-NMFS-2021-0074)

Dear Mr. Merrill,

Thank you for allowing Groundfish Forum (GFF) to comment on the Draft Environmental Impact Statement (DEIS) for the Bering Sea / Aleutian Islands (BSAI) Abundance - Based Management (ABM) Amendment 80 (A80) of Prohibited Species Catch (PSC). GFF is a trade association whose five member companies operate 19 trawl catcher processor vessels in the federal fisheries of the BSAI and Gulf of Alaska (GOA). Our companies directly employ ~ 2,150 crew members annually, our operations support approximately 2,900 year-round jobs in the remote Alaskan communities in which we make port calls, and our companies support approximately 2,000 maritime support sector jobs in the Puget Sound region.<sup>1,2</sup> Our vessels and crews sustainably harvest yellowfin sole, rock sole, flathead sole, Pacific cod, Atka mackerel and Pacific Ocean perch.

These fisheries meet the highest sustainability standards in the world and are certified as well - managed and sustainable both by the Marine Stewardship Council (MSC) and the Responsible Fishery Management (RFM) program. With 200% observer coverage, modernized and fully - implemented halibut PSC catch handling practices called “deck sorting” to minimize mortality, a Halibut Avoidance Plan (supported by real-time data collection and monitoring capabilities), the vessels within the A80 sector represent a model bottom trawl fishery whose focus on minimizing halibut bycatch to the extent practicable is unsurpassed.

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<sup>1</sup> Economic Status of the Groundfish Fisheries Off Alaska, BSAI Non-Pollock Trawl Catcher – Processor Groundfish Cooperatives (A80 Program): Summary of Economic Status of the Fishery, Jan 2021.

<sup>2</sup> Edward C. Waters, Chang K. Seung, Marcus L. Hartley, Michael G. Dalton. [Measuring the multiregional economic contribution of an Alaska fishing fleet with linkages to international markets](#), Marine Policy, Volume 50, Part A, 2014, Pages 238-248.

Since 2015, GFF has been fully - engaged in the North Pacific Fishery Management Council (Council) process (via public and written testimony) commenting extensively on previous analyses related to the Council's proposed halibut ABM actions. A copy of GFF's April 2, 2021 comment letter is provided as Enclosure (1). In addition to this letter, NOSSMAN LLC has submitted a separate letter to Docket # (NOAA-NMFS-2021-0074) on behalf of GFF.

## **General Comments**

We appreciate the tremendous effort and resources the Council staff and NOAA Fisheries (NOAA) have put into the DEIS and believe the DEIS is much improved from the IRDEIS published in April 2021. However, while providing a considerable amount of information, the DEIS as written continues to have numerous deficiencies and contradictions which collectively prevent the public and Council members from making an informed choice on the alternatives presented. The NOSSAMAN LLC letter identifies numerous gross deficiencies in the DEIS which have not been corrected. Specifically, the NOSSAMAN letter describes the DEIS' failure to adequately address impacts of climate change; raises concerns over using crude and inappropriate indices which do not reflect halibut encounters in the A80 fisheries; and highlights that the ABM alternatives will not promote conservation of the halibut resource. Further, the letter flags that conclusions found in National Standards summary are not supported by the analysis and require wholesale re-drafting and demonstrates the DEIS fails to analyze whether Alternatives 2 - 3 are significant regulatory actions based on Executive Order (EO) 12866.

Given these significant short-comings, NOAA must proceed with great caution. NOAA must recognize that the A80 sector has already reduced halibut bycatch to the extent practicable and this action will provide no new tools to achieve the proposed PSC reductions described in Alternatives 2 – 4. If adopted, Alternatives 2 – 4 will result in widespread and significant negative economic and social impacts to the A80 sector and overall economy at large. These impacts would extend to the A80 sector's 2,150 crew members and their families, dozens of fishing and processing equipment companies, regional shipyards and repair facilities, scores of other maritime support sector businesses in Alaska and Washington State, and would greatly reduce Fishery Resource Landing Taxes paid to the State of Alaska. In contrast, the DEIS is explicit that there will be no conservation benefits to halibut spawning stock biomass (SSB), and benefits to directed Area 4 halibut fishery participants and individual communities are minimal.

## **Alternatives 2 – 4 Are Not Practicable**

Guidance and case law on how to define practicability within the context of National Standard 9 is sparse. In considering this proposed action for ABM, it is important to note determining "practicability" is highly fact dependent. In addition to reviewing scientific data, the Council is required to consult with fishery participants to determine whether bycatch reduction measures would be effective and practicable, and to understand the magnitude of economic impacts on regulated entities. Given the previous history of A80 halibut PSC reductions, it is important to consider how the Council determined what level of PSC reductions were "practicable" in 2015.

In the proposed and final rule for Amendment 111, NOAA carefully analyzed practicability on a sector-by-sector basis, considering bycatch usage and operational issues for each sector. In the final rule, the Council and NOAA concluded that “larger reductions [greater than 25% for the A80 sector] are not practicable and would reduce net benefits to the Nation ‘because the socio-economic benefits from the potential increase in harvest opportunities would be less than the negative socio-economic impacts from foregone BSAI groundfish harvests.’”<sup>3</sup> In arriving at this conclusion, the Council considered three key factors:

- ***Groundfish Harvest - Whether the sector would be able to harvest groundfish TACs with lower amounts of halibut PSC?***

NOAA correctly predicted that “this rule [Amendment 111] will reduce halibut PSC limits and likely result in reductions in groundfish harvests” and accompanying revenue in the A80 sector. Since 2015, PSC reductions from Amendment 111 have led to a decrease in A80 flatfish harvest of ~ 34,000 MT annually and have reduced annual 1<sup>st</sup> wholesale value in the flatfish fisheries by \$18,500,000 on average.<sup>4</sup>

The current DEIS predicts that harvest and revenue under Alternatives 2 – 4 would be greatly reduced, ranging from 59,000 MT – 119,000 MT (valued at approximately \$69,000,000 - \$138,000,000) at current halibut abundance levels (Low / Low level for the indices selected for this action).<sup>5</sup> In other words, the projected foregone harvest and likely economic losses from Alternatives 2 – 4 are clearly of the magnitude that were rejected by NOAA in 2015 because they were not practicable.

- ***Tools - What “tools” or changes in fishery operations are available to the sector to adapt to reductions in halibut PSC limits?***

From an operational perspective, the tools available to achieve bycatch reduction outcomes determine the practicability of a proposed reduction. Prior to 2008, the “race for fish” and a short-term economic outlook dominated pre-A80 fishing practices. The implementation of A80 with vessel specific allocations created the underpinnings for a cooperative fishery structure which facilitated a long-term investment and outlook in the fishery. The A80 program included a 200 MT reduction in halibut PSC available to the sector phased in over 4 years. The sector responded with innovations such as on-the-grounds information sharing, more selective fishing using smaller test tows, modified trawl sweeps, and halibut excluders. These measures, all of which contribute to bycatch reduction, would never have been practicable in a pre-A80 “race for fish” environment.

From 2014 - 2018, concurrent with a 580 MT (25%) reduction to A80 halibut PSC, the

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<sup>3</sup> 81 Fed. Reg. 24714, p. 24721 (April 27, 2016).

<sup>4</sup> Draft Environmental Impact Statement of BSAI Halibut Abundance – Based Management of PSC Limits, NPFMC, Figure 3-17, p. 107, Sep 2021.

<sup>5</sup> Ibid. pp. 201 – 202.



Council supported the sector’s development of the deck sorting Exempted Fishing Permits (EFPs) and directed the A80 sector to develop a halibut avoidance plan (HAP), through which the fleet fully realized coordination of mortality reduction efforts. These tools were both critical to limiting the costs and revenue losses arising from complying with the 25% reduction.

Section 3.4.5 of the current DEIS illustrates in great detail the numerous actions (cooperative fishing practices, excluders, deck sorting, and our halibut avoidance plan) that the A80 sector is undertaking to minimize halibut PSC mortality.<sup>6</sup> The DEIS notes the A80 sector has successfully eliminated monthly “outliers” where PSC use was high compared to other months.<sup>7</sup> The DEIS concurs that there are no new PSC reduction tools on the horizon as there were in 2008 and 2015. Without such tools, the DEIS correctly predicts that measurable improvements in halibut avoidance or mortality reductions are not expected, and that the only remaining option will be to reduce harvest of target species to achieve additional halibut PSC savings.

The sector has achieved a level of PSC reduction that so far has allowed it to operate below the existing PSC cap, but at significant cost. Given the relatively short period of time with the halibut PSC reduction measures in place, however, there is only a limited track record to establish whether the sector can stay under the status quo halibut PSC limit while harvesting groundfish at today’s levels. This is particularly true in face of the prospects of how climate change can affect the sector’s ability to avoid bycatch.

- ***Socio-economic Impacts – What are the potential adverse socio-economic impacts of halibut PSC reductions from reduced BSAI groundfish harvests on harvesters that participate in the groundfish fisheries?***

Impacts to Crew: In 2015, the Council and NOAA concluded that adverse impacts to the A80 sector of the magnitude currently under consideration outweighed the limited socio-economic benefits to the directed halibut fishery and the communities. This remains the case today and the DEIS is explicit: adopting any of the action alternatives will result in significant negative net benefits to the Nation and will only provide minimal benefits to the Area 4 directed halibut fishery.

Projected fleet-wide revenue reductions for the A80 sector range from \$69,000,000 to \$138,000,000. These reductions will disproportionately impact the A80 sector’s blue collar fish processing workforce – of which over 75% are minority workers.<sup>8</sup> A80 crew member contracts are typically 60 - 75 days in length and a crew member usually works multiple contracts a year. Under the alternatives described in the DEIS and based upon

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<sup>6</sup> Ibid. pp. 145 - 147.

<sup>7</sup> Elimination of “outlier” performance by A80 vessels (throughout the year and in the 4<sup>th</sup> quarter) has also been noted in annual Alaska Seafood Cooperative reports to the Council.

<sup>8</sup> Ibid. Social Impact Assessment Appendix, p. 185. Sep 2021.

supplemental information from the 2021 NPFMC Economic SAFE, an average A80 fish processing crew member would lose between 20% - 40% of their annual income derived from these positions.<sup>9</sup> According to A80 human resources personnel, these positions are the only income source for the vast majority of our fish processing crew members and other employment opportunities between contracts are limited.

Impacts to Food Production: As previously described in Enclosure (1), the IRDEIS and now the DEIS are similarly deficient in that neither document attempts to quantify “the benefits of food production derived from providing seafood to consumers...utilizing the capacity of the National fishery resources to meet nutritional needs...and worldwide nutritional needs.” This “National Standard 1 Guidance” published in 50 CFR 600.310 (e) is particularly compelling as it provides focus beyond overall revenues and economic impacts for different sectors affected by ABM, and includes the broader values of ensuring that fishery management decisions promote the availability of sustainable, high-quality protein and global food production. Calculations provided in GFF’s April 2021 letter concluded that the production of 4 oz protein servings (aka “a meal”) under Alternatives 2 – 4 would result in 100 groundfish meals being lost for every 1 halibut meal gained.

We also estimated the number of meals produced by the A80 sector that are consumed in the United States. Based on the most recent NOAA Alaska Groundfish and Crab Wholesale Market Profiles as well as the NOAA Fisheries 2021 Economic SAFE report, we estimated that the number of A80 harvested flatfish meals (produced from various sole, flounder, and Alaska plaice) which are consumed in the United States ranges from 90,000,000 meals to 126,000,000 meals in 2019. This calculation is based upon the following conservative derivations:

- In 2019 the A80 sector exported 81,651 MT of flatfish to China and 22,597 MT to other countries.<sup>10</sup>
- NOAA estimates that 25% - 35% of Alaska’s total flatfish which is exported to China for re-processing is shipped back to the U.S. as fillets.<sup>11</sup>
- Based on the 25% - 35% figure, in 2019 between 22,500,000 and 31,500,000 pounds of A80 harvested flatfish fillet (and block) product would have been shipped back to the U.S. (using industry estimated product recovery rate for flatfish fillets.)

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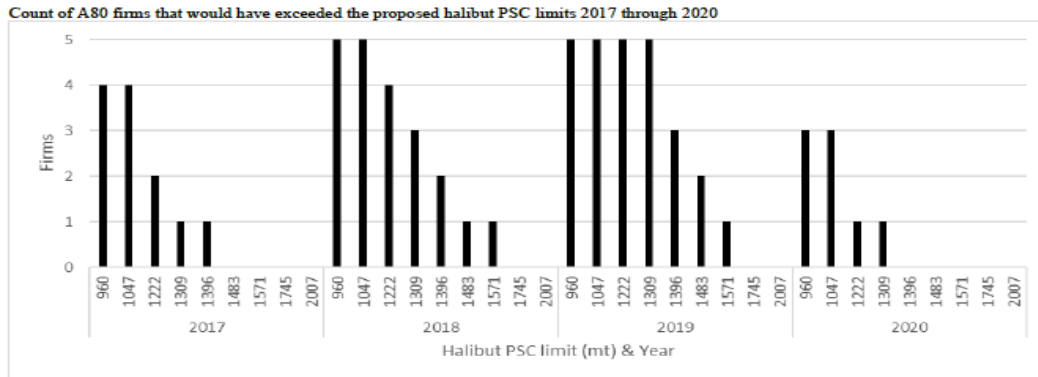
<sup>9</sup> Ibid Table (5-6), p. 203, Sep 2021 and NPFMC Economic SAFE for the Bering Sea, Aleutian Islands, Gulf of Alaska Groundfish Fisheries, p. 251, January 2021.

<sup>10</sup> Blended Data Using 2019 Elandings Data and NOAA Fisheries Website (US Trade in Fishery Products) <https://www.fisheries.noaa.gov/foss>.

<sup>11</sup> Alaska Fisheries Science Center. 2019. Wholesale market profiles for Alaska groundfish & crab fisheries, p. 68-88.

- This volume of fillet product is equivalent to 90,000,000 to 126,000,000 meals (4 oz. fillet portions) that were sold to American consumers.

Impacts to Individual Companies: We appreciate the Council revising the DEIS to include Section 5.3.2.4 titled “Impacts at the Firm Level.” As requested in GFF’s April 2021 letter, the analysis now provides sufficient detail to show how many A80 firms would have exceeded their initial cooperative PSC limit from 2017 through 2020 if the proposed alternatives had been in place in those years.



**Figure 11** Count of A80 firms that would have exceeded the proposed halibut PSC limits 2017 through 2020

Source: AKFIN summary of CAS data and A80 sector supplied initial PSC limits by firm

Based upon this new analysis as depicted in Figure 11 from the DEIS, from 2017 - 2019, between one - three companies would have exceeded their PSC limit under the Alternative 2 (Low – Low) PSC cap of 1,396 MT; between one - five companies would have exceeded their PSC limit under the Alternative 3 (Low – Low) PSC cap of 1,309 MT; and between four - five companies would have exceeded their PSC limits under Alternatives 4 (Low – Low) PSC cap of 1,047. These firms would have ceased all fishing operations during these years, reducing harvest and revenues. It should be noted that vessels would likely need to be shutdown prior to reaching the limit, exacerbating the impacts for crew on those vessels

Of particular concern is 2019, a year where halibut encounters were virtually impossible to avoid using our suite of PSC reduction tools. 2019 may well be representative of the “new normal” environmental conditions under anticipated climate scenarios for the new future (e.g., lower catch per unit effort (CPUE) for flatfish species resulting from warming ocean temperatures). We also note that individual companies would have exceeded their caps even in years with low overall bycatch, such as 2017 and 2020.

The company level analysis is an important improvement to the DEIS and illustrates that broad assumptions based on a sector level analysis do not accurately reflect company level impacts. The important lesson here is that despite overall sector reductions in halibut PSC usage, individual A80 companies have been and remain situated differently, not only with different target catch portfolios but also with varying PSC portfolios (crab, halibut) that may affect their ability to accommodate further PSC reductions. A80 companies have shared a

willingness to take bycatch reduction steps to the extent practicable, but depending on their quota holdings, permits and area endorsements, and other factors each company faces different challenges and constraints.

Overall, Alternatives 2 – 4 reductions are not practicable for our sector to achieve without any new tools. The most likely outcomes will be reduced groundfish harvests which will greatly impact food production for global and U.S. consumers, disproportionately harm A80 crew members through greatly decreased wages, and place individual companies on the brink of failure. These significant costs will occur without any substantive benefit to halibut SSB or the Area 4 directed halibut fishery.

### **Lack of Clarity for Estimating A80 Revenue Impacts**

A key concern in the DEIS is while there is an abundance of information, the analysis does not provide the public or the Council with specific direction or focus to help narrow down that information. The analysis frequently presents ranges of potential outcomes with wide variability yet provides the reader with little guidance in interpreting that range as to the probability of any outcomes and the implications of the different outcomes.

Case in point is the discussion on Average Estimated Revenue A80 Revenue Impact (Table ES-7) and other associated tables (Table 5-3 through Table 5-6). The DEIS analysis correctly states that “the choice of which dataset to use in the revenue analysis has the largest impact” in understanding potential impacts to A80 fleet revenues. Despite the importance of this critical choice, the analysis then simplistically invites the Council and the public to choose among no fewer than *sixteen dataset options* with each potentially having a vastly different outcome. This lack of guidance unfortunately allows the Council and public to choose a dataset of their own liking thereby rationalizing almost any outcome. A more appropriate analysis would consider the variability of halibut encounters year to year and examine the likelihood and effects of that variability including the extremes in operational changes that have occurred within the A80 sector over the past five years.

The most appropriate data for considering the variety of conditions that the fleet has faced must be a longer time series. The (2010-2019) dataset is most appropriate to use for this reason because it reflects a wider set of environmental and operational conditions. Although fishing practices and halibut avoidance have changed during the period, the relatively high encounter rates in the early years reflect the added costs associated with achieving halibut bycatch reductions. In addition to considering a broad range of years, it is important to consider extreme conditions which occur from year to year and better understand what environmental and operational constraints may have made a single year or set of years extreme.

Further, given changing climate conditions (bottom temperature, aggregation of target and bycatch species, location of sea ice / ice edge) and high variances between fishing years, using a broader suite of years to estimate revenue impacts would more fully capture an array of fishing conditions and expected PSC encounters on the grounds. In contrast, using a narrow set of

years will capture and may over-emphasize conditions in fleet operations which are unlikely to be repeated or repeatable into the future. Using more years brings in greater variability which when understood, improves the understanding of the impacts. A review of recent years highlights our concerns with using a narrowly defined dataset.

- 2016: As cited in GFF's April 2021 letter, 2016 flatfish harvest in the Alaska Groundfish Cooperative (AGC) was 45% lower than in the previous 4 years (2012-2015). This low flatfish catch was due to the AGC fleet (at the time four vessels operated by Fishing Company of Alaska (FCA)) choosing to greatly limit flatfish harvests as a way to reduce halibut PSC usage in response to the Council's 2015 25% PSC reduction action. The loss of the FCA-owned vessel Alaska Juris due to flooding and sinking in June 2016 further contributed to this reduction in flatfish harvest.
- 2017: As a second example, GFF has consistently testified that 2017 was a year where PSC usage was unusually low because 17% of the A80 fleet had very limited fishing time / operations in the 1<sup>st</sup> quarter due to the sale of FCA. Three FCA vessels were purchased by other A80 companies in January of 2017 and it took several months for the new owners to re-crew and integrate the former FCA vessels into their operations.
- 2019: Within the context of determining an appropriate time series, 2019 was unusual due to relatively high halibut encounter rates, likely brought on by high temperatures in the Bering Sea. However, given the projections for warming ocean conditions in the BSAI, 2019 could be the "new normal" or may even just be the tip of the iceberg for an extended series of warm water years.

These annual examples show that the methodology of the analysis should consider that conditions will change unpredictably, in some cases between extremes year to year. For example, one of the lowest halibut encounter years, 2018, was followed by one of the highest, 2019. Instead of considering the effects that these swings might have on a business confronted with constraining bycatch limits, the analysis simply averages the two together analyzing only the impact of that average, as if the business need only plan on every year being average.

Not only will A80 vessels need to adapt to the wide swing in revenues and added costs that come from additional efforts to avoid halibut, but vessels could also face crewing challenges due to these fluctuations. A vessel that is shut down because it has reached its halibut limit midyear is unlikely to be able to simply rehire experienced crew, as they will likely have moved on to more reliable and predictable employment. Losses associated with crew replacements include not only the recruiting and training costs, but also lower revenues and potentially increased halibut mortality for an extended period as new crew learn the skills needed to efficiently harvest and process fish as well as deck sort halibut. The DEIS should focus more upon the challenges and uncertainly faced under a restrictive halibut PSC limit.

## Lack of Clarity for Estimating Area 4 Directed Fishery Impacts

The analysis similarly tasks the reader with developing his or her own choice of impacts when considering effects on the halibut sector. First, the analysis provides possible impacts assuming that the bycatch of halibut could be all under 26 inch (U26) or all over 26 inch (O26). In reality, all evidence suggests that bycatch has ranged from between 40 percent and 65 percent U26 fish. Including any estimates outside that range is highly misleading as there is no evidence that those levels are likely. In addition, with the implementation of deck sorting, the higher end of that range is more likely as deck sorting is likely to reduce mortality of larger halibut, which can be returned to the water with a higher probability of survival. This context is absolutely necessary for a reader to come to a reasonable conclusion as to the impacts of the alternatives.

The distinction of U26 and O26 halibut bycatch is critical for determining impacts. The O26 portion of bycatch is available immediately in the following year for harvest in the directed fishery. These fish provide a direct benefit to halibut directed fishery users, but no conservation benefit since under International Pacific Halibut Commission (IPHC) constructs they are all available for harvest. The U26 portion of bycatch are a very small portion of the female spawning stock biomass (see final rule establishing halibut PSC reduction in 2016) and size at age changes in recent years have limited the extent to which these halibut grow to over 26 inches, limiting both their impact on the spawning stock biomass (i.e., conservation benefit) and their benefit to the directed fishery.<sup>12</sup> It may also be possible that U26 fish are comprised more of male halibut and a large fraction of these may never grow to achieve legal size (IPHC openly admits that they do not have data on sex ratio for fish comprising trawl bycatch in the Bering Sea but the analysis inherently assumes that the size ratio is 50/50).

Next, the analysis appropriately generates estimates of halibut sector revenue impacts based on average prices, then inexplicably invites the reader to substitute any revenue amount he or she wishes to estimate impacts. Prices do vary both across years and within years among different markets. Yet, it is absolutely unacceptable to use an extreme price for calculating a fleetwide impact, which the analysis then uses for determining sector wide impacts. For this purpose, the use of an average price is most appropriate and most likely to generate the impact.<sup>13</sup>

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<sup>12</sup> In 2020 the International Pacific Halibut Commission (IPHC) estimated that female spawning stock biomass in 2020 was 192,000,000 lbs. Discarded U26 bycatch within the A80 sector which might be expected to mature and reproduce was extremely low and estimated to be approximately 185,000 lbs or 0.0964% of the spawning stock biomass. When you further deduct natural mortality from these discarded U26 fish, the mortality of these U26 fish taken as wastage in the directed fishery and other groundfish fisheries, and the likelihood that a large percentage of the discarded U26 fish are males, the postulated conservation benefit to the female spawning stock biomass is so small as to not be measurable.

<sup>13</sup> Within the sector it is appropriate to consider price variability, as different participants may realize different impacts. In doing so, it is important to first consider the applicable prices (i.e., those in the Bering Sea and Aleutian Islands) and secondly consider that these are not fleetwide impacts, but only the impacts that are realized by an individual and that other operators will experience offsetting impacts that make the average an appropriate measure of overall impacts. Individual impacts may be relevant for considering the impact of an action on an

The analysis is riddled with areas that need completion, as the analysts present wide ranges of possible outcomes without appropriate context for the reader to determine what the likelihood of any outcome might be. Absent further analysis, the document fails to provide reasonable estimates of impacts needed for an understanding of the implications of selection of the different alternatives.

### **Applicability for Executive Order (EO) 12866**

In Section 5.3, the DEIS admits it does not attempt to estimate the “full scope of the economic impacts associated with the proposed action alternatives” for the A80 sector despite the information being readily available and “generally understood.” We recognize NOAA is not required to collect new data to inform this discussion and is in the process of developing a new economic impact study for the A80 sector (which may be available as early as Feb 2022). But while NOAA waits on this new study, NOAA still must consider and use all reliable data that is available to the Council. In this case, the broad economic impacts for the A80 sector are included in the Council’s *Five-Year Review of the Effects of Amendment 80* and are further explained in depth in the peer-reviewed publication by Waters et. al. *Measuring the multiregional economic contribution of an Alaska fishing fleet with linkages to international markets*. This study, which informed much of the analysis in the A80 Five Year review, calculates that a 14.5% (\$41M) A80 revenue reduction from \$281M would have had an overall impact of \$150M in total economic output (in 2008).<sup>14</sup>

This finding is particularly relevant to EO 12866 and its importance to the ABM action because EO 12866 requires Office of Management and Budget (OMB) review for any “significant regulatory action” which is projected to have an “annual effect on the economy of \$100M or more.” While the DEIS does foreshadow the likelihood of OMB review for Alternative 4, the DEIS should similarly predict that, based on Waters et. al., OMB review will likely be triggered for Alternatives 2 – 4 because each of those alternatives will also likely have an annual effect on the economy which exceeds \$100M.

### **Consideration of a Performance Standard**

A80 sector members have consistently provided testimony to the Council expressing grave concerns about Alternatives 2 – 4 impacts and have attempted to provide other options some of which did not receive (or received little) further consideration. In October 2020, the A80 sector proposed an ABM alternative which used a different index (catch limit for the Area 4CDE directed fishery). While such an index would still suffer from a lack of correlation of halibut encounters by the A80 sector, the index would at least track closely with the Area4 directed halibut fishery that is most affected by the bycatch being regulated. Whether that alternative would provide practicable limits is uncertain, as it has never been considered.

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operation’s viability, but it is very unlikely that an operation that consistently receives a relatively high price is likely the most vulnerable to changes in its harvest levels.

<sup>14</sup> Op. Cit., DEIS, p. 189.

GFF also suggested the Council consider performance standards that allow for variability in performance across years to provide incentives for maintaining halibut avoidance efforts regardless of conditions, as opposed to caps that might be overly constraining in some years and not constraining at all in others. In response, the Council added Option 3 which could apply to any alternative. Option 3 would set an annual limit at the sector level that would operate as a cap for a year, if the sector failed to achieve that annual limit in three of the preceding seven years. While the provision is a start, it fails to achieve several objectives of the purpose and need statement and the National Standards.

For any performance standard to create halibut avoidance incentives, that standard must be achievable. The performance standard is incorporated into the current alternatives as annual limits set as a reduction from the proposed caps (i.e., 80% or 90% of the cap). As noted earlier, the caps themselves are not practicable. Given this backdrop, the annual limits set as a reduction from the caps are also impracticable and are likely to have no effect on the sector's halibut performance except in years when the failure of the sector to achieve the annual limit triggers a lower cap (which is then set to the annual limit).

Further, the annual limits have no impact on the sector's efforts to achieve bycatch reductions except when the annual halibut usage is likely to be close to the annual limit. If the sector projects that its halibut will be clearly above or below the annual limit, the limit will have no impact on the halibut avoidance. Once the sector knows with some certainty that its catches will be above or below the annual limit, the sector will have no incentive to increase its halibut avoidance efforts. In other words, the limit may do very little to induce the sector to reduce halibut bycatch to the extent practicable. Unfortunately, the analysis devotes only about 2 of its over 500 pages to discussing the effects of an annual limit in the context of a performance standard, despite that provision being likely the most critical element for the action achieving its intended objectives. On this point the analysis is grossly inadequate.

To achieve the intended purpose, the action should consider a reasonable range of alternatives that accommodate the uncertainties of bycatch. For example, applying an annual limit that considers (or averages) performance over a series of years may create consistent incentives for halibut avoidance regardless of whether a limit is binding in any particular year. To accommodate uncertainty and create avoidance incentives, a structure should consider the extent to which bycatch exceeds or falls below the limit. By limiting the alternatives to the one provision that considers only whether a limit is exceeded (or not) effectively removes several options from consideration that could have had much greater potential to achieve the objectives for the action. Further analysis could have also illuminated whether cooperative or vessel - level incentives would have provided additional or different benefits (as compared to sector level incentives).

This failure to develop reasonable alternatives likely has resulted from the foundational belief from the start of the action that an abundance-based limit is necessary to induce bycatch reduction to the extent practicable. Rather than search for alternatives that accommodate unpredictability, the action continued to pursue abundance-based measures that depend on



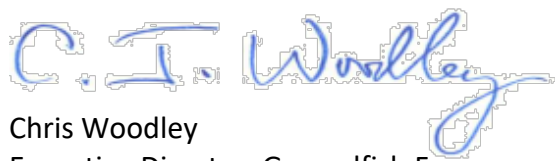
the false premise that abundance and halibut encounters correlate. This failure meant that little attention was given to alternatives with the most potential to accommodate the unpredictable variability of halibut interactions that is common in the A80 fishery and that would have the greatest potential for achieving the intended purpose of the action – that being reducing bycatch to the extent practicable.

The analysis needs to be modified to include additional analysis of the current performance standard provision and to include additional options or alternatives that allow for the unpredictable variability in halibut encounters that are evident in the A80 fisheries.

## **Conclusion**

As described above, the DEIS has numerous shortcomings which compromises its ability to meet the high standards of an Environmental Impact Statement, does not provide the public or the Council with information needed to assess the impacts of Alternatives 2 – 4. Among other areas of concern, revisions to the DEIS should highlight further reductions to the A80 PSC cap under Alternatives 2 – 4 are not practicable as the A80 sector is already fully exercising all tools available to reduce bycatch. Not only will the action result in negative net benefits to the nation, but the alternatives would greatly restrict availability of sustainably harvested wild fish to domestic consumers and consumers worldwide; would disproportionately impact the incomes of A80 crew members, possibly jeopardizing A80 member company's ability to stay in business, reducing season length or otherwise imperiling their enormous investments in A80 quota and fishing / processing capacity to catch Bering Sea flatfish and other halibut-limited species. Lastly, since the indices relied upon to determine Alternatives 2 – 4 do not correlate with the A80 sector's bycatch and cannot reasonably be expected to result in a conservation benefit or provide meaningful additional harvest opportunities for the directed halibut fisheries or communities in Area 4, we believe that NOAA must extensively revise the DEIS to highlight the impracticability of the proposed ABM action.

Thank you for considering our comments,



Chris Woodley  
Executive Director, Groundfish Forum

Enclosure (1): Groundfish Forum Letter dated April 2, 2021.

## **ENCLOSURE (1)**

Mr. Simon Kinneen, Chair

North Pacific Fishery Management Council

Submitted Electronically

Dear Chairman Kinneen,

My name is Nicholas Manville. I am a fisheries biologist, a former NMFS observer and I currently work for United States Seafoods on the F/T Seafreeze America as ship's purser. As you can see, the fishing industry is very important to me and my family.

I have heard that the North Pacific Fishery Management Council is considering cutting the halibut bycatch limit substantially for the Amendment 80 sector in the near future. I am worried that a large cut in our halibut would endanger my job or, at minimum, cause a large drop in my income. This would be a heavy blow to myself and my family that depend on my support during the tumultuous times we face today.

Our captain and crew work hard to avoid halibut. We work hard sorting halibut on deck to make sure that the ones we do catch have the best chance of surviving. We work in cooperation with NMFS observers to follow all rules and regulations put forth because we know it is important to our livelihoods. We do everything we can to keep halibut bycatch down. Any cut to our caps enacted to reduce halibut bycatch will result in a reduction in our fishing and our incomes.

I know that it is important to consider other fisheries that depend on halibut. I know you are thinking of the halibut fishermen when you consider reducing our halibut limit. I ask that you think of all the other flatfish fisheries too. And consider all of the people that benefit from them, when determining a realistic, workable halibut bycatch limit. A solution that lets us keep fishing as a full-time job and helps out their fishery is the right answer.

Please consider the needs of our A80 operation and my family as you work on this issue.

Sincerely, 

William Fitzgerald  
1900 Nickerson St. #116-77  
Fisherman's Terminal  
Seattle WA. 98119  
Mate-Seafreeze Alaska

Dear Sirs,

I was born over 50 years ago in Kodiak Alaska. My first job was working at Alaska Pacific Seafood breaking plate freezers of halibut and loading these large frozen whole fish in containers.

In those days the halibut schooners would come to town after 10-14 days of hard fishing, and the processors in Kodiak would bid on each individual load. The typical load was 50-85 thousand pounds.

By the late 70's halibut became more abundant and derby seasons in Kodiak saw every available vessel, from skiffs to large crabbers participating in these great halibut derby fisheries. It was not uncommon for larger vessels to catch 200,000 lbs. in 3 days or less.

When halibut fishing changed to a quota system my father and my best childhood friends bought halibut Q's and have fished halibut ever since.

10 years ago I started working on The Seafreeze Alaska as mate. I had no prior trawling experience and like a lot of fisherman I thought trawlers caught many different species each tow and killed a lot of fish that were not utilized. Nothing could be further than the truth. It is very common for us to catch 95-99 % of our target species. Indeed, about the only specie we do discard, is halibut, as per regulation.

Alaska has the greatest fish stocks in the world. When the total allowable catch is in the tens of thousands of tons, trawling is the only fishing method capable of catching this type of volume. We export almost all our fish to Asia where it is reprocessed and sold all over the world. These exports are vitally important to the US economy to shrink the trade deficit and offset the flow of US dollars overseas. Exporting is good and it is our responsibility to all US citizens to maximize our sustainable fish exports.

Now, the ecosystem is again changing, and the abundance of large halibut is in decline. However, in my experience, the number of smaller halibut in the Bering Sea is high. I do not think that halibut bycatch by trawlers is the reason for the decline in large fish and the overabundance of small fish. I think the huge increase in other stocks have stressed the halibut to a point where they no longer grow to the desired marketable size that the International Halibut Commission wants.

Rather than blame the trawlers it makes more sense to reassess the size limitation issue and to explore the possibility of fishing in more nontraditional areas.

Trawlers are using everything we can to avoid catching halibut and taking drastic evasive efforts to minimize halibut bycatch. We don't want to catch halibut and we don't want to discard good fish.

Trawlers are the most regulated industry in the US and every tow we make is sampled and the number and weight of the halibut is documented.

I think the allowable halibut bycatch for trawlers now is a workable number that strikes a good balance between allowing us to harvest these large volumes of fish and for us to have the incentive to minimize halibut bycatch.

The question is by lowering the allowable halibut bycatch will there be more large halibut available to the halibut fleet and if so at what cost? From what I have heard from you staff's work, there is very little extra halibut but a big loss of groundfish. You should believe in your staff – these cuts are a costly, bad idea.

The total allowable halibut bycatch has been lowered from its historical rates. If it is reduced even more it will have a drastic effect on the trawl fleets ability to harvest the TAC of its target species.

Is it really worth lowering the standard of living for thousands of fisherman, hundreds of support personnel and numerous vendors and businesses? Is it really worth lowering tax revenues and lowering our nation's exports on the off chance that lowering halibut bycatch further will have a beneficial effect on a much smaller fishery?

I think not.

This is a very emotional issue for me. As I said my family and friends are in the halibut fishing business. It is incumbent on the fisheries council to come up with real viable solutions to this issue.

It may be necessary to take a more biological approach to the halibut fishery as opposed to the more marketing emphasis the IPHC has stressed in the past. Size limits are part of the problem. Flatfish stocks in Alaska are healthy. Since 2008, our fleet has kept all sizes of flatfish creating markets for those fish. We benefited from this management by keeping costs down and improving our revenues. Maybe it is time to use these same tools on halibut. After all, halibut is simply another specie of flatfish.

William Fitzgerald

Mr. Simon Kinneen, Chair  
North Pacific Fishery Management Council

Submitted Electronically

Dear Chairman Kinneen,

My name is Stephen Garner

I work for United States Seafoods on the F/T S. America as a Foreman. I have worked for US Seafoods for 15 years and depend on my job to support my family.

I have heard that the North Pacific Fishery Management Council is considering cutting the halibut bycatch limit substantially for the Amendment 80 sector in the near future. I am worried that a large cut in our halibut would hurt my job and cause a large drop in my income. My job is very important to me and my family.

Our captain and crew work hard to avoid halibut. We work hard sorting halibut on deck to make sure that the ones we do catch have the best chance of surviving. We hate discarding and wasting halibut that won't survive. But discarding is required by the rules. We already do everything we can to keep halibut bycatch down. Any cut to our caps that reduces halibut bycatch will just be a reduction in our fishing and our incomes.

I know that it is important to consider other fisheries that depend on halibut. I know you are thinking of the halibut fishermen when you consider reducing our halibut limit. I ask that you also think of the people that depend on flatfish fisheries who need halibut to continue. A solution lets us keep fishing as a full time job and helps out their fishery is the right answer.

Please consider the needs of our A80 operation and my family as you work on this issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Garner", with a long horizontal flourish extending to the right.

Mr. Simon Kinneen, Chair  
North Pacific Fishery Management Council

Submitted Electronically

Dear Chairman Kinneen,

My name is Aleki Vaielua.

I work for United States Seafoods on the F/T SAM as a Q.C. I have worked for US Seafoods for 4 years and depend on my job to support my family.

I have heard that the North Pacific Fishery Management Council is considering cutting the halibut bycatch limit substantially for the Amendment 80 sector in the near future. I am worried that a large cut in our halibut would hurt my job and cause a large drop in my income. My job is very important to me and my family.

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Please consider the needs of our A80 operation and my family as you work on this issue.

Sincerely,



Mr. Simon Kinneen, Chair  
North Pacific Fishery Management Council

Submitted Electronically

Dear Chairman Kinneen,

My name is Robert Vasquez.

I work for United States Seafoods on the F/T Seafreeze America as a Factory Tech. I have worked for US Seafoods for 2 1/2 years and depend on my job to support my family.

I have heard that the North Pacific Fishery Management Council is considering cutting the halibut bycatch limit substantially for the Amendment 80 sector in the near future. I am worried that a large cut in our halibut would hurt my job and cause a large drop in my income. My job is very important to me and my family.

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Please consider the needs of our A80 operation and my family as you work on this issue.

Sincerely,

*Robert Vasquez*