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June 8, 2011

Karen Gordon Mills, Administrator  
Small Business Administration  
409 Third St, S.W., Suite 7000  
Washington, D.C. 20416

Dear Ms. Mills:

We understand that some members of the southeast Alaska halibut charter industry have filed a complaint with the Small Business Administration (“SBA”) against the rule recently adopted by the National Marine Fisheries Service (“NMFS”) establishing a 37 inch limit on the size of halibut that can be retained in the southeast Alaska charter fishery. We appreciate and understand the important role of the SBA in protecting and advocating for small businesses. However, the request you have received is lacking in context and completeness.

The request you received neglects to mention that a necessary corollary of removing the 37 inch size limitation is to inflict significant economic harm on the small businesses that comprise the commercial halibut fleet. The request you received fails to mention that International Pacific Halibut Commission (“IPHC”) and NMFS have each found that overfishing by the charter industry is causing severe conservation problems for the halibut resource and the 37 inch size limit is necessary to protect the resource. The request you received fails to mention that the charter industry has been to court seeking to avoid conservation regulation to protect the resource and has been rebuffed. The request you received fails to mention that charter overfishing is causing localized depletion of the halibut resource, preventing subsistence fishermen, many of whom live below the poverty line, from catching fish that are needed to feed their families. For all of these reasons, we urge your agency to not acquiesce in this effort by the charter industry to circumvent an international conservation agency, NMFS, and the courts, a result that would inflict economic harm on the small businesses that comprise the commercial fishery as well as on subsistence fishermen.

The commercial halibut fishery in southeast Alaska is comprised of small, family run operations owned by residents of Alaska’s rural and isolated communities. The vast majority of the commercial quota is caught from boats that are less than 60 feet in length, owned by families and crewed by three people. The average halibut fisherman in southeast Alaska is allowed to harvest 3,000 pounds of halibut annually and 90% harvest

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less than 9,000 pounds. In 2010, less than 1% of the southeast Alaska commercial halibut fishermen caught more than 20,000 pounds of halibut.

In contrast, the charter members who went to court in 2008 and 2009 to oppose regulations that would force them to live within their halibut quota and to not overfish the resource had earnings between \$100,000 and \$1.9 million. One charter plaintiff had a corporate fleet of 27 vessels catching between 460,000 and 763,000 pounds annually. Although these operations may face an economic set-back from the 37 inch limit, the burden on these businesses pales in comparison to the economic burden that has been, and will be, imposed by resource managers on the small family businesses that constitute the commercial fleet. The facts are that if the charter industry is again permitted to overfish its quota, the likely result is that the amount of their overfishing will be deducted from the commercial quota, as has been done in years past, because the commercial fleet has never exceeded its quota and can be easily monitored to ensure it does not overfish. The facts are that the commercial halibut quota in southeast Alaska has already been reduced by 78% over the past seven years because of the need to conserve the resource. In 2011 alone, the commercial harvest was reduced by 47%. Commercial fishermen must hold Individual Fishing Quota to harvest halibut. Seventy percent of southeast Alaska fishermen purchased some or all of their quota at great cost. The conservation reductions to protect the resource have been economically crippling. Many southeast Alaska families are making payments on a quota share that now allows them to catch only 22% of the amount they purchased initially. However, the size of their loan and payments remains the same. Commercial fishermen risk losing not only their quota, which is the source of their livelihood, but also their boats and homes that were used as collateral to purchase their quota share.

In contrast, the charter industry increased its harvest by 90% while the stock size was falling. The charter industry has exceeded its allocation by 22%-115% every year since the charter quota was established in 2004. In 2010, the estimated charter overharvest was 62%. In the absence of the 37 inch limit, the 2011 charter harvest is expected to exceed its quota by at least that amount. In short, the 37 inch limit is essential to halt charter overfishing and to protect the halibut resource for all who depend on it now and in the future. When the charter industry filed a complaint in federal district court in 2008 and 2009 to prevent NMFS from imposing regulations that would prevent the charter industry from exceeding its quota, the court took note of the finding by the IPHC that charter overfishing represented a serious "conservation concern." The court noted that the charter industry had consistently exceeded its quota and rejected the argument that the industry had come to depend on this overfishing and would suffer economically if forced to live within their quota. The court said bad behavior should not be rewarded.

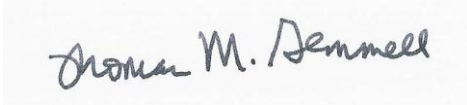
Because charter fishing is geographically concentrated in near shore areas, the result is often localized resource depletion. Subsistence fishermen, who often work from small skiffs, cannot move to offshore fishing grounds and they suffer the privation that comes from competing with the charter industry for the resource. The difference is that the charter operators own boats allowing them to go to more distant areas, while the subsistence fishermen do not. Removing the 37 inch size limitation allows the charter industry to continue overfishing to the detriment of these subsistence fishermen.

The Halibut Coalition, on whose behalf this letter is sent, has as its mission promoting the sustainable management of the Alaska halibut resource. Our membership includes 13 commercial fishing organizations, seafood processors, subsistence fishermen and over 500 individual members from Alaska, Washington and Oregon. The Halibut Coalition was formed in 1998 to advocate for responsible management of the guided sport fishery and to protect the interests of historic harvesters and processors of the halibut resource. The 37 inch limit on harvestable halibut in the southeast Alaska charter fishery is critical to conservation. Sustainable management demands that all sectors share in conservation. The measure is necessary to protect the Alaska subsistence, sport and commercial fishermen who live in Alaska's small isolated coastal communities and who depend on the halibut resource for sustenance and livelihood. Finally, the measure is

necessary to protect the coastal processing plants in these communities, and to protect the economies of the communities that are highly dependent on the commercial fisheries to provide employment, tax revenue, and cash flow.

We urge that your agency investigate all of the facts before taking any position on this issue. In that regard, we would like to request a meeting with you to discuss this matter further.

Sincerely,

A handwritten signature in black ink that reads "Thomas M. Gemmell". The signature is written in a cursive style and is centered within a light gray rectangular box.

Thomas M Gemmell  
Executive Director

Encl: Halibut Coalition Letter to Secretaries of Commerce and State on 37" Halibut (Feb 10, 2011)

Copy: Dr Jim Balsiger, Chair, International Pacific halibut commission  
Dr Jim Balsiger, NMFS Alaska Regional Administrator  
Mr Eric Olson, Chair, North Pacific Fishery Management Council  
Ms Cora Campbell, Commissioner, Alaska Department of Fish and Game



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**February 10, 2011**

Honorable Hillary Rodham Clinton  
Secretary of State  
US Department of State (OES/O)  
2201 C Street NW  
Washington, DC 20520  
FAX (202) 647-0217

The Honorable Gary Locke  
Secretary of Commerce  
U.S. Department of Commerce  
1401 Constitution Ave NW  
Washington, DC 20230

Dear Secretary Clinton and Secretary Locke,

Members of the Halibut Coalition strongly support recent action by the International Pacific Halibut Commission (IPHC) to limit the Area 2C (Southeast Alaska) charter industry to one retained halibut per day of no more than 37 inches in 2011. We ask you to do the same by implementing the IPHC action.

This action is necessary to conserve the halibut resource and to prevent charter industry overfishing. The IPHC action is based on the same science that dictated a 47% reduction in the 2011 Area 2C commercial harvest. Both U.S. and Canadian Commissioners voted unanimously for these actions because of the severity of the conservation concerns.

The Halibut Coalition's mission is to promote sustainable management of the Alaska halibut resource. Our members include 13 commercial fishing organizations, seafood processors, subsistence fishermen and over 500 individual members from Alaska, Washington and Oregon. The Halibut Coalition was formed in 1998 to advocate for halibut conservation and to protect the interests of historic harvesters and processors of the halibut resource.

The North Pacific Fishery Management Council (Council) initiated work on a halibut charter management plan in 1993. After years of outreach and public participation, the Council, in 2004, adopted a quota for charter harvests called the Guideline Harvest Level (GHL). The GHL was 125% of the charter industry's largest catch. The Council stated "It is the Council's policy

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that the charter vessel fishery should not exceed the GHL.” Since then, the charter industry has exceeded the GHL every year by 22-115%, with a cumulative overharvest above its GHL in Area 2C that now totals 3.7 million pounds. In 2009, members of the charter industry protested the allocation, claiming that since they were catching more than the GHL their allocation should be increased. The court rejected the challenge and upheld the GHL allocation, noting that it is bad public policy to reward overfishing.

The Alaska halibut resource is in a period of decline, with catch rates in many areas at historic low levels. Managers are particularly concerned about Area 2C where the harvestable biomass has dropped by 58% over the past decade. The Area 2C commercial catch limit has been reduced 78% over the past six years, dropping from 10.66 million pounds to 2.33 million pounds. The IPHC considers these quota reductions necessary to stop the decline and rebuild stocks.

In order to harvest halibut in Area 2C, commercial fishermen must own or purchase Individual Fishing Quota (IFQ). Because Area 2C commercial fishermen have made substantial investments in halibut IFQs, the economic impact of the 2011 quota reduction is particularly severe. Many fishermen borrowed money to purchase IFQ shares and are now struggling to pay loans that were taken out based on quota levels that were two or three times higher than current levels. Some fishermen will not be able to make loan payments this year and may lose their shares. Despite this economic pain, commercial fishermen will respect resource limits and will not exceed their catch limit.

The IPHC has repeatedly expressed concern about Area 2C charter overfishing. The IPHC has stated: “The lack of compliance with the GHL targets will exacerbate the present conservation problem.... The increased charter catch will delay the rebuilding of the Area 2C resource....” The IPHC has also stated “The assertion...that overages of the GHL by the charter sector do not represent a conservation concern...is incorrect” and not limiting the charter sector to its GHL allocation “frustrates the ability of the IPHC to meet its management targets.” For several years, the IPHC has urged the United States to take appropriate action to restrict charter harvest to its quota.

Because NMFS regulations do not force the charter industry to stay within its quota, the IPHC, to protect the resource from overharvest caused by charter overfishing, has often been forced to deduct the charter overharvest from the commercial quota. This reallocates the available harvest from commercial fishermen to the charter fleet, placing more conservation and economic burdens on commercial fishermen. Charter overfishing also disrupts subsistence fishing. Subsistence users, who typically live close to the poverty line, can only fish in near shore areas. They do not own boats that allow anything else. When these near shore areas are fished out by vacationers aboard charter boats, subsistence fishermen cannot catch the halibut they need to feed their families.

In 2008, the IPHC announced a policy change regarding charter overfishing. Instead of deducting charter overages from the commercial catch limit, the IPHC charged the U.S. with establishing regulations that limit each sector to its quota. However, because Area 2C charter overages have continued unchecked, the uncompensated charter overharvest has compromised the rebuilding potential of the Area 2C halibut stocks and has imposed an unsupportable burden on all who depend on the halibut resource for subsistence or livelihood. If the U.S. fails to control charter overfishing, the IPHC will be forced to revert to its prior policy or take other action.

In 2008, the Council approved a halibut Catch Sharing Plan (CSP) for IPHC management Areas 2C and 3A. That plan includes conservation and management measures to control charter harvest to the GHIL allocation, and a market-based provision that allows charter operators to acquire additional quota from commercial IFQ holders. Because the Commerce Department has not yet implemented the CSP and will likely not do so until the 2012 fishing season, it is extremely important that the IPHC conservation plan for 2011 be implemented. If the IPHC plan is not implemented for 2011, the charter industry harvest is projected to once again exceed its quota, this time by 62%.

To stop charter overfishing, the IPHC adopted the 37 inch maximum size limit for halibut harvested in the Area 2C charter fishery. The IPHC adopted this particular management measures because it was analyzed and included in the Council's CSP and because it is projected to restrict charter harvest to the 2011 GHIL. The 37 inch size limit will also reduce the existing practice of "highgrading" halibut in the charter fishery, which is the practice of discarding a smaller fish, dead or alive, after a larger halibut is captured.

Since 2004 the Area 2C commercial catch limit has been reduced by 78% and the charter GHIL by 45%. The charter GHIL was not reduced in 2011, despite the 47% reduction in the 2011 commercial catch limit. The 37 inch size limit is needed to restrict charter harvest to its 2011 quota, to prevent resource overfishing, and to allow stocks to rebuild. Area 2C commercial fishermen are suffering severe economic harm to rebuild the resource. The charter industry must not be allowed to undermine the rebuilding effort.

To summarize, the Area 2C charter quota was set by the North Pacific Fishery Management Council in 2004 and was upheld by the court. The Area 2C charter industry has exceeded the GHIL every year since 2004. The Council's Catch Sharing Plan, which includes the maximum size limit restriction for charter angler fish, will not be in place until 2012. The IPHC is concerned about halibut stocks in Area 2C, and has drastically reduced commercial harvest to conserve the halibut resource and allow stocks to rebuild. The IPHC adopted the 37 inch size limit on charter retained halibut to stop charter allocation exceedances and resource overfishing. Conservation is a shared responsibility and all sectors must share in conserving the resource to rebuild halibut stocks. Commercial fishermen will abide by the IPHC catch limits despite a devastating 78% reduction since 2006 and the resulting severe economic harm. We expect the charter industry to do the same.

The Halibut Coalition strongly urges your approval of the 2011 IPHC management regulation to limit retained charter harvested halibut in Area 2C to 37 inches.

Thank you for your review of our comments.

Sincerely,



Julianne Curry, Petersburg Vessel Owners Association



Buck Laukitis, North Pacific Fisheries Association



Rochelle van den Broek, Cordova District Fishermen United



Tim Henkel, President, Deep Sea Fishermen's Union



Jeff Stephan, United Fishermen's Marketing Association



Rhonda Hubbard, Kruzof Fisheries, LLC



Robert Alverson, General Manager, Fishing Vessel Owners Association



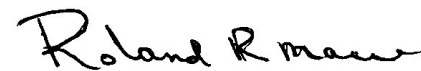
Chris Knight, United Southeast Alaska Gillnetters



Linda Behnken, Alaska Longline Fishermen's Association



Peggy Parker, Executive Director, Halibut Association of North America



Roland Maw, Upper Cook Inlet Driftnetters Association



Thomas M. McLaughlin, President/CEO Seafood Producers Cooperative



Kathy Hansen, Executive Director, Southeast Alaska Fishermen's Association

Copy:

Dr. Kerri Ann Jones, Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State

Mr. John Field, Senior Foreign Affairs Officer, Office of Marine Conservation, Department of State

Dr Jane Lubchenco, Undersecretary of Commerce for Oceans and Atmosphere, NOAA

Mr. Eric Schwaab, Assistant Administrator for Fisheries, NOAA

Dr Jim Balsiger, Regional Administrator, NMFS Alaska Region

Mr. Bruce Leaman, Executive Director, International Pacific Halibut Commission

Senator Lisa Murkowski

Senator Mark Begich

Congressman Don Young

Governor Sean Parnell, State of Alaska

Commissioner Cora Campbell, Alaska Department of Fish and Game

Mr. Eric Olson, Chair, North Pacific Fishery Management Council