

March 4, 1996



Richard Schaefer  
Director  
Office of Fisheries Conservation and Management  
National Marine Fisheries Service  
1335 East-West Highway  
Silver Spring, Maryland 20910

Dear Dick,

I want to thank you for the opportunity that you and your staff provided Ralph Brown and I, last December, to discuss the issues surrounding the incidental capture of Pacific halibut in the Washington, Oregon, and California groundfish and shrimp trawl fisheries. Between waiting for revised "bycatch" estimates, procrastinating, and getting bogged down with other things time has slipped.

The "bycatch" of halibut in the Pacific region is becoming an issue. Estimates of the order of one million pounds are being discussed, with mortality estimates of 10-50%. If these values are correct the resulting wastage of 100,000 to 500,000 pounds is a significant portion of the TAC. The trawl industry is working with the State of Oregon, and both NMFS Science Centers in Seattle to identify areas which may be "hot spots" and to describe handling techniques which could result in better survival of halibut which are returned to the sea. However, at best these efforts will only minimize discard mortality. The data which is available suggests that the capture of halibut in the trawl fisheries is a "rare event"; therefore avoidance will be extremely difficult. Similarly exclusion of one flat fish in a flat fish fishery through gear modification is problematic.

As you recall, we were questioning the authority of the International Pacific Halibut Commission to impose regulations which result in allocating halibut to one segment of the fishing industry over another. In 1988 NOAA determined that the Regional Management Councils should undertake the responsibility for allocating halibut among U.S. user groups. The situation in the Pacific Region differs from that in the Bering Sea and Gulf of Alaska. The halibut which are caught incidentally in the trawl fisheries in the Pacific Region are the same size and age of fish which are caught and landed commercially and recreationally with hook and line gear. These fish have all migrated to the west coast. Since there is no known spawning activity in the area we do not have the juvenile fish problems which exist elsewhere. There is simply no biological justification for prohibition on the landing of trawl caught halibut. Therefore IPHC regulations which prohibit the retention of halibut not caught with hook and line gear is

in effect allocating halibut to U.S. users. This appears to run counter to the policy established by NOAA.

Because of the allocative nature of these gear regulations, I am requesting a policy determination be made by NMFS/NOAA as to whether the Pacific Council is the proper authority to determine if any gear restrictions should apply for Pacific halibut.

It is our belief that as fishery managers, the environmental community and the fishing community discuss and take actions to reduce "bycatch", that an examination of the regulations which cause this wastage must also be pursued. When these regulations which cause wastage have been enacted solely to for the purpose of allocation of fish to one group their examination is long past due.

If I can provide you with any other information or you wish to discuss this issue further please do not hesitate to call. Please keep me informed as to the status of my request for a policy decision.

Sincerely,

Peter Leipzig  
Executive Director

cc: Steve Pennoyer  
Will Stelle  
Larry Six  
Board of Directors

July 26, 1996



Richard Schaefer  
Director  
Office of Fisheries Conservation and Management  
National Marine Fisheries Service  
1335 East-West Highway  
Silver Spring, Maryland 20910

Dear Dick,

Several months ago I had written a follow-up letter to you (copy attached), referencing our discussions of last December, concerning the authority of the International Pacific Halibut Commission to allocate Pacific halibut between U.S. citizens in the Pacific Region vis-a-vis gear regulations.

I recognize that addressing fishery management issues is often "brush fire containment" and that this issue may have found its way to the "back burner". However, I feel that it is important to resolve the issue of proper authority to allocate halibut via gear regulations now to avoid crisis and conflict later. My preferred approach is to address the issue in a reasoned and methodical manner rather than allowing the issue to become politicized.

Please let me know if I can expect a policy determination as to the authority of the Commission to make these allocations. As always, if you wish to discuss this or any other issues please give me a call.

Sincerely,

Peter Leipzig  
Executive Director

cc: Board of Directors

October 10, 1996



Rolland Schmitt  
Director, NMFS  
1335 East-West Highway  
Silver Spring, MD 20910

Dear Rollie:

Several months ago I made a request to Dick Schaefer for a policy determination from NOAA/NMFS on the authority of the International Pacific Halibut Commission to allocate halibut between U.S. citizens via gear regulations (letters enclosed). I have not received a response from the agency yet, nor have I forgotten my request.

The "bycatch" of halibut in the trawl fisheries is a controversial topic throughout the North Pacific. The Washington, Oregon, and California area is no exception to the controversy. However, we believe that the size of the fisheries and the nature of the resource are significantly different than in the area further to the north.

We believe that the gear regulations of IPHC are purely allocative and have no biological basis. The allocation of this resource should fall within the jurisdiction of the Pacific Fishery Management Council, not the IPHC. The current allocation of the resource by the IPHC is creating "bycatch" and resulting in wastage of the resource. If we are to honestly begin to address "bycatch" issues then we must examine the causes of the "bycatch", including regulations.

Rollie, I wish to keep this issue out of the public/political arena and allow the agency to step through the issues and establish a policy governing the allocation of halibut. However without some response, some indication that the matter is being reviewed or discussed, I will cease advising people in the trawl fleet to be patient. They most certainly will then begin contacting their congressional offices demanding a solution.

Please advise me if the agency intends to address the issue.

Sincerely,

Peter Leipzig  
Executive Director



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Northwest Region  
7600 Sand Point Way N.E.  
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Mr. Peter Leipzig  
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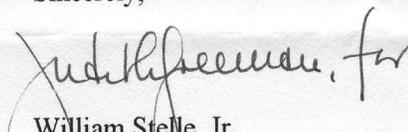
Dear Pete,

This is in response to your letters to NMFS headquarters regarding the allocative implications of the International Pacific Halibut Commission (IPHC) gear regulations.

The restriction on use of only hook-and-line gear to harvest Pacific halibut is an IPHC regulation that has been in effect since 1944 and was implemented for biological and management reasons as described in IPHC Technical Report #15 (Regulations of the Pacific halibut fishery, 1924-1976. by Bernard Skudd, 1977, 47 pp.).

In regard to allocation, Section 5 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773c(c)) does authorize the Regional Fishery Management Council having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in U.S. Convention waters that are in addition to, but not in conflict with [emphasis added], regulations of the IPHC. In accordance with this Act, the Pacific Council has developed Catch Sharing Plans since 1988. To date, however, the Pacific Council has not indicated any intent to allocate the quota for the commercial fishery to gears other than hook-and-line. If the Council desired to allocate halibut to other gear groups, such as the trawl fishery, then the Council would need to notify the IPHC and work with the IPHC to develop compatible regulations that account for the IPHC's conservation concerns and the Council's allocative concerns.

Sincerely,

  
William Stelle, Jr.  
Regional Administrator

cc: Steven Pennoyer  
Rolland Schmitten  
Jonathan Pollard  
Eileen Cooney  
Pacific Fishery Management Council  
International Pacific Halibut Commission

