

## Discussion paper on establishing a Community Quota Entity (CQE) Program in Area 4B

December 2010

### Introduction

In February 2010, the North Pacific Fishery Management Council (Council) reviewed an IFQ proposal from the Adak Community Development Corporation (ACDC), to create a Community Quota Entity (CQE) Program in Area 4B.<sup>1</sup> The intent is to allow eligible communities in Area 4B to select or form a non-profit entity to purchase Area 4B halibut catcher vessel quota share (QS) and Aleutian Islands (AI) sablefish catcher vessel QS for lease to individual fishermen to deliver in the region. The proposal was structured similarly to the existing CQE Program for Gulf of Alaska communities in Area 2C, 3A, and 3B, with notable differences. The proposal was reviewed and recommended for analysis by the IFQ Implementation Committee at its February 2010 meeting. Upon review of the committee report and public testimony, the Council tasked staff to develop a discussion paper on this issue, using the ACDC proposal as a starting point. The motion stated that:

*The Council initiates a discussion paper regarding issues and options associated with the development of a CQE-type program for Area 4B halibut and/or AI sablefish for Area 4B communities. In addition to the ideas provided through written and public testimony, the discussion paper should include discussion of a 'residency' requirement for fishing the CQE-type QS in Area 4B. (February 12, 2010)*

This discussion paper is scheduled for review at the December 2010 Council meeting. At this meeting, the Council could choose to: take no further action; request further information prior to initiating an analysis; or approve a problem statement and suite of alternatives and options for analysis.

### Background on Existing CQE Program in GOA

The Council developed the halibut and sablefish IFQ Program in the early 1990s, and NMFS implemented the program in 1995. This program changed the management structure of the fixed gear halibut and sablefish fisheries by issuing quota share to qualified applicants who owned or leased a vessel that made fixed gear landings of halibut during 1988 – 1990.<sup>2</sup> Halibut quota share is specific to one of eight halibut management areas throughout the BSAI and GOA, and four vessel categories: freezer (catcher processor) category (A share); greater than 60' LOA (B share); 36' to 60' (C share); and 35' or less (D share). Sablefish quota share is specific to one of six sablefish management areas throughout the BSAI and GOA, and three vessel categories: freezer (catcher processor) category (A share); greater than 60' LOA (B share); and 60' or less (C share). The quota share issued is permanently transferable, with several restrictions on leasing. The Council developed leasing and other restrictions in order to achieve some benefits associated with IFQ management but also retain the owner-operator nature of the fisheries and limit consolidation of quota share. To that end, the Council only allowed persons who were originally issued catcher vessel (CV) quota share or who qualify as IFQ crew members<sup>3</sup> to hold or purchase catcher vessel quota share (B, C, and D category). Thus, only individuals and initial recipients could hold catcher vessel quota share.

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<sup>1</sup>See Appendix 3 for the original proposal.

<sup>2</sup>Regular QS units were equal to a person's qualifying pounds for an area. Qualifying halibut pounds for an area were the sum of pounds landed from the person's best 5 years of landings over a 7-year period (1984 – 1990). Qualifying sablefish pounds for an area were the sum of pounds landed from the person's best 5 years of landings over a 6-year period (1985 – 1990).

<sup>3</sup>IFQ crew member means any individual who has at least 150 days experience working as part of the harvesting crew in any U.S. commercial fishery, or any individual who receives an initial allocation of QS (50 CFR 679.2). 'Individual' means a natural person who is not a corporation, partnership, association, or other such entity.

As a result of quota transfers, the total amount of quota held by residents of small, remote, Gulf coastal communities and the number of IFQ holders, substantially declined since the inception of the IFQ Program in 1995. Recognizing that this trend may have a severe effect on unemployment and related social and economic impacts in rural communities, the Council took action in 2002 to attempt to alleviate this issue. Under GOA FMP Amendment 66, the Council revised the IFQ Program to allow a distinct set of 42 remote Gulf coastal communities *to purchase and hold catcher vessel QS in Areas 2C, 3A, and 3B*, in order to help ensure access to and sustain participation in the commercial halibut and sablefish fisheries. Eligible communities must form non-profit corporations called Community Quota Entities (CQEs) to purchase catcher vessel QS, and under the existing program in the Gulf, the annual IFQ resulting from the QS can only be leased to community residents.

Quota share held by a CQE can only be sold in order to improve the community's position in the program, or to meet legal requirements, thus, the CQE remains the holder of the QS.<sup>4</sup> In effect, QS is a permanent asset for the community to use to benefit the community and its residents. The CQE Program was also intended as a way to promote ownership by individual residents, as individuals can lease annual IFQ from the CQE and gradually be in a position to purchase their own quota share. It was noted that both community and individually-held quota were important in terms of fishing access and economic health. This amendment was approved by the Secretary of Commerce and effective in June 2004.

The CQE Program includes several elements which make CQEs subject to either more, the same, or fewer constraints than individual quota share holders. In some cases, the CQE is subject to the same latitude and limitations as individual users, as if the CQE is simply another category of eligible person. For example, an individual CQE is held to the same quota share cap as an individual holder. In other cases, the CQE is subject to less restrictive measures. For example, the vessel size classes do not apply to QS when held by CQEs. In yet other cases, the CQE is subject to more restrictive measures than individuals, in part to protect existing holders and preserve entry-level opportunities for fishermen residing in other (non-eligible) fishery-dependent communities. For example, CQEs are prohibited from purchasing D category halibut quota share in Area 2C and 3A, and they are prohibited from purchasing small blocks of quota share.<sup>5</sup> The Council motion outlining the rules of the program, including the list of eligible communities, is provided as **Appendix 1**. One may also refer to the final rule authorizing the program (69 FR 23681; April 30, 2004).

### **Background on Area 4B proposal and Adak**

The ACDC submitted testimony related to its proposal at the February 2010 Council meeting. The intent of the proposal is to provide an opportunity for the community of Adak to participate in the halibut and sablefish fisheries in Area 4B. Specifically, ACDC would like to use its crab royalties to purchase Area 4B halibut QS and AI sablefish QS for use by local fishermen and delivery within the region.

The Aleut peoples have a long history on and around Adak and other communities in the Aleutian Islands prior to World War II. The once heavily-populated island was eventually abandoned in the early 1800s, as the Aleutian Island hunters followed the Russian fur trade eastward, and famine set in on the Andreanof Island group. However, the Aleut people continued to actively hunt and fish around the island over the years, until World War II. Adak had a significant role during World War II as a U.S. military operations base, and army installations on the island allowed U.S. forces to mount a successful offensive against the

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<sup>4</sup>If the CQE sells its QS for any other reason, NMFS will withhold annual IFQ permits on any remaining QS held, and will disqualify the CQE from holding QS on behalf of that community for 3 years. It also requires that the CQE divest itself of any remaining QS on behalf of that community.

<sup>5</sup>The existing CQE Program prohibits CQEs from purchasing blocked halibut QS in Area 2C and 3A, which at the time of the implementation of the sweep-up provisions (1996), was ≤5,000 IFQ lbs. The same restriction applies to blocks of sablefish QS in SE, WY, CG, and WG. See 50 CFR 679.41(e)(5).

Japanese-held islands of Kiska and Attu.<sup>6</sup> After World War II, Adak was developed as a Naval Air Station, playing an important role during the Cold War as a submarine surveillance center. The station officially closed on March 31, 1997, and the Aleut Corporation acquired a significant portion of Adak Island, along with the naval facilities, under the BRAC (base realignment and closure) and other Federal land transfer processes. This was a complicated and multi-step process that resulted ultimately in a land exchange between the Aleut Corporation and the USFWS. A significant portion of land on the southeastern edge of the former military-controlled land was retained as Federal land, due to its high wildlife value and location (connected to other USFWS-owned land).

Unlike other communities adjacent to the Bering Sea, Adak is not a CDQ community, as it was not recognized as an Alaska Native village<sup>7</sup> certified by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act (Pub. L. 92-203). This was one of the original criteria to be determined eligible under the CDQ Program, and was eventually mandated in the Magnuson-Stevens Act.<sup>8</sup> At the time of the Native village certification, Adak was still a military base, and it did not return to a civilian community until the late 1990s. Thus, Adak was not determined eligible under the CDQ Program at the time the program was established in 1992.

Since the military station closed, both the Aleut Corporation and the Adak Community Development Corporation have invested significant effort into developing Adak as a commercial center and civilian community with a private sector economy focused heavily on commercial fishing. As part of that strategy, Adak has been pursuing a broad range of fisheries for a resident fleet to be able to deliver to the shoreside processor located in Adak. Through Congressional action, Adak currently receives an exclusive community allocation of 10% of the Western AI golden king crab TAC. ACDC is the entity in Adak authorized to receive the crab allocation. The Council motion on that issue related that the purpose was to “aid in the development of seafood harvesting and processing activities within that community.” In addition, fifty percent of the class A IFQ (i.e., IFQ that must be delivered to a processor with matching IPQ) for the Western Aleutian Islands golden king crab fishery must be delivered to a shorebased or stationary floating crab processor west of 174 degrees west. Only two communities, Adak and Atka, are located within this geographic area. To address the lack of processing capacity that occurred because of the Adak plant circumstances (see next section below), an emergency action created an exemption to the regional landing requirement allowing landings from the 2009 - 2010 and 2010 - 2011 seasons to be landed outside of the western region. An amendment is intended to allow future exemptions to the regional landing requirement, but only with the consent of both of the communities of Adak and Atka.

Finally, since 2005, Adak has also received an allocation of the AI pollock fishery, which is allocated directly to the Aleut Corporation. To date, there has been very little opportunity to harvest, and thus process, the AI pollock allocation. Critical habitat issues severely constrain the fishery, and almost all pollock harvests have been under experimental fishery permits thus far.

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<sup>6</sup>Alaska DCCED, Community Database Community Information Summaries, 2010.  
<http://www.commerce.state.ak.us/dca/commdb/CIS.cfm>

<sup>7</sup>“Native village” has a specific definition in ANCSA under 43 U.S.C. 1602(c):“Native village’ means any tribe, band, clan, group, village, community, or association in Alaska listed in sections 1610 and 1615 of this title, or which meets the requirements of this chapter, and which the Secretary determines was, on the 1970 census enumeration date (as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance), composed of twenty-five or more Natives”.

<sup>8</sup>The Coast Guard and Maritime Transportation Act of 2006 removed the eligibility criteria for CDQ communities in the MSA and instead listed the 65 communities eligible to participate in the program and the CDQ group that represents each community. (Public Law 109-241, July 11, 2006.)

## Shoreside processor in Adak

Although the community of Adak receives both a crab and pollock allocation, the community has primarily been dependent on the Pacific cod fishery for the past ten years. The community has been trying to ensure that sufficient Pacific cod landings are made in Adak, in order to support the shoreside processor and help provide the year-round markets necessary for smaller vessels that participate in several fisheries. The only two communities in the Aleutian Islands management area that have shoreside processing plants are Atka (Atka Pride Seafoods) and Adak (Adak Seafood), and the plant in Atka does not currently have the capacity to process Pacific cod. The majority of cod harvested by catcher vessels in the AI has been delivered shoreside since the Adak plant opened in 1999/2000, and the vast majority of that has been delivered to Adak. For the past several years, the A season Pacific cod fishery has been the main source of income for the Adak plant, accounting for about 75 percent of plant revenue.<sup>9</sup>

The shoreside processor in Adak has realized a number of ownership changes since its establishment in 1999 as Adak Seafoods. In mid-July 2000, Norquest became a predominant partner. In January 2002, Icicle Seafoods became a relatively equal partner in the operation, which operated as Adak Fisheries, LLC. Other ownership changes ensued, although until recently, the company still operated as Adak Fisheries, LLC, and one of the two individuals who originally started the plant was still active in its ownership and operation.

A significant drop in the Pacific cod markets in 2009 affected Adak Fisheries operations. It realized a substantial reduction in the price per ton paid for frozen head and gut cod product compared to 2008, a trend which is not limited to Adak Fisheries. As the market dropped, many customers backed out of their pre- and in-season offers. As a result, sales of product from Adak Fisheries were well below pre-season expectations, and much of the 2009 product is in cold storage. Adak Fisheries was unable to pay for all fish delivered in the Pacific cod State water A season and Federal B season in 2009. At the same time, Adak Fisheries did not pay its power bill in full, so power was shut off to the plant in the spring of 2009. Power is supplied by TDX, a power production and distribution company owned by an Alaska Native village corporation.<sup>10</sup> In effect, the plant has essentially been in hibernation mode, using generators to keep limited power to the building. Adak Fisheries essentially stopped processing after the 2009 Federal Pacific cod B season and the start of the State waters Pacific cod A season (mid-April).

In early August 2009, a different company assumed majority ownership of Adak Fisheries, and in early September, Adak Fisheries officially filed for Chapter 11 bankruptcy.<sup>11</sup> On November 10, 2009, the United States Bankruptcy Court approved the sale of the plant to a new company, Adak Seafood, LLC, with the original terms of the offer and including other provisions.<sup>12</sup> The sale included Adak Fisheries' fish processing equipment and other personal property housed in a building owned by Aleut Enterprises and leased to Adak Fisheries. The sale included provisions for Adak Seafood to pay specific debts and tax obligations, but aside from the primary creditor (Independence Bank), there are several other entities whose claims and liens did not attach to the sale. The order granting the sale notes that the only other offer or expression of interest in the plant was from Trident Seafoods Corporation.<sup>13</sup>

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<sup>9</sup> *Comprehensive Baseline Commercial Fishing Profiles: Sand Point, Adak, St. Paul, and St. George, Alaska*, prepared for the NPRB and NPFMC by EDAW, June 2008.

<sup>10</sup> Tanadgusix Corporation (TDX) is an Alaska Native village corporation created under the Alaska Native Claims Settlement Act of 1971, to provide economic well-being for the indigenous peoples that resided in the village of St. Paul, Alaska.

<sup>11</sup> Source: Seafoodnews.com.

<sup>12</sup> Order Granting Debtor's Application to Sell Adak Plant Free and Clear of Liens, Case No. 09-00623 DMD, U.S. Bankruptcy Court for the District of Alaska, November 10, 2009.

<sup>13</sup> The Court noted that Trident Seafoods expressed an interest in purchasing certain assets, and after adjustment for differences between two offers (Adak Seafood and Trident Seafoods), Adak Seafood's offer was millions of dollars higher. Trident Seafoods offered \$2 million for the assets of Adak Fisheries, and its offer did not include assumption of the \$6.7 million of debt owed to

Adak Seafood, LLC, is a newly-formed Delaware limited liability company affiliated with Drevik International. Kjetil Solberg, former owner of Adak Fisheries, is the majority (51%) owner of the company, and Drevik owns 49%.<sup>14</sup> Aleut Enterprises, LLC, had objected to the sale, in part on the grounds that the building's lease would expire on December 31, 2009 and that the deadline for extending the lease had passed.<sup>15</sup> Under the order, the terms of the lease of the building, from Aleut Enterprises to the new owner, Adak Seafood, stay the same, including the expiration on the lease. In sum, the lease expired on December 31, 2009, and complaints remained before the Court for most of 2010 with regard to the validity of the lease between Aleut Enterprises and Adak Seafood, with Aleut Enterprises suing to evict Adak Seafood. However, in October 2010, staff was made aware that the companies had settled the lawsuit and negotiated a new lease agreement, the details of which were not provided.<sup>16</sup>

Given these circumstances, it remains uncertain whether a shorebased plant will be operational in Adak in the near or long-term future. As mentioned previously, the plant stopped taking deliveries after mid-April in 2009. However, it did receive limited landings in 2010: four vessels made eleven landings of Pacific cod, all of which were in late February and March (the harvest data are confidential). No subsequent landings have been reported as of November 2010. In the interim, ACDC has purchased a building in Adak from which individual catcher-sellers can store and pack halibut and sablefish for shipping by air to Anchorage. The intent is to allow local, small boat fishermen the ability to continue working out of Adak. The market opportunity, however, is limited by the capacity of the aircraft, which can ship about 10,000 lbs twice a week.<sup>17</sup>

Adding to the uncertainty is the potential impact of the draft Steller sea lion Biological Opinion (BiOp) released by NMFS in August 2010. The BiOp concludes that the status quo BSAI and GOA groundfish fisheries jeopardize the continued existence of the endangered western Distinct Population Segment of Steller sea lions and adversely modify its designated critical habitat. In the draft BiOp, NMFS outlined a reasonable and prudent alternative (RPA) that would modify management of the groundfish fisheries, intended to ensure that the fisheries do not result in jeopardy or adverse modification. The primary elements of the draft RPA significantly restrict the Pacific cod and Atka mackerel fisheries in the Aleutian Islands, with Area 543 (western AI) closed to both fisheries entirely. As a season (February - April) catcher vessel deliveries of AI Pacific cod have been a mainstay of the shoreside processor in Adak for several years, staff expects that the draft RPA would have a substantial impact on the viability of the processor.

Note that NMFS proposed revisions to the draft RPA in October 2010, and NMFS' final draft RPA is scheduled for presentation to the Council at this December 2010 Council meeting. Until the final RPA is selected and analyzed, it is not possible to speculate as to the potential reduction in Pacific cod landings in the Aleutian Islands, and thus, the potential effect on the shoreside processor in Adak. However, the EA/RIR supporting the August 2010 draft BiOp provides estimates of the reduction in Pacific cod catch for catcher vessels delivering to motherships and shoreside processors in the AI, based on the original draft RPA. The estimated average reduction across the entire AI, based on 2003 – 2009 harvest data, is 36%. In Area 541 in particular, where the majority of the catcher vessel effort is focused (around Adak and Atka), the estimated average reduction is 27%.<sup>18</sup> Effort in Areas 542 and 543 is largely by catcher

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Independence Bank. Memorandum Regarding Potential Acquisition, No. 09-00623 DMD, U.S. Bankruptcy Court for the District of Alaska, November 5, 2009.

<sup>14</sup> Testimony by Drevik at November 10, 2009, hearing on Case No. 09-00623 DMD.

<sup>15</sup> Aleut Enterprises, LLC's Objection to Debtor's Motion to Sell Adak Fish Plant, Case No. 09-00623 HAR, U.S. Bankruptcy Court for the District of Alaska, November 5, 2009.

<sup>16</sup> Fraser, D., personal communication, October 11, 2010.

<sup>17</sup> Fraser, D., personal communication, August 4, 2010.

<sup>18</sup> August 2010 Draft Biological Opinion: Effects of the Groundfish Fisheries off Alaska on ESA Listed Species Including the Western DPS of Steller Sea Lions, NOAA Fisheries. Table 10-33, p. 10-44.

vessels delivering to motherships. The impact of the AI Pacific cod restrictions on industry, including the Adak processor, will depend on the scope of the final RPA, and whether catcher vessel Pacific cod effort will shift to Area 541 or the Bering Sea. If the catcher vessel fleet is unable to fully harvest the CV Pacific cod allocations, it is expected that Pacific cod quota would be reallocated to the C season and likely harvested by fixed gear catcher processors.

QS holdings by Adak residents

Residents of Adak were not issued any halibut or sablefish QS at the start of the IFQ Program in 1995, meaning no residents met the qualifying criteria and received an initial allocation. Table 1 shows the amount of halibut and sablefish QS in any area held by Adak residents, from 2000 through July 2010. The table shows that halibut holdings were acquired in 2007, and sablefish holdings in 2008. Data through July 2010 indicate that residents of Adak held a total of 231,248 halibut QS units in Area 4B, and 57,246 halibut QS units in Area 4A. Combined, this represents 52,182 halibut IFQ pounds in 2010. They also held 335,025 sablefish QS units in the AI and 116,401 QS units in the Central Gulf, which equates to 37,304 sablefish IFQ pounds in 2010.

**Table 1 QS holdings by Adak residents at initial issuance and since 2000**

Year	Area	Vessel category	QS units
<b>Halibut</b>			
Initially issued (1995)			0
2007	4B	B	36,861
	4B	D	7,293
<b>2007 total</b>			<b>44,154</b>
2008	4A	B	21,042
	4A	C	36,204
	4B	B	98,938
	4B	C	62,885
	4B	D	7,293
<b>2008 total</b>			<b>226,362</b>
2009	4A	B	21,042
	4A	C	36,204
	4B	B	268,109
	4B	D	7,293
<b>2009 total</b>			<b>332,648</b>
2010	4A	B	21,042
	4A	C	36,204
	4B	B	231,248
<b>2010 total</b>			<b>288,494</b>

Year	Area	Vessel category	QS units
<b>Sablefish</b>			
Initially issued (1995)			0
2008	AI	C	99,140
	CG	C	116,401
<b>2008 total</b>			<b>215,541</b>
2009	AI	C	99,140
	CG	C	116,401
<b>2009 total</b>			<b>215,541</b>
2010	AI	B	235,885
	AI	C	99,140
	CG	C	116,401
<b>2010 total</b>			<b>451,426</b>

Source: NMFS RAM Program, August 2010. Note that 2010 data are through July. Data are not provided for years in which no holdings were attributed to Adak residents (2000 – 2006 for halibut; 2000 – 2007 for sablefish).

As of July 2010, Adak residents hold the equivalent of about 2.5% of the Area 4B halibut QS pool, and about 1.1% of the AI sablefish QS pool. All of the halibut QS held is B and C category. The distribution of all Area 4B halibut QS and AI sablefish QS, by vessel category and community, is provided in **Appendix 2**.

**Proposed problem statement**

The ACDC proposal included both a problem statement and a suite of alternatives and options for consideration. The original proposal is attached in entirety as **Appendix 3**. The Council discussion noted that the proposal should serve as a starting point, for evaluation in this discussion paper. The proposed problem statement is provided below. Should the Council initiate a formal analysis of the proposal, it would need to approve a problem statement.

## Proposed Problem Statement:

*As a small coastal community in the Aleutian Islands, Adak is struggling to remain economically viable. The halibut and sablefish IFQ program, as with other limited entry programs, increases the cost of entry into or expansion in the commercial halibut and sablefish fisheries. Adak is not a beneficiary of the CDQ program for halibut and sablefish. Allowing this non-CDQ community to purchase Area 4B halibut and sablefish quota share for lease for delivery in the region will help minimize adverse economic impacts on this small, remote, coastal community in the Aleutians, and help provide for the sustained participation in the halibut and sablefish IFQ fisheries. The Council seeks to provide for this sustained participation without undermining the goals of the halibut and sablefish IFQ program or precluding entry-level opportunities for fishermen residing in other fishery-dependent communities.*

## Proposed alternatives and discussion

The ACDC proposal was developed to address all of the elements of the original CQE Program. If the Council initiates an analysis consistent with this proposal, analysts would evaluate all of the options below to comprise the action alternative to develop a CQE-type program for Area 4B communities. The status quo (no action alternative) would also be analyzed.

Each element of the proposal is provided below, with staff discussion following each element. The discussion provides a brief evaluation of the ACDC proposal for each element, as well as a comparison with the existing requirements and elements of the CQE Program in the Gulf of Alaska.

### 1. Eligible communities

*Non-CDQ communities [located in Area 4B] with less than 1,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation in the halibut or sablefish fisheries are eligible to own and use commercial catcher vessel halibut and sablefish quota share. The community of Adak would qualify under these criteria. The Council required that in addition to meeting these criteria at final action, eligible communities must be listed as a defined set of eligible communities in Federal regulation. Communities not meeting the qualifying criteria and not on the list adopted by the Council are not eligible to participate. Other communities could petition the Council for inclusion after the implementation of this program. [staff addition]*

The proposed criteria to be an eligible community in Area 4B mirror that of the existing CQE Program in the Gulf of Alaska, with the exception of the location. The proposed program is intended for IPHC management Area 4B communities; thus, staff added that explicitly to the language above. The criteria are also explicit about applying to non-CDQ communities. It is assumed that CDQ communities in the BSAI would not need such a program, as they receive direct allocations of halibut and sablefish catcher vessel quota share through their representative CDQ groups.

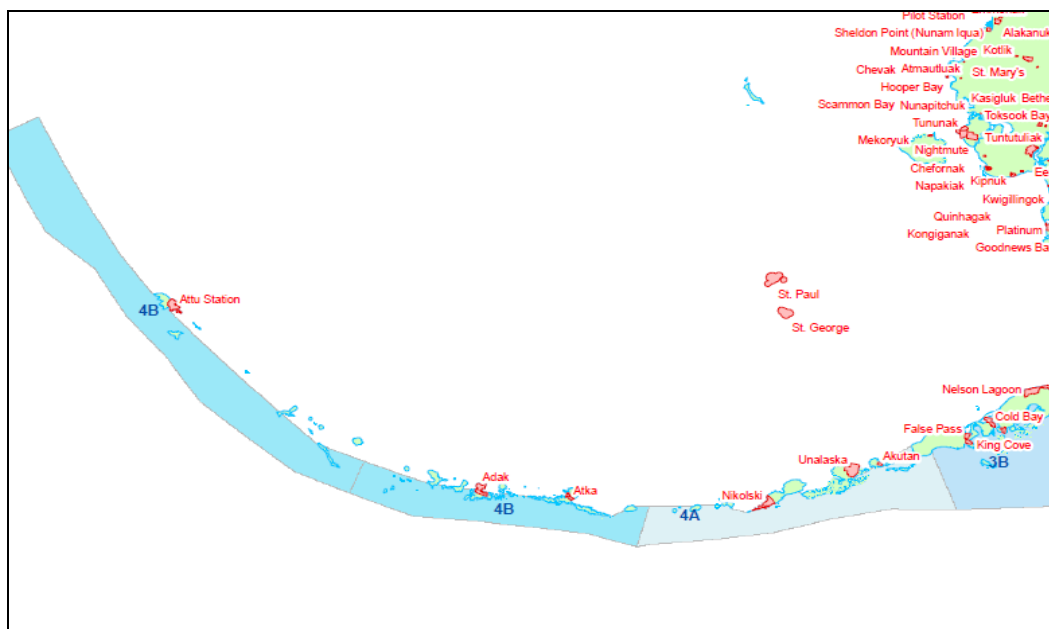
If forwarded for analysis, the Council would need to specify whether ‘documented historic participation in the halibut and sablefish fisheries’ is intended to be interpreted the same as was implemented under the original CQE Program. Federal regulations implementing that program specify that residents of the community must have at least one commercial landing of halibut and/or sablefish, as documented by the Commercial Fisheries Entry Commission (CFEC) during 1980 – 2000.<sup>19</sup> The Council would also need to specify whether the population criterion would exactly mirror the existing CQE Program. The Gulf program requires that communities must have had a population of no less than 20 and no more than 1,500 according to the 2000 U.S. Census. This means that the community must be recognized by the U.S.

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<sup>19</sup>See the final rule for GOA Am. 66: <http://www.fakr.noaa.gov/frules/fr23681.pdf>.

Census, as either an incorporated place (city) or a census designated place. At the time of the original CQE Program, the 2000 U.S. Census was the best available demographic data. Depending upon the timing of a new analysis, the Council may want to consider whether to use the 2010 U.S. Census.

In brief, there are only three communities recognized by the U. S. Census in Area 4B: Atka, Adak, and Attu Station (Figure 1). Adak is a CDQ community, so would not be eligible under the proposed program. Attu Station is a Coast Guard station on the northeast coast of Attu Island, on the far western end of the Aleutian Chain. The Alaska Community Information Summaries report that Coast Guard personnel live in a group quarters facility, and that there are no families stationed at Attu. The 2000 U.S. Census reports a population of 20; the Alaska population trends reported by the Census Bureau do not provide a more recent population estimate, and the 2010 Census information is not yet available. Attu may not meet the population criteria, and it does not meet the halibut or sablefish landings criteria according to CFEC.



**Figure 1** Communities located in IPHC Area 4B

Thus, the only potentially eligible community in Area 4B under the proposed action would be Adak. Adak is not a CDQ community; has a 2000 U.S. Census population of 316; does not have road access to a larger community; has direct access to saltwater; and a documented historic participation in the commercial halibut or sablefish fisheries. A preliminary evaluation of halibut and sablefish permit activity, per CFEC records, indicates that several halibut permit holders identify Adak as their city of residence during the 1980 – 2000 timeframe. More recently than 2000, there are halibut and sablefish permit holders reported, with the requisite commercial landings (refer to Table 1 for QS holdings).

## 2. Ownership Entity

*The Council recommends that a non-profit organization formed for the purpose of holding the Adak Community Allocation of WAG crab also be eligible for purchasing and holding QS on behalf of the community.*

The Gulf CQE Program is premised on the ability of a non-profit entity to purchase and hold halibut and sablefish catcher vessel QS on behalf of a community, for lease to and use by community residents. The



intent is to provide a long-term asset to use for individual and community benefit, which cannot be sold unless it betters the community's position in the program. Individual QS holders can leave the community, sell their quota share, or otherwise act in their best interest. This program is intended to ensure that some level of access remains for community residents in the long-term.

This element dictates the entity eligible to purchase and hold halibut and sablefish on behalf of the community. The proposal specifies that the non-profit corporation formed for the purpose of holding the crab allocation to Adak (ACDC) also be eligible for purchasing and holding QS on behalf of Adak.<sup>20</sup> The original CQE Program requires that communities form a new non-profit entity (as of 2004) for the purpose of holding QS. The requirement to form a 'new' entity was based on the idea that a corporation should be formed whose primary interest is fisheries development, as opposed to using an existing organization which may have several, differing purposes.

The bylaws of ACDC state that all funds of the corporation shall be "dedicated to the promotion and development of fisheries related resources, infrastructure and assets for the benefit of the community of Adak, Alaska." This non-profit was formed to develop a fisheries plan for the community, and submitted this proposal to the Council to serve that purpose. Because the proposal is premised on the idea that ACDC would use its crab royalties to purchase Area 4B halibut and AI sablefish QS, and because ACDC was formed for a purpose consistent with that envisioned under the CQE Program, it seems appropriate to consider allowing ACDC to purchase and hold halibut and sablefish QS. However, should ACDC dissolve for some reason, the language proposed above does not provide for another entity to represent the community for the purpose of the CQE Program.

Under the existing CQE Program, a governing body in the community must approve the CQE to operate on behalf of the community for the purposes of the program. Because Adak is incorporated, it is the City of Adak that would need to approve the use of ACDC as the CQE, prior to its participation in the program.

### 3. Individual Community Use Caps

*Eligible communities in Area 4B are limited to purchasing and using 10% of the Area 4B halibut QS, and 10% of Aleutian Islands sablefish QS. Eligible communities in Area 4B cannot buy halibut QS in any other area.*

### 4. Cumulative Community Use Caps

*Communities are limited to owning and using 10% of the Area 4B halibut QS and 10% of the AI sablefish QS, unless modified by the Council.*

Elements 3 and 4 limit the amount of halibut and sablefish QS that each eligible community (CQE) could purchase and hold, and the amount that all eligible communities could hold combined, respectively. Because Adak is the only potentially eligible community, the same use caps would serve as both an individual community limit and a cumulative community limit. If additional communities were determined eligible in the future and added to the program through Federal regulations, they would be subject to the same limits.

The existing Gulf CQE Program establishes individual community use caps that are the same as the use caps applicable to individual holders: Gulf CQEs are limited to 1% of Area 2C halibut QS and 0.5% of

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<sup>20</sup>ACDC has applied for 501(c)(4) status and is awaiting IRS response. Personal communication, D. Fraser, August 11, 2010.

the combined Area 2C, 3A, and 3B halibut QS. They are also limited to 1% of Southeast sablefish QS and 1% of all combined sablefish QS. The existing use caps for individuals and CQEs equate to the following:

**Table 2 2010 quota share use caps**

Use Cap	2010 QS Use Cap	Equivalent 2010 IFQ lbs
<b>Halibut</b>		
1% of 2C quota	599,799 QS units	44,316 IFQ lbs
0.5% of 2C, 3A, 3B	1,502,823 QS units	111,036 lbs if all 2C quota <sup>1</sup> ; 162,464 lbs if all 3A quota; 274,483 lbs if all 3B quota
1.5% of Area 4 quota	495,044 QS units	92,134 lbs if all Area 4B (example)
<b>Sablefish</b>		
1% of SE quota	688,485 QS units	59,225 IFQ lbs
1% of all quota	3,229,721 QS units	230,017 lbs if all CG; 277,828 lbs if all SE <sup>2</sup> ; 262,442 lbs if all WG; 188,478 lbs if all WY quota

Source: NMFS RAM Program. February 2010.

<sup>1</sup>Note that the Area 2C halibut use cap (44,316 lbs) is also in place, so 111,036 lbs is only a theoretical example.

<sup>2</sup>Note that the SE sablefish use cap (59,225 lbs) is also in place, so 277,828 lbs is only a theoretical example.

Note: Only the Gulf QS use caps apply to the existing CQE Program, as this program is limited to Area 2C, 3A, and 3B.

As the proposal limits purchases to Area 4B halibut and AI sablefish QS, it is assumed that the only existing use caps that are relevant for comparison are the 1.5% of Area 4 halibut quota (495,044 QS units) and the 1% of all sablefish QS (3.23 million QS units). There are not existing use caps specifically limiting the amount of Area 4B halibut QS or AI sablefish that a person can purchase. The proposed use caps for a CQE representing Adak equate to the following (Table 3):

**Table 3 Proposed Area 4B CQE use caps, using 2010 QSP and TAC**

Halibut	Area 4B QS pool	10% of QS pool (proposed use cap)	Equivalent 2010 IFQ lbs
		9,284,774 QS	928,477 QS units
Sablefish	Aleutian I. QS pool	10% of QS pool (proposed use cap)	Equivalent 2010 IFQ lbs
		31,617,341 QS	3,161,734 QS

In brief, the proposal recommends a slightly more restrictive use cap on AI sablefish than the existing use caps for sablefish, in terms of the number of QS units that could be purchased. The existing use cap is 1% of all sablefish QS (3.23 million QS units). In effect, under the existing IFQ Program, an individual could purchase up to 3.23 million units of sablefish QS, all in the AI area. The proposed Area 4B CQE Program would establish a slightly lower cap of 3.16 million QS units for CQEs purchasing AI sablefish QS. Thus, the proposed sablefish use cap is comparable to the existing cap for individuals, with the added condition that Area 4B CQEs could only hold AI sablefish QS.

In contrast, the proposal recommends an Area 4B halibut quota share use cap (928,477 QS units) for CQEs that is greater than the Area 4 combined use cap in place for individual holders currently (495,044 QS units). As stated previously, there is no halibut use cap specific to Area 4B in place for individuals currently, thus, there is no truly applicable comparison. However, the proposed use cap for Area 4B halibut is almost twice the halibut QS cap to which individual holders are subject in Area 4 combined. In testimony in February 2010, ACDC noted that both use caps were proposed because they were similar, in terms of pounds, to the caps established for Gulf CQEs. In 2010, 928,477 QS units of Area 4B halibut equates to 172,801 lbs, which is in the range of the number of halibut pounds that each Gulf CQE can purchase (see Table 2). Note, however, as TACs change over time, this may not always be the case. This is the primary reason for establishing use caps in QS units, as opposed to pounds.

In considering appropriate use caps, the Council may also want to consider whether the halibut and sablefish TACs in the specified areas are fully prosecuted. Table 4 provides the most recent five full years of Area 4B halibut and AI sablefish allocations and landings. On average (2005 – 2009), about 48% of the AI sablefish allocation has been harvested, and about 89% of the Area 4B halibut allocation.

**Table 4 Area 4B IFQ allocations and landings, 2005 - 2009**

Year	Vessel landings	Catch (in million lbs)	Allocation (in million lbs)	% of allocation harvested
<b>Area 4B Halibut</b>				
2009	67	1.23	1.50	82%
2008	97	1.36	1.49	91%
2007	88	1.09	1.15	94%
2006	78	1.22	1.34	91%
2005	93	1.60	1.81	88%
Ave 05 - 09		6.50	7.28	89%
<b>AI Sablefish</b>				
2009	98	1.66	2.91	57%
2008	94	1.42	3.23	44%
2007	75	1.61	3.72	43%
2006	87	1.54	3.97	39%
2005	101	2.09	3.47	60%
Ave 05 - 09		8.32	17.29	48%

Source: NMFS RAM Program reports, 2005 – 2009.

In sum, the proposed sablefish use caps align with the use caps established under the existing IFQ and CQE Program. The proposed halibut use caps align well when compared to the 2010 IFQ pounds that Gulf CQEs are allowed to purchase in the Gulf, but are almost double the number of QS units that an individual is allowed to purchase in Area 4 under the existing IFQ Program. It is a Council policy decision as to whether a non-profit entity in Area 4B would be allowed to hold up to 10% of the Area 4B halibut QS and up to 10% of the AI sablefish QS, considering the proposed problem statement.

#### 5. Purchase, Use and Sale Provisions

*Original block and vessel size designations apply if the community transfers the QS to any person other than another eligible community. These restrictions would help ensure that the goal of providing access to local residents is maintained and limit the potential for QS to be leased to larger vessels, presumably owned by non-residents fishing further from shore.<sup>21</sup> These restrictions would also address an array of concerns about the distribution of QS among prospective new community entities and existing or future individual participants.*

#### **Block Restrictions**

- *Communities may buy blocked and unblocked quota share.*
- *Individual eligible communities are limited to holding 10 blocks of halibut QS and 5 blocks of sablefish QS in the management area. Individuals receiving IFQ leased from an eligible community entity would still be subject to the existing individual use caps in regulation.*

The proposed block restrictions would allow an Area 4B CQE to hold both blocked and/or unblocked QS, and would allow the CQE to purchase up to 10 blocks of halibut QS in Area 4B and up to 5 blocks of AI sablefish QS. Table 5 shows that the majority of the total Area 4B halibut QS is B category (77%) and the majority of the *catcher vessel* QS (B, C, and D category) is unblocked (63%). There are currently 104

<sup>21</sup>If a requirement to lease CQE-held QS to residents is not included, the Council may want to consider removing this sentence to avoid confusion.

blocks of catcher vessel halibut QS in Area 4B. In effect, 10 of the existing 104 blocks of halibut QS (<10%) could theoretically be purchased by a CQE representing Adak. The remaining blocks could only be purchased by individuals or initial issues.

**Table 5 Area 4B halibut QS, by blocked status and vessel category, 2010**

Vessel category	Blocked status	QS units	Number of blocks <sup>1</sup>	% of total
A	B	183,431	6	2%
A	U	370,058	2	4%
B	B	1,922,264	54	21%
B	U	5,192,262	32	56%
C	B	958,098	32	10%
C	U	389,665	3	4%
D	B	268,996	18	3%
Total		9,284,774		100%

Source: NMFS RAM Program, data as of 8/11/10. B = blocked QS; U = unblocked QS.

<sup>1</sup>Indicates number of blocks if blocked QS, or separate consecutively numbered ranges of unblocked QS if unblocked.

Table 6 provides the same information for AI sablefish QS. About 56% of the total AI sablefish QS is A category (catcher processor), and the remaining 44% is B and C category (77%). Of the catcher vessel QS, the majority is unblocked (82%). Unblocked catcher vessel QS makes up 36% of the total AI sablefish QS. There are currently 61 blocks of catcher vessel sablefish QS in the AI area. In effect, 5 of the existing 61 blocks of sablefish QS (8%) could theoretically be purchased by a CQE. The remaining blocks could only be purchased by individuals or initial issues.

**Table 6 Aleutian Islands area sablefish QS, by blocked status and vessel category, 2010**

Vessel category	Blocked status	QS units	Number of blocks <sup>1</sup>	% of total
A	B	461,058	9	1%
A	U	17,491,225	24	55%
B	B	1,226,924	34	4%
B	U	10,092,709	16	32%
C	B	1,320,778	27	4%
C	U	1,339,798	7	4%
Total		31,932,492		100%

Source: NMFS RAM, data as of 8/11/10.

<sup>1</sup>Indicates number of blocks if blocked QS, or separate consecutively numbered ranges of unblocked QS if unblocked.

The block restrictions proposed are the same as those in place under the Gulf CQE Program, with one omission. The existing CQE Program also prohibits CQEs from purchasing blocked halibut QS in Area 2C and 3A, which at the time of the implementation of the sweep-up provisions (1996), was less than or equal to 5,000 IFQ lbs.<sup>22</sup> The same restriction applies to blocks of sablefish QS in SE, WY, CG and WG. This measure was originally intended to allow some community purchase of blocked QS while preserving the smallest, and least costly, blocks for individual holders and new entrants. The proposed options for the Area 4B CQE do not include this prohibition, and would allow a CQE to purchase any level of blocked QS.

<sup>22</sup>See 50 CFR 679.41(e)(5). The sweep-up limits denote the maximum number of QS units that may be consolidated into a single block. The original CQE block restriction prohibited CQEs from purchasing halibut blocks ≤3,000 lbs (the sweep-up level). However, the sweep-up level for Area 2C and 3A halibut shares changed from 3,000 lbs to 5,000 lbs equivalents (using 1996 quota share pool) in 2007. Thus, the CQE restriction changed accordingly.

The current sweep-up limit for Area 4B halibut QS is 15,087 QS units, meaning that is the maximum number of QS units that may be consolidated into a single block in Area 4B. The sweep-up limit for AI sablefish QS is 99,210 QS units (Table 7). Thus, if the Council wanted to adopt a provision similar to what is in place for Gulf CQEs, these are the limits that would apply. For reference, in 2010 IFQ lbs, 15,087 Area 4B halibut QS units equates to about 2,800 lbs, and 99,210 AI sablefish QS units equates to about 8,600 lbs. In effect, an Area 4B CQE would be prohibited from purchasing blocks of quota share less than or equal to these amounts (Table 7).

**Table 7 Sweep-up limits for Area 4B halibut QS and AI sablefish QS**

Area/species	Sweep-up limit	Equivalent 2010 IFQ lbs	Number of blocks > the sweep-up limit
Area 4B halibut QS	15,087 QS units in Area 4B	2,808 lbs	72 of 104 blocks
AI sablefish QS	99,210 QS units in AI	8,592 lbs	4 of 61 blocks

Source: 50 CFR 679.41(e)(2) and (3). NMFS RAM Program: 2010 QSPs and IFQ TACs.

NMFS RAM data show that 72 of the 104 existing Area 4B halibut catcher vessel QS blocks equate to a number of QS units that exceed the sweep-up limit (about two-thirds). If the Council is concerned with preserving the smallest blocks of Area 4B halibut QS for individuals, it could establish a restriction on the block size that CQEs could purchase equal to the current sweep-up limit.

In contrast, only 4 of the 61 blocks of AI sablefish catcher vessel QS blocks exceed the sweep-up limit. Thus, implementing a restriction on the size of the block a CQE could purchase equal to the sweep-up limit would essentially prevent the ability of a CQE to purchase blocked sablefish QS. Since only about half of the AI sablefish TAC is harvested on average, and the vast majority of the blocks are less than the sweep-up limit, it appears counter-productive to establish a restriction on the sablefish block size that CQEs could purchase.

### ***Vessel Size Restrictions***

- *Quota share held by communities under this program would be exempt from vessel size (share class) restrictions, while the QS is owned and leased by the community.*
- *Transferability of halibut QS in Area 4B from commercial to qualified community entities is restricted to B and C category quota share.*

The proposed vessel size restrictions mirror the existing Gulf CQE provisions. The vessel size categories would not apply to the QS when it is held and used by the CQE, but they would be retained if the CQE permanently transfers the QS to an individual. This provision was intended to provide more flexibility to CQEs in the use of the QS, recognizing that some communities would have very few vessels which could lease the shares. If the QS are eventually transferred to a non-CQE, the original categories apply.

These provisions would also restrict the Area 4B CQE from purchasing the smallest vessel size category of halibut QS (D shares), for use on vessels <35' or less. This provision is consistent with the existing CQE Program for halibut QS in Area 3A and 2C. The primary reason this was implemented under the Gulf CQE Program was to reserve the type of shares for the smallest class of vessels, and the least costly type of QS, for individuals and new entrants. Because B and C shares can now be 'fished down' on D category vessels, the issue is not one of matching the QS category to the actual vessel size category. Instead, it is primarily a cost and QS availability issue. While the price of halibut QS in Area 4B is typically less than half of that in Area 2C or 3A, this provision would still reserve the least costly type of QS for individuals in Area 4B, and prevent CQEs from purchasing such shares. The most recent RAM data indicate that B and C category halibut QS in Area 4B were about \$10.16 and \$10.80 (mean price per

IFQ lb) in 2009.<sup>23</sup> While the 2009 mean price of D category IFQ cannot be provided due to confidentiality, previous years indicate a trend toward a lower price than B and C shares.

Referring back to Table 5, D shares comprise only 3% of the total catcher vessel QS available in Area 4B, and 18 of the 104 catcher vessel blocks. If this provision was selected, an Adak CQE would not be eligible to purchase D category halibut QS in Area 4B. The CQE could, however, purchase B and C category halibut QS for use on any size vessel, as vessel size restrictions would not apply when the QS was held and used by a CQE.

Note the Council is currently considering amending Federal regulations to allow CQEs representing communities in IPHC Area 3A to purchase Area 3A D category halibut quota share, with specified limitations. The proposed action is primarily motivated by the lack of participation in the CQE Program to-date, given the high cost of QS and limited financing opportunities. Under the proposed action, the existing restriction prohibiting CQEs from holding D category halibut QS in Area 2C would remain. Initial review of this analysis is scheduled for the December 2010 Council meeting.

### ***Sale Restrictions***

- *Eligible communities owning catcher boat (B, C, D category) quota shares may sell those quota shares to any other eligible community or any person meeting the provisions outlined in the existing IFQ Program.*
- *Eligible communities may only sell their quota share for one of the following purposes:*
  - (a) generating revenues to sustain, improve, or expand the program*
  - (b) liquidating the entity's quota share assets for reasons outside the program*

*Should an eligible community sell their quota share for purposes consistent with (b) above, an administrative entity would not be qualified to purchase and own quota share on behalf of that community for a period of three years.*

The sale restrictions proposed mirror those in the existing CQE Program. A CQE may only sell its catcher vessel QS to another eligible CQE in the program, or to an individual or initial issuee eligible under the IFQ Program rules. Because Adak is the only community potentially eligible under the proposed program, its CQE would only be able to sell QS to persons eligible under the existing IFQ Program. They could not sell Area 4B halibut QS or AI sablefish QS to any of the 42 Gulf of Alaska communities eligible under the Gulf CQE Program, as those communities are prohibited from purchasing QS outside of the Gulf. Similar to the original program, these provisions are intended to influence the community to hold the QS as a long-term asset, to provide access to and benefits from the fisheries over time.

### ***Use Restrictions***

- *Eligible communities owning quota shares may lease the IFQs arising from those quota shares for delivery in the region.*
- *An eligible community owning catcher boat quota shares may lease up to 50,000 pounds of halibut IFQs and 50,000 pounds of sablefish IFQs per lessee annually. The 50,000 pound limit is inclusive of any quota owned by the individual (lessee).*
- *No more than 50,000 pounds of any IFQs leased by an eligible community may be taken on any one vessel, inclusive of any IFQ owned by the individual leasing the IFQs.*

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<sup>23</sup>NMFS RAM Program data, August 2010. Update of Table 3-3 from the Transfer Summary Report: Changes under Alaska's Halibut IFQ Program, 1995 – 2006. NOAA, NMFS AKR, RAM Program, January 2009.

The use restrictions proposed are also consistent with the Gulf CQE Program, with one exception. Currently, Gulf CQEs are only allowed to lease halibut and sablefish QS to *eligible residents* of the community the CQE represents. For the purposes of the program, an eligible resident is an individual that affirms that he or she has maintained a domicile in the community from which the IFQ is leased for twelve consecutive months immediately preceding the time when the assertion of residence is made. The resident must also be qualified to receive QS and IFQ by transfer under existing regulations, meaning that they must be a U.S. citizen and an IFQ crew member.<sup>24</sup> Note that this does not mean that a person must have been physically located in the community for 12 consecutive months in order to be a resident; however, the person must have established a domicile in the community for 12 consecutive months and may not be a resident of any other community. The Council recommended this provision to explicitly tie the potential benefits of QS held by a CQE to the residents of the community.

**The proposed program for Area 4B communities does not include a requirement that CQE-held QS is leased to and fished by community residents, and this is the primary departure from the existing CQE Program.** The proposal instead requires that the halibut and sablefish resulting from CQE-held QS be delivered ‘in the region.’ The proposed problem statement explicitly states: “Allowing this non-CDQ community [Adak] to purchase Area 4B halibut and sablefish quota share for lease for delivery in the region will help minimize adverse economic impacts on this small, remote, coastal community in the Aleutians, and help provide for the sustained participation in the halibut and sablefish IFQ fisheries.”

Staff has interpreted this provision to mean that halibut and sablefish derived from CQE-held QS could be delivered to any community in Area 4B, whether or not that community was eligible under the new program. In effect, halibut and sablefish could be delivered to either the shoreside processor in Adak or Atka. The processor in Atka primarily processes halibut and sablefish, and the Adak processor has historically focused on Pacific cod, some halibut and sablefish, and smaller amounts of Atka mackerel, Pacific Ocean perch, and other groundfish. Staff assumes that delivery to catcher processors and/or motherships operating within the region would be prohibited, but the Council should clarify this point if a formal analysis is initiated. It should also clarify whether delivery to stationary floating processors would be allowed.

The proposal notes that the community of Adak would benefit from both having residents fish the CQE-held quota share, and providing product to the plant located in Adak. However, ACDC wanted the flexibility to lease the QS to non-residents, should resident fishermen not be available. In addition, the proposers note that allowing Adak to become a CQE would work in conjunction with the AI state water Pacific cod fishery, which is allocated 3% of the BSAI Pacific cod allowable biological catch. Halibut and sablefish IFQ could be leased to fishermen participating in the small boat Pacific cod fishery and delivering to Adak, to address halibut bycatch in that fishery. While many of these vessels have delivered Pacific cod to Adak in the past, they are not all Adak residents.

The CFEC data from 2001 - 2010 show a few permits and permit holders as residents of Adak, for both halibut and sablefish. In 2009, it shows that there were 3 Adak residents holding 8 permits, the landings and earnings from which are confidential.

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<sup>24</sup>To be an IFQ crew member, one must either have received QS upon initial issuance or have 150 days of experience onboard a vessel working as part of the harvesting crew in a U.S. commercial fishery.

**Table 8 CFEC permit and fishing activity for Adak, 2009**

<b>Fishery</b>	<b># permit holders</b>	<b># permits issued</b>	<b># fishermen who fished</b>	<b># permits fished</b>
Halibut	3	3	2	2
Sablefish	2	2	1	1
Other groundfish	2	3	1	1
Total combined	3	8	2	4

Source: CFEC permit and fishing activity by year, state, census area, or city, 2009.

City and state of residence is based on the address and residency claimed year-end permit holder when issued the permit.

Note that Gulf CQEs have reported that the residency requirement is an obstacle in the existing program, and this issue was documented in the March 2010 CQE Program review. The residency requirement was also cited as an issue at a February 2009 CQE workshop, and submitted as an IFQ proposal during the recent call for proposals, for consideration by the Council in February 2010.<sup>25</sup> No Council action has been proposed to-date to modify this requirement. One of the primary objectives of the CQE Program is to provide an opportunity for employment and fishing effort in CQE communities that have realized a transfer of QS out of their communities, thus, many CQE communities want to attract resident fishermen back to their communities, including young fishermen. The 12 month residency requirement is noted as a barrier as communities attempt to provide fishing opportunities as an incentive for residents to return to the community, as leasing from the CQE would not be possible for 12 months.

In addition, this requirement may be difficult to meet in some small communities, including Adak, as many of those communities do not have year-round economies, effectively requiring residents to live outside of the community for a period or season, even if their principal home is in the community. Note that this requirement has been interpreted by many to preclude a person from taking advantage of leasing QS from a CQE until the individual has physically lived in the community for 12 continuous months. However, the current regulations require that the individual has *maintained a domicile* in a rural community for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and who is not claiming residency in another community, state, territory, or country. Thus, the criteria for residency in the existing CQE Program do not appear to require that a person must have ‘lived continuously’ in the community for 12 months; rather, residency is based on having the principal home in the community, and the intent to return to that home.

In sum, there are benefits that could be derived by the community of Adak without a residency requirement, through both processing within Adak and the use of onshore support businesses. If the Council wants to provide an additional access opportunity to the community of Adak, and is concerned with the efficacy of the proposed program due to the currently low number of resident fishermen, it could develop a CQE Program with a different mechanism to tie the benefits to the community. Note that the proposed mechanism to-date is the in-region delivery requirement, which, as discussed above, does not require that landings be made in Adak, but at any shoreside processor within the region (Adak or Atka). Thus, as proposed, halibut and sablefish QS could theoretically be purchased by the CQE, leased to non-residents of Adak, and the fish delivered to the shoreside processor in Atka. In that case, the benefits to the community of Adak become limited to the revenue derived by the CQE from leasing the QS. However, it is assumed that a CQE representing Adak would use both Adak residents and the Adak shoreside processor, if available. If the QS were leased to non-residents (or residents), the CQE could

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<sup>25</sup>IFQ proposal to change residency requirements for CQEs, submitted by Gulf Coastal Communities Coalition, May 27, 2009.



include a requirement to deliver to Adak in the private contract between the CQE and the lessee, should the plant be operational.

## 6. Performance Standards

*Communities participating in the program may only lease the IFQs arising from their quota share for delivery in the region of the ownership community. In addition, the following are goals of the program with voluntary compliance monitored through the annual reporting mechanism and evaluated upon review of the program. Community entities applying for qualification in the program must describe how their use of QS will comply with the following program guidelines:*

- (a) Maximize benefit from use of community IFQ for crew members that are community residents.*
- (b) Insure that benefits are equitably distributed throughout the community.*
- (c) Insure that QS/IFQ allocated to an eligible community entity would not be held and unfished.*

The proposed performance standards mirror those adopted for the Gulf CQE Program, with the exception of the regional delivery requirement replacing the residency requirement. As discussed in the previous section, the Council motion for the Gulf CQE Program explicitly established in regulation a requirement that the leasing of annual IFQs resulting from community-held QS would be limited to residents of the community. The proposed performance standards above replace the residency requirement with a regional delivery requirement, also to be established in regulation. The remaining performance standards (a through c above) were adopted as goals of the CQE Program with voluntary compliance monitored through the annual report. Although these are not regulatory requirements, they outline the intent regarding the distribution and use of QS. They were also intended as a benchmark for evaluating the program, and used as such in the March 2010 CQE Program Review. Like the original program, standards (a) – (c) above would apply on a voluntary basis and would be used to evaluate whether the program was meeting its intent.

With regard to the regional delivery requirement, NMFS RAM Program has identified that for effective enforcement or accountability, IFQ derived from community-held QS in Area 4B would require that the IFQ be accounted for on a separate permit, as all ‘like’ IFQ is currently comingled on a permit.<sup>26</sup> The geographic delivery requirement makes the IFQ a different type of permit with different use provisions. The Council would need to identify who would be responsible if the IFQ was used improperly (e.g., delivered outside the designated region). The responsible entity could be the lessee, the CQE, the community, or a combination. If initiated for formal analysis by the Council, enforcement issues would be further explored in the analysis.

## 7. Administrative Oversight

*The Council recommends a provision to require submission of a **detailed statement of eligibility** to NMFS prior to being considered for eligibility as a community QS recipient. The statement would include:*

- (a) Certificate of incorporation*
- (b) Verification of qualified entity as approved under “Ownership Entity”*
- (c) Documentation demonstrating accountability to the community*
- (d) Explanation of how the community entity intends to implement the performance standards*

*The Council also recommends a provision to require submission of an **annual report** detailing accomplishments. The annual report would include:*

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<sup>26</sup>Enforcement Committee Minutes, February 9, 2010. Portland, Oregon.

- (a) A summary of business, employment, and fishing activities under the program*
- (b) A discussion of any corporate changes that alter the representational structure of the entity*
- (c) Specific steps taken to meet the performance standards*
- (d) Discussion of known impacts to resources in the area*

The proposed administrative oversight provisions mirror those adopted in the Gulf CQE Program, and there are two primary components: 1) an application to NMFS to be a CQE and represent the community, and 2) an annual report. Under the program, an eligible community must form a nonprofit corporation, incorporated under the State of Alaska, to act on its behalf (i.e., the CQE). The non-profit corporation must apply to NMFS for recognition as a CQE, must have the written approval of the community, and upon approval by NMFS, may buy, sell, and hold halibut and sablefish QS for the community. This application to NMFS is referred to above as a “statement of eligibility.”<sup>27</sup>

Under the existing program, a complete application to become a CQE consists of: (i) the articles of incorporation; (ii) a statement indicating the eligible community, or communities, represented by the CQE for purposes of holding QS; (iii) management organization information, including: (A) the bylaws; (B) a list of key personnel of the managing organization including, but not limited to, the board of directors, officers, representatives, and any managers; (C) a description of how the CQE is qualified to manage QS on behalf of the eligible community, or communities, it is designated to represent, and a demonstration that the CQE has the management, technical expertise, and ability to manage QS and IFQ; and (D) the name of the non-profit organization, taxpayer ID number, permanent business mailing addresses, name of contact persons and contact information of the managing personnel, resumes of management personnel, name of community represented by the CQE, and the point of contact for the governing body of each community represented.

The application also requires a statement describing the procedures that will be used to determine the distribution of IFQ to residents of the community, including: (A) procedures used to solicit requests from residents to lease IFQ; and (B) criteria used to determine the distribution of IFQ leases among qualified community residents and the relative weighting of those criteria. Finally, the application must include a statement of support from the governing body of the eligible community. The statement of support is: (A) a resolution from the City Council or other official governing body for those eligible communities incorporated as first or second class cities; (B) a resolution from the tribal government authority recognized by the Bureau of Indian Affairs for those eligible communities that are not incorporated as first or second class cities; but are represented by a tribal government authority; or (C) a resolution from a non-profit community association, homeowner association, community council, or other non-profit entity for those eligible communities that are not incorporated as first or second class cities or represented by a tribal government. In the case of Adak, the city would be the entity to provide the statement of support.

Thus, while the application process is relatively straightforward, it requires submittal of several documents, including a letter of approval from the community and a description of the criteria the CQE would use to determine which residents may lease IFQ derived from CQE-held QS on an annual basis. Under the proposed program for Area 4B, this application would be revised such that residency is not a requirement for leasing community-held QS.

The second component to administrative oversight is the annual report. Currently, each CQE must report to NMFS annually on IFQ activities, including nonprofit governance, QS holdings, IFQ recipient selection, landings, and other relevant information. If a CQE fails to submit a timely and complete annual report, NMFS would initiate an administrative action to suspend the ability of that CQE to transfer QS and IFQ, and to receive additional QS by transfer. The annual report is also required to be provided to the

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<sup>27</sup>This application is also submitted to the State of Alaska (DCCED) for a 30-day review and comment period.

governing body of each community represented by the CQE. This is intended to assist the governing body and residents of that community in reviewing the activities of the CQE. The proposed program for Area 4B requires the same type of annual report for a CQE representing an Area 4B community.

## Summary

This discussion paper reviews an IFQ proposal submitted by the Adak Community Development Corporation, to create a CQE Program in Area 4B. Given the proposed problem statement and criteria for eligibility, the intent is to allow ACDC to become a CQE representing the community of Adak for the purpose of purchasing Area 4B halibut and AI sablefish catcher vessel QS, for lease to individual fishermen to deliver within the Area 4B region. This paper outlines the elements of the proposed program, which is structured similarly to the existing Gulf CQE Program, with recognized exceptions. The most notable departure from the Gulf program is the absence of the requirement to lease CQE-held QS to community residents. Thus, two primary issues are how to ensure Adak would receive the intended benefits of the QS under the proposed program and the future viability of a shoreside processor in Adak, as the crux of the program appears to depend upon an operational processor in the community. Upon review of this discussion paper, the Council could take no further action; request further information prior to initiating an analysis; or approve a problem statement and suite of alternatives for analysis.

## **List of Appendices**

Appendix 1 Council Motion on Community Quota Share Purchase – Gulf FMP Amendment 66  
(p. A-1)

Appendix 2 Residence of quota share holders, Area 4B halibut and AI sablefish (p. A-5)

Appendix 3 IFQ proposal from Adak Community Development Corporation, January 8, 2010 (p. A-9)

## Appendix 1

### Council Motion on Community Quota Share Purchase – Gulf FMP Amendment 66

April 10, 2002

The Council recommends to allow eligible Gulf of Alaska coastal communities to hold commercial halibut and sablefish QS for lease to and use by community residents, as defined by the following elements and options.

#### **Element 1. Eligible Communities (Gulf of Alaska Communities only)**

Rural communities with less than 1,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation in the halibut and/or sablefish fisheries.

Communities meeting the above criteria at final action will be listed as a defined set of qualifying communities in regulation (*see attached list*). Communities not listed must apply to the North Pacific Fishery Management Council to be approved for participation in the program and will be evaluated using the above criteria.

#### **Element 2. Ownership Entity**

- New non-profit community entity
- New non-profit entity formed by an aggregation of several qualifying communities
- New regional or Gulf-wide umbrella entity acting as trustee for individual communities

#### **Element 3. Use Caps for Individual Communities**

1% of Area 2C and 0.5% of the combined Area 2C, 3A and 3B halibut QS, and 1% of Southeast and 1% of all combined sablefish QS.

Communities in Areas 3A and 3B cannot buy halibut quota share in Area 2C and communities in Area 2C cannot buy halibut quota shares in Area 3B.

#### **Element 4. Cumulative Use Caps for All Communities**

Communities are limited to 3% of the Area 2C, 3A, or 3B halibut QS and 3% of the SE, WY, CG, or WG sablefish QS in each of the first seven years of the program, with a 21% total by area, unless modified by the Council through the five-year review.

#### **Element 5. Purchase, use and sale restrictions**

Block Restrictions (Block restrictions are retained if the community transfers QS.)

- Allow communities to buy blocked and unblocked shares.
- Individual communities will be limited to 10 blocks of halibut QS and 5 blocks of sablefish QS in each management area.
- Restrict community purchase of blocked halibut quota share to blocks of shares which, at the time of the implementation of sweep provisions (1996), exceeded the following minimum poundage of IFQ:
  - (a) For Areas 2C and 3A, minimum halibut IFQ poundage of 3,000 lbs.

## Appendix 1

- (b) For areas SE, WY, CG, and WG, minimum sablefish IFQ poundage of 5,000 lbs.

Vessel Size Restrictions (Vessel size restrictions are retained if the community transfers the QS)

Quota share held by communities under this program would be exempt from vessel size (share class) restrictions while the QS is owned and leased by the community.

Transferability of halibut QS in Areas 2C and 3A from commercial to community entities is restricted to B and C category quota share.

### Sale Restrictions

Communities may only sell their QS for one of the following purposes:

- (a) generating revenues to sustain, improve, or expand the program
- (b) liquidating the entity's QS assets for reasons outside the program. In that event, NMFS would not qualify that entity or another entity to hold QS for that community for a period of 3 years.

### Use Restrictions

Leasing of community quota share shall be limited to an amount equal to 50,000 pounds of halibut and 50,000 pounds of sablefish IFQs, inclusive of any IFQ owned, per transferee.

Leasing of community quota share shall be limited to an amount equal to 50,000 pounds of halibut and 50,000 pounds of sablefish IFQs, inclusive of any IFQ owned, per vessel.

## **Element 6. Performance Standards**

Communities participating in the program must adhere to the following performance standards established by NMFS in regulation:

- (a) Leasing of annual IFQs resulting from community owned QS shall be limited to residents of the ownership community. (Residency criteria similar to that established for the subsistence halibut provisions shall be used and verified by affidavit.)

The following should be seen as goals of the program with voluntary compliance monitored through the annual reporting mechanism and evaluated when the program is reviewed. When communities apply for eligibility in the program they must describe how their use of QS will comply with program guidelines. This information will be used as a benchmark for evaluating the program.

- (b) Maximize benefit from use of community IFQ for crew members that are community residents.
- (c) Insure that benefits are equitably distributed throughout the community.
- (d) Insure that QS/IFQ allocated to an eligible community entity would not be held and unfished.

## **Appendix 1**

### **Element 7. Administrative Oversight**

Require submission of a detailed statement of eligibility to NMFS prior to being considered for eligibility as a community QS recipient. The statement would include:

- (a) Certificate of incorporation
- (b) Verification of qualified entity as approved in Element 2
- (c) Documentation demonstrating accountability to the community
- (d) Explanation of how the community entity intends to implement the performance standards

Require submission of an annual report detailing accomplishments. The annual report would include:

- (e) A summary of business, employment, and fishing activities under the program
- (f) A discussion of any corporate changes that alter the representational structure of the entity
- (g) Specific steps taken to meet the performance standards
- (h) Discussion of known impacts to resources in the area.

### **Element 8. Program Review**

Council review of the program after 5 years of implementation.

*The Council also recommends forming a community QS implementation committee, in order to ensure that the program is implemented as intended.*

## Appendix 1

### (42) Eligible Communities for Purchase of Halibut and Sablefish Quota Share (Element 1)

General Qualifying Criteria: Rural communities in the Gulf of Alaska with less than 1,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation<sup>1</sup> in the halibut or sablefish fisheries.

<b>Area 2C</b>		<b>Area 3A</b>	
<u>Community</u>	<u>Population</u> <sup>2</sup>	<u>Community</u>	<u>Population</u>
Angoon	572	Akhiok	80
Coffman Cove	199	Chenega Bay	86
Craig	1,397	Halibut Cove	35
Edna Bay	49	Karluk	27
Elfin Cove	32	Larsen Bay	115
Gustavus	429	Nanwalek	177
Hollis	139	Old Harbor	237
Hoonah	860	Ouzinkie	225
Hydaburg	382	Port Graham	171
Kake	710	Port Lions	256
Kassan	39	Seldovia	286
Klawock	854	Tatitlek	107
Metlakatla	1,375	Tyonek	193
Meyers Chuck	21	Yakutat	<u>680</u>
Pelican	163		
Point Baker	35	14 communities	2,711
Port Alexander	81		
Port Protection	63		
Tenakee Springs	104		
Thorne Bay	557		
Whale Pass	58		
21 communities	8,119		
		<b>Area 3B</b>	
		<u>Community</u>	<u>Population</u>
		Chignik	79
		Chignik Lagoon	103
		Chignik Lake	145
		Ivanof Bay	22
		King Cove	792
		Perryville	107
		Sand Point	<u>952</u>
		7 communities	2,200

<sup>1</sup>As documented by CFEC, DCED, or reported by ADF&G in *Alaska Rural Places in Areas with Subsistence Halibut Uses*.

<sup>2</sup>2000 census data, Alaska Department of Community and Economic Development.

**Note:** The above 42 communities appear to meet the qualifying criteria at Council final action on April 10, 2002, and will be listed as a defined set of qualifying communities in Federal regulation. Communities not listed must apply to the North Pacific Fishery Management Council to be approved for participation in the program and will be evaluated using the above criteria.



Appendix 2 Residence of quota share holders, Area 4B halibut and AI sablefish

Table 1. Total Area 4B halibut QS units, by vessel category and community

Vessel Category	City	State	Total QS units
A	ANCHORAGE	AK	55,927
A	DILLINGHAM	AK	370,314
A	JUNEAU	AK	2,368
A	KODIAK	AK	35,209
A	NEWPORT	WA	47,536
A	SEATTLE	WA	42,135
Total A shares		6%	553,489
B	ADAK	AK	231,248
B	ALLYN	WA	59,280
B	ANCHORAGE	AK	116,173
B	ASTORIA	OR	136,251
B	BEAVERTON	OR	99,898
B	CHINOOK	WA	209,014
B	CORDOVA	AK	173,556
B	DOBBS FERRY	NY	59,894
B	DUTCH HARBOR	AK	26,038
B	EDMONDS	WA	253,705
B	ELMA	WA	31,800
B	EVERETT	WA	202,443
B	FAIRBANKS	AK	22,392
B	FRIDAY HARBOR	WA	93,320
B	GIG HARBOR	WA	11,675
B	HOMER	AK	266,898
B	JUNEAU	AK	24,813
B	KODIAK	AK	1,769,270
B	LIBERTY LAKE	WA	43,456
B	LYNDEN	WA	80,402
B	MONTESANO	WA	210,915
B	MUKILTEO	WA	15,709
B	PETERSBURG	AK	2
B	PORT TOWNSEND	WA	190,399
B	POULSBO	WA	308,800
B	RENO	NV	234,159
B	RICHLAND	WA	113,630
B	SEATTLE	WA	512,045
B	SEWARD	AK	1,686
B	SHORELINE	WA	243,421
B	SITKA	AK	308,157
B	STANWOOD	WA	135,679
B	STEAMBOAT SPRINGS	CO	39,562
B	VASHON	WA	60,281
B	VIRGIN	UT	239,816
B	WARRENTON	OR	132,946
B	WEIPPE	ID	4,489
B	WESTHAVEN	CA	20,549
B	WOODINVILLE	WA	339,839
B	ZEPHYR COVE	NV	90,916
Total B shares		77%	7,114,526

Table 1 continued.

C	ANDERSON	CA	14,701
C	ATKA	AK	12,548
C	DUTCH HARBOR	AK	45,902
C	EDMONDS	WA	11,899
C	ELMA	WA	20,553
C	GIG HARBOR	WA	53,419
C	GUSTAVUS	AK	41,459
C	HOMER	AK	76,024
C	JUNEAU	AK	39,857
C	KODIAK	AK	406,824
C	PALMER	AK	80,152
C	PORT TOWNSEND	WA	189,046
C	SAN PEDRO	CA	142,382
C	SANDY	UT	8,762
C	SANTA CRUZ	CA	4,191
C	SITKA	AK	52,787
C	STANWOOD	WA	36,174
C	STEAMBOAT SPRINGS	CO	11,338
C	WESTHAVEN	CA	99,745
Total C shares		15%	1,347,763
D	ANACORTES	WA	25,587
D	ATKA	AK	215,549
D	HAINES	AK	7,293
D	UNALASKA	AK	20,567
Total D shares		3%	268,996
<b>TOTAL AREA 4B QS</b>			<b>9,284,774</b>

Source: NMFS RAM Program, 8/11/10. Note: Residency is self-reported on the holder's application.

Table 2. Total Aleutian Islands sablefish QS units, by vessel category and community

Vessel Category	City	State	Total QS units
A	ANCHORAGE	AK	520,711
A	BOTHELL	WA	2,861
A	DILLINGHAM	AK	679,248
A	EVERETT	WA	441,490
A	GREEN BANK	WA	90,927
A	HOMER	AK	414,316
A	JUNEAU	AK	1,059,760
A	KODIAK	AK	235,826
A	MILL CREEK	WA	1,042,444
A	REEDSPORT	OR	1,335,756
A	RENTON	WA	35,532
A	SEATTLE	WA	11,956,426
A	SEWARD	AK	88,184
A	SITKA	AK	524
A	WRANGELL	AK	48,278
Total A shares		56%	17,952,283
B	ADAK	AK	235,885
B	ANCHORAGE	AK	35,375
B	BOTHELL	WA	584,055
B	CHINOOK	WA	83,883
B	CORDOVA	AK	55,914
B	EDMONDS	WA	2,541,107
B	FAIRBANKS	AK	283,873
B	GRANITE FALLS	WA	31,322
B	GUSTAVUS	AK	20,405
B	HOMER	AK	71,220
B	KAILUA KONA	HI	24,200
B	KODIAK	AK	2,241,325
B	LYNDEN	WA	140,510
B	MILL CREEK	WA	6,398
B	MONTESANO	WA	271,590
B	PETERSBURG	AK	228,114
B	PORT TOWNSEND	WA	82,702
B	RENTON	WA	12,870
B	SAN PEDRO	CA	5,130
B	SEATTLE	WA	2,519,662
B	SEWARD	AK	7,443
B	SHORELINE	WA	759,867
B	SITKA	AK	99,167
B	STANWOOD	WA	66,587
B	VANCOUVER	WA	338,045
B	WALDPORT	OR	29,914
B	WARRENTON	OR	62,398
B	WOODINVILLE	WA	18,788
B	YELM	WA	461,884
Total B shares		35%	11,319,633

C	ADAK	AK	99,140
C	ANACORTES	WA	43,249
C	ANCHORAGE	AK	15,917
C	BOTHELL	WA	66
C	EDMONDS	WA	113,530
C	ELMA	WA	6,989
C	EVERETT	WA	8,103
C	GIG HARBOR	WA	115,934
C	GUSTAVUS	AK	33,570
C	HOMER	AK	146,166
C	JUNEAU	AK	1,651
C	KENMORE	WA	115,356
C	KODIAK	AK	497,823
C	MONTESANO	WA	242,510
C	PELICAN	AK	59,813
C	PETERSBURG	AK	14,959
C	PORT HADLOCK	WA	58,981
C	SEQUIM	WA	21,057
C	SEWARD	AK	119,314
C	SHORELINE	WA	428,834
C	SITKA	AK	138,337
C	UNALASKA	AK	257,848
C	VANCOUVER	WA	93,294
C	WESTHAVEN	CA	28,135
Total C shares		8%	2,660,576
<b>TOTAL AI SABLEFISH QS</b>			<b>31,932,492</b>

Source: NMFS RAM Program, 8/11/10. Note: Residency is self-reported on the holder's application.

## Appendix 3

# Adak Community Development Corporation

January 8th, 2010

Dear Chairman Olson,

Adak Community Development Corporation is the entity which received the community allocation of 10% of the WAG crab. The stated purpose of that allocation from the Council's October 2002 motion was "aid in the development of seafood harvesting and processing activities within that community."

This goal is reflected in our bylaws which state that all funds of the Corporation shall be "dedicated to the promotion and development of fisheries related resources, infrastructure and assets for the benefit of the community of Adak, Alaska."

At the Dec. 2008 NPFMC meeting ACDC president, Michael Swetzof, submitted a proposal to the Council to "Allow Adak to use its crab royalties to buy Area 4B halibut IFQ and Aleutian Islands area sablefish IFQ for use by local fishermen (add Adak to the CQE program)."

When the IFQ implementation team met in September 2009 to review proposals, they recommended that the Council "take no action since a specific proposal was not received."

"The team felt that a specific proposal for Council action was not received. Bob Alverson asked if this would be for only Area 4 CQE and what caps would apply. Nicole Kimball responded that the proposal was vague and the analysis could apply the current CQE provisions for GOA communities to an Adak CQE. Bob suggested that Adak should not have more liberal privileges to buy any more QS than any current GOA CQE. He pointed out that ACDC can now use their royalties to buy Area 4B halibut IFQ and AI sablefish IFQ for community members and a regulatory regime was not necessary."

**"The team unanimously agreed to recommend that the Council take no action since a specific proposal was not received."**

In response to the team comments and the Council decision to extend the deadline for proposals, ACDC has prepared a detailed proposal based on the all the elements and options included in the Council's preferred alternative for the Amendment 66 GOA CQE program.

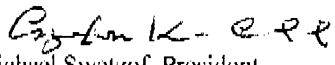
We believe the Implementation Team's minutes stating "that ACDC can now use their royalties to buy Area 4B halibut IFQ and AI sablefish IFQ for community members" reflects a misunderstanding of the status quo and is not consistent with the "owner on board" provisions of the program.

Additionally, ACDC is not seeking "more liberal privileges to buy any more QS than any current GOA CQE." In our attached proposal, we are asking for caps that are roughly equivalent in pounds to the caps for GOA CQE communities.

Allowing Adak to become an Aleutian Island CQE community would work well in conjunction with the state water cod fishery for small boats to address the halibut bycatch in the hook and line cod fishery.

Please accept the attached "Proposal for Halibut and Sablefish Community QS Purchase" for review.

Sincerely,

  
Michael Swetzof, President *for the president*

## **ACDC Proposal for Halibut and Sablefish Community QS Purchase Amendment**

### **Community QS Purchase Problem Statement**

As a small coastal community in the Aleutian Islands, Adak is struggling to remain economically viable. The halibut and sablefish IFQ program, as with other limited entry programs, increases the cost of entry into or expansion in the commercial halibut and sablefish fisheries. Adak is not a beneficiary of the CDQ program for halibut and sablefish. Allowing this non-CDQ community to purchase a 4B halibut and sablefish quota share for lease for delivery in the region will help minimize adverse economic impacts on this small, remote, coastal community in the Aleutians, and help provide for the sustained participation in the halibut and sablefish IFQ fisheries. The Council seeks to provide for this sustained participation without undermining the goals of the halibut and sablefish IFQ program or precluding entry-level opportunities for fishermen residing in other fishery-dependent communities.

### **Preferred Alternative Elements:**

#### **Eligible communities**

Non-CDQ communities with less than 1,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation in the halibut or sablefish fisheries are eligible to own and use commercial catcher vessel halibut and sablefish quota share. The community of Adak would qualify under these criteria. The Council required that in addition to meeting these criteria at final action, eligible communities must be listed as a defined set of eligible communities in Federal regulation. Communities not meeting the qualifying criteria and not on the list adopted by the Council are not eligible to participate. Other communities could petition the Council for inclusion after the implementation of this program.

#### **Ownership Entity**

The Council recommends that a non-profit organization formed for the purpose of holding the Adak Community Allocation of WAG crab also be eligible for purchasing and holding QS on behalf of the community.

#### **Individual Community Use Caps**

Eligible communities in the Aleutian Islands are limited to purchasing and using 10% of the Area 4B, and 10% of Aleutian Island sablefish QS. Eligible communities in Area 4B cannot buy halibut QS in any other Area.

#### **Cumulative Community Use Caps**

Communities are limited to owning and using 10% of the Area 4B halibut QS and 10% of the AI sablefish QS, unless modified by the Council.

#### **Purchase, Use and Sale Provisions**

Original block and vessel size designations apply if the community transfers the QS to any person other than another eligible community. These restrictions would help ensure that the goal of providing access to local residents is maintained and limit the potential for QS to be leased to larger vessels, presumably owned by non-residents fishing further from shore. These restrictions would also address an array of concerns about the distribution of QS among prospective new community entities and existing or future individual participants.

***Block Restrictions***

- Communities may buy blocked and unblocked quota share.
- Individual eligible communities are limited to holding 10 blocks of halibut QS and 5 blocks of sablefish QS in the management area. Individuals receiving IFQ leased from an eligible community entity would still be subject to the existing individual use caps in regulation..

***Vessel Size Restrictions***

- Quota share held by communities under this program would be exempt from vessel size (share class) restrictions, while the QS is owned and leased by the community.
- Transferability of halibut QS in Area 4B from commercial to qualified community entities is restricted to B and C category quota share.

***Sale Restrictions***

- Eligible communities owning catcher boat (B, C, D category) quota shares may sell those quota shares to any other eligible community or any person meeting the provisions outlined in the existing IFQ Program.
- Eligible communities may only sell their quota share for one of the following purposes:
  - (a) generating revenues to sustain, improve, or expand the program
  - (b) liquidating the entity's quota share assets for reasons outside the program
 Should an eligible community sell their quota share for purposes consistent with (b) above, an administrative entity would not be qualified to purchase and own quota share on behalf of that community for a period of three years

***Use Restrictions***

- Eligible communities owning quota shares may lease the IFQs arising from those quota shares for delivery in the region
- An eligible community owning catcher boat quota shares may lease up to 50,000 pounds of halibut IFQs and 50,000 pounds of sablefish IFQs per lessee annually. The 50,000 pound limit is inclusive of any quota owned by the individual (lessee).
- No more than 50,000 pounds of any IFQs leased by an eligible community may be taken on any one vessel, inclusive of any IFQ owned by the individual leasing the IFQs.

**Performance Standards**

Communities participating in the program may only lease the IFQs arising from their quota share for delivery in the region of the ownership community. In addition, the following are goals of the program with voluntary compliance monitored through the annual reporting mechanism and evaluated upon review of the program. Community entities applying for qualification in the program must describe how their use of QS will comply with the following program guidelines:

- (a) Maximize benefit from use of community IFQ for crew members that are community residents.
- (b) Insure that benefits are equitably distributed throughout the community.
- (c) Insure that QS/IFQ allocated to an eligible community entity would not be held and unfished.

**Administrative Oversight**

The Council recommends a provision to require submission of a detailed statement of eligibility to NMFS prior to being considered for eligibility as a community QS recipient. The statement would include:

- (a) Certificate of incorporation
- (b) Verification of qualified entity as approved under "Ownership Entity"
- (c) Documentation demonstrating accountability to the community
- (d) Explanation of how the community entity intends to implement the performance standards

The Council also recommends a provision to require submission of an annual report detailing accomplishments. The annual report would include:

- (a) A summary of business, employment, and fishing activities under the program
- (b) A discussion of any corporate changes that alter the representational structure of the entity
- (c) Specific steps taken to meet the performance standards
- (d) Discussion of known impacts to resources in the area.

**Program Review**

The Council recommends to review the program after five years of implementation (five years from the effective date of the final rule). The Council also recommends forming a Community QS Implementation Committee.

*faxed  
4 of 4  
1/9/2010 [signature]*