

## Halibut, Executive Summary

### History – ITQ or “Defined Shares”

1) For reasons of safety at sea and market stability for commercial fishermen, DFO introduced an individual vessel quota system (IVQ) some years ago in which each license holder received a share of the Canadian Total Allowable Catch (TAC) based on the average of his/her landings over a previous number of years. However, instead of leasing these quotas to commercial license holders annually and thereby obtaining rent for commercial access to this public resource, the Minister of the day decided, without any consultation with the Sport Fishing Advisory Board (SFAB), to simply “gift” the entire Canadian share of the TAC to individual halibut fishermen as Individual Transferable Quotas (ITQ’s) who qualified under the landing criteria for their private use in perpetuity. At that time the halibut catch in the public fishery was assumed to be so low that it was simply ignored. Since our fishery was to be saved “harmless” in this change, there was no need to comment. Using ITQ’s, DFO has also gifted 100% of the Sablefish and Geoduc TAC to the commercial sector. Again, the sport catch of both species is such a small percentage of the TAC’s that it was, and still is, ignored.

2) By 2000, the commercial sector was concerned enough about the Public, Recreational Fishery, in their minds a re-allocation of **their gifted** quota, that they convinced DFO to strike a halibut allocation committee to establish a harvest sharing arrangement with our sector. The commercial harvesters wanted us capped at 5% of the TAC (at this time, we were unknowingly harvesting at least 7 or 8%) while we took the position that, since the resource was owned by the people of Canada, there should be no cap on the Public Fishery beyond reasonable bag/possession limits to prevent abuse of our right to harvest fish in tidal waters.

This stalemate was then turned over to an arbitrator for a decision and he recommended 9%. The DFO Minister of the day delivered an edict that capped public access to the resource at 12% of the TAC. At that time, DFO estimated our Recreational Sector was catching about 9% of the TAC, and their 12% decision, in their minds, gave us room for growth.

Minister Thibault also decided that part of the process in setting defined shares and fixed percentage allocation, any increase in catch requirements for the recreational sector beyond the 12% would have to be reached by the purchase of quota by the recreational sector from the commercial sector in a “market-based mechanism”

**Unfortunately Minister Thibault, or his staff, failed to understand that the recreational community has no legal society or company, and therefore no means to raise or hold money, or purchase or lease anything.**

### Improved Catch Monitoring

For two years, 2003 – 4, the Recreational Fishery catch monitoring system recorded the catch as 9%, leaving a 3% surplus to our needs, so DFO set up a system whereby the commercial fishermen leased the uncaught recreational halibut from the recreational



sector, and placed the money ( total \$2.5 million) into a Trust Account held by the Pacific Halibut Management Association ( PHMA) which is a legal society that represents most of the commercial halibut fishermen.

In 2004 the International Pacific Halibut Commission (IPHC) which manages the halibut fishery for both Canada and the US, decided that Canada's monitoring of the Recreational Halibut catch was not well done, and was underestimating our catch. This view point was supported by the PHMA, and so the recreational community, represented by the Sport Fishing Advisory Board went to DFO to also strongly support an improved collection of data around our catch all over the Coast. In particular The SFAB believed the average weight assigned to Canadian caught halibut was too high, which directly led to an over estimation of catch. The two different viewpoints needed investigation.

Through DFO the SFAB supported a contract with an independent company, JO Thomas, to design a system to greatly expand the collection of not only catch numbers, but also size and weight of the halibut to establish a proper estimate of the average weights for each management area on the Coast. This took place over a year, greatly expanded the Recreational Community and DFO's knowledge, and paved the way for the system currently in place which has been modified and improved through DFO Science Branch so that it is probably a model for anywhere in the world for how to assess a catch of fish by large numbers of people over a huge geographic area, much of which is remote from population centers.

This brought two problems into play:

- When the SFAB asked the PHMA to release money in order to pay JO Thomas **they refused payment** to JO Thomas until they, the PHMA, thought the job had been done according to their standards. In fact they breached the terms of the trust for 8 months before payment was finally released.
- With the improved catch reporting and with the declining over all Canadian TAC due to decreasing over all halibut exploitable biomass, the Commercial fishermen discovered our catch was over the government allocated 12%. This upset the commercial sector, and began the still- raging problems about what to do about that fact.

### **Trying to resolve the overage**

By 2006, the Recreational Community were observed to be formally over the 12% allocation, and at the year's end this caused Canada to be over our IPHC assigned TAC. We were required to address this in 2007, and so The Recreational Community paid from the fund to lease quota from the commercial sector to make up the overage at the end of the year.

Over the Christmas Season of 2007 /08 by the direction of then Deputy Minister Larry Murray, the SFAB (recreation), the PHMA (commercial) the Province of BC, DFO and representatives of the Nuu Chah Nulth First Nations sat down for a number of meetings with well known economist and facilitator Hugh Gordon to work out a consensus solution for the seeming impasse. In February the Recreational Community did reach agreement, and submitted that to the Minister through the Pacific region. In general it



recommended that the Federal Government lease and purchase quota from the commercial sector over a five year period to bring the Public recreational fishery to 20% of Canadian TAC, which it was believed would meet our needs for some time. The Federal Government would see us agree to raise money to repay their up front purchase / lease costs ( \$ 25 million dollars) by creating a "halibut stamp" to be purchased by every angler who wanted to catch halibut. Over time this would easily repay government, and allow some money to go to continuing and improving halibut management and monitoring on the West Coast.

**For over a year, the Recreational Community heard nothing from the Minister about this proposal, only in the last month (12/02/09) have we been told that the government sees "difficult financial and legal risks for the department" , and will not implement it.**

For 2008 the Recreational Community had to work with DFO to restrict our halibut harvest by using management actions such as reducing our daily bag limit for several months, reducing our possession limit for many months, and delaying our season opening time.

This is the first time the public halibut fishery has been restricted in this manner because the Minister of Fisheries has decreed that the Commercial Sector " owns " 88% of the halibut TAC and flatly refuses to allocate more than 12% of the TAC to the Public Fishery. At no time and in no way is our restriction the result of a conservation concern.

The Recreational Community also, for 2008 through a motion at our Main SFAB Provincial Board, requested DFO to lease as much halibut quota as needed to allow our fishery to proceed for the full season, always a strong need for our fishery. However, DFO working with the PHMA only leased approx. 150,000 lbs. which was not enough to allow our fishery to continue all season. In the fall of 2008 the SFAB attended a meeting with the PHMA to ask that the purchase of additional quota be carried out as we requested earlier in April, **BUT the PHMA refused to release the funds directly for that purpose.**

**This was the second time that the PHMA refused to honour the terms of the trust and release our money as requested.**

**The result was that DFO issued a notice terminating our fishery two months early, while still allowing a commercial fishery to proceed.**

**For 2009 DFO also delayed opening our season for one month, and severely restricted our catch limits.**

From the very beginning in 2003, the importance of a full length season with no mid season closures was discussed with Minister Thibault, which he agreed to, and so it was placed as one of the key components in the 88% / 12% defined shares announcement. Our anglers plan annual holidays around the seasonal and weather available fishing time, and our Lodges and Guides depend upon a reliable length of season to book fishermen in from around the world and across Canada. This is destroyed by suddenly shortened seasons, or surprise delayed openings, or reductions in daily catch limits.

**Where is the Recreational Community?**



Lodges, Guides, and the general angler currently have had a one month delayed opening.

The Recreational Community are only able to catch one halibut a day, with a total possession of two.

Given the generally long travel involved in reaching halibut grounds, the small average size of our catch, 1 halibut per day means many will not pay the costs to fish for halibut, or individuals be able to afford to pay all the gas and lodging to catch 1 halibut.

The Recreational Community currently have no idea how long the season will be, so no one is able to plan. This has a strong and negative impact on the Lodges, Guides, Hotels and Campgrounds.

Despite personal visits, letters and e-mails, the Minister has recently reaffirmed the 12% cap on the Public fishery, maintaining the concept of private ownership of the halibut on the West Coast of Canada.

The formerly stable, significant economic contribution to Canada by the public, recreational fishery has been reduced in a time we all assumed the Government would act to protect valuable resource based business.

88% of the halibut quota is held by private businessmen, 60% of whom no longer fish, but lease out the quota to other fishermen. This has created a hardship for many of the remaining true fishermen who now see very little profit as they have to pay so much to lease the quota each year. This has led to low wages for deckhands because of the low crew shares. On the East Coast of Canada Fishermen must actually fish the quota they own.

The commercial fleet actually had more pounds of halibut quota for each of the last two years than they could fish economically. This past year they left approx. 500,000 pounds uncaught, which they will carry over to this year.

If what they left in the water was added to the recreational quota, the Public Recreational Community would be able to fish within normal limits.

## Solutions

### Concepts:

It appears that there is a very different perception of Public access to fish between the East Coast and West Coast of Canada. This discrepancy between the Atlantic and Pacific regions with respect to the to the public right to fish in tidal waters ( ie. Maritimers are not allowed to retain lobster or crab for their personal use) has existed for more than a century.

The sheltered ocean stretches, along with many lakes, rivers, and streams, were easily accessible to the growing numbers of people who turned to the abundance of fish for food on a daily or weekly basis. As the Country developed, people retained the idea and practice of personally catching fish for part of their annual food requirements. While commercial fisheries also grew and prospered, the high numbers of people who in B.C. all lived in easy reach of the water continued personal fishing mixing enjoyment with the harvest of fresh fish.

In modern times the West Coast population has increasingly seen the high food value of fish coupled with the high value placed on outdoor pursuits and personal harvest of food where possible. Public Fishing is seen by many as a best use of the fish resource which combines many aspects of healthy living.

In the Pacific Region over 300,000 people purchase Public Fishing licenses and take an active part in fishing for both food and pleasure. This Public Fishery generates \$700 million for the Canadian economy and provides over 7,700 direct jobs. It also contributes about \$ 9milluion dollars in direct government revenue from license sales and surcharges.

Deleted:

Current and past Fisheries Ministers, along with professional staff appear to draw on experience and knowledge gained from interaction with the culture and practice developed on the Eastern Canadian Coast where a very different attitude and practice exists towards the harvest of fish. The BC Wildlife Federation asks why only one viewpoint, that of the East Coast practice is being advanced as a policy to all Canadian fishing experience?

The BC Wildlife Federation believes that all Canadians are “entitled as of right” to quote Justice Gladstone, to fish in tidal waters. Unless there are sound reasons for conservation, the public fishery should not be restricted because of private business held quota controlling access to fish stocks.



What should the Minister do?

For the Public Recreational fishery the ideal goal is to move away from a percentage form of allocation. It creates more problems than it solves, and also ignores the fact that there is no way for the Public angler to own quota, raise money for buying or leasing quota, or in the reverse accept money for leased or sold quota.

A percentage share varies with the abundance of the halibut, and in times of low abundance the percentage quota which meets our needs is more than the Recreational Community can use in times of higher abundance.

Operating on the basis of a fixed assigned percentage of TAC relies on the concept of ownership of a common property resource which more and more the Senior Courts are telling us is not legal. Most recently Justice Binnie in Saulnier vs The Royal Bank of Canada told us that fish can not be owned until they are caught and in the boat.

Currently on the West Coast the Fisheries Minister has a clearly defined and very effective method for allocating and managing the Chinook and Coho salmon. In this fishery the Total Allowable Catch is calculated at the beginning of each year in accordance with the terms of the Pacific Salmon Commission Treaty. After the TAC is defined, the number of fish needed by First Nations for Food, Social and Ceremonial reasons is determined and subtracted from the TAC. Then the number of fish needed to have a full Public Recreational fishery is determined and set aside. The remaining salmon are then set in place for the commercial fishery. In past years the number of fish given to the commercial fishery has been much larger than the number of fish provided to the Public fishery.

This clearly demonstrates that the Public fishery is biologically sustainable, economically beneficial and can take place with far fewer fish than the commercial fishery. One of the benefits of our fishery is that with a relatively low number of fish we provide a much higher economic contribution to Canada for each fish caught than does the commercial fishery. Exactly the same result is found in the case of halibut. The Public Fisheries needs only approx. 1.5 million pounds of Halibut to conduct our fishery, yet we generate \$18.63 per pound to the Canadian economy while the commercial fleet generates only \$ 3.60 per pound.

Clearly the best solution for our Public halibut fishery is to provide the number of pounds that the Public fishery is estimated to need each year, which can be done very accurately, and set that aside from the Canadian TAC after First Nation FSC needs are provided for. The remaining large number of pounds could be then distributed to the commercial sector based on the percentage of catch their quota represents. Remember that the commercial quota each fisherman holds is a percentage, not a set number of pounds, so that they still retain their holding relative to each other.

In times of high abundance, which the International Pacific Halibut Commission tells us are coming, the commercial sector actually benefits from this approach by



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having a greater number of pounds available to them than under the system where the Public fishery has a fixed percentage assigned to them.

Not only have the commercial fleet left the large amount of fish uncaught, this year we are told they have millions of pounds still in frozen storage, unsold. Again this will result in the commercial fleet not being able to utilize all the fish allocated to them under the current formula.

Clearly this approach could begin this year because the commercial sector has demonstrated in the past number of years that they do not need all of their pounds of halibut generated by the 88% because they have left hundreds of thousands of pounds in the water, uncaught to “ carried over” to the next year. This is repeated year after year.

The BC Wildlife Federation asks the Minister to use the available flexibility open to her under the Fisheries Act to assign 400,000 lbs. of halibut from this year’s TAC to the Public Fishery in the very near future. Because of our current excellent and efficient catch monitoring program if it appeared in the fall that the Recreational Community would not need all that which was set aside, it could immediately be made available to the commercial sector.