

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SCOTT VAN VALIN, et al.)	
)	
Plaintiffs,)	
v.)	
)	
Carlos M. Gutierrez, in his Official)	
Capacity as Secretary of the U.S.)	
DEPARTMENT OF COMMERCE,)	
)	
)	<u>Civil Action No. 1:08-cv-941</u>
Conrad C. Lautenbacher, Jr.,)	
in his Official Capacity as)	
Administrator of the U.S.)	
NATIONAL OCEANIC AND)	
ATMOSPHERIC ADMINISTRATION,)	
)	
James W. Balsiger, in his Official)	
Capacity as Acting Assistant)	
Administrator of the U.S.)	
NATIONAL MARINE FISHERIES)	
SERVICE,)	
Defendants.)	

~~PROPOSED~~ ORDER

The Court, having considered Plaintiffs' Motion for a Temporary Restraining Order and/or a Preliminary Injunction following three rounds of briefing and three hearings held on June 4, 2008, June 10, 2008, and June 20, 2008, concludes that Plaintiffs have demonstrated a likelihood of success on the merits of their claims that the final rule adopted by the National Marine Fisheries Service is unlawful. The Court also finds that Plaintiffs have demonstrated that the balance of harms tips in favor of a stay because Plaintiffs would suffer irreparable harm if the rule is implemented and that Plaintiffs meet all factors favoring the entry of a preliminary injunction.

Accordingly, Plaintiffs' motion for a preliminary injunction is hereby is **GRANTED**. It is further **ORDERED** that Defendants, and their officers, agents, employees, and attorneys, are hereby ENJOINED and RESTRAINED from giving any effect to or otherwise taking any action to enforce the one-halibut daily bag limit restriction for charter vessel anglers found at 50 C.F.R. § 300.65(d)(2)(i). The daily bag limit restriction that was applicable in the International Pacific Halibut Commission ("IPHC") Area 2C previously found at 50 C.F.R. § 300.65(d) (2007) shall again become effective:

§ 300.65 Catch sharing plan and domestic management measures in waters in and off Alaska.

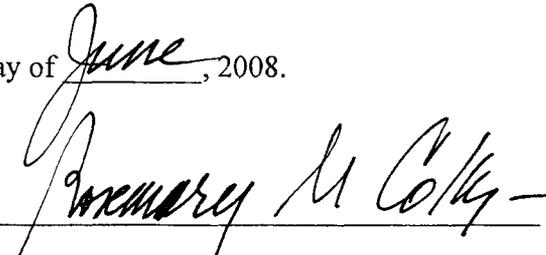
(d) In Commission Regulatory Area 2C, halibut harvest on a charter vessel is limited to no more than two halibut per person per calendar day provided that at least one of the harvested halibut has a head-on length of no more than 32 inches (81.3 cm). If a person sport fishing on a charter vessel in Area 2C retains only one halibut in a calendar day, that halibut may be of any length.

See 72 Fed. Reg. 30714, 30727 (June 4, 2007)

In addition, the related restriction regarding retention of halibut carcasses previously found at 50 C.F.R. § 300.66(m) (2007) shall again become effective. That restriction provided, in pertinent part, that: "Filleted halibut may be possessed onboard the charter vessel provided that the entire carcass, with the head and tail connected as single piece, is retained onboard until all fillets are offloaded." *See* 72 Fed. Reg. 30714, 30728. Thus, when filleted halibut are retained onboard the charter vessel in IPHC Area 2C in accordance with Annual Management Measure 28(2), as set forth at 73 Fed. Reg. 12280, 12292 (March 7, 2008), the entire carcass, with the head and tail connected as a single piece, must be retained onboard until all fillets are offloaded. *See id.*, 72 Fed. Reg. 30728.

SO ORDERED.

Entered this 19 day of June, 2008.



UNITED STATES DISTRICT JUDGE