

**Congressional Testimony:
Subcommittee on Insular Affairs, Oceans and Wildlife
Submitted March 12, 2010**

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Good morning, Madam Chairwoman, Honorable Members of Congress, fellow witnesses, and distinguished guests. My name is Edward Backus, and I am the Vice President for Community Ecosystem Services at Ecotrust a non-profit organization based in Portland, Oregon.

Ecotrust's mission is to inspire fresh thinking that creates economic opportunity, social equity and environmental well-being. Ecotrust works within a wider family of organizations which includes important partners such as Ecotrust Canada, ShoreBank Pacific — a for-profit commercial bank, ShoreBank Enterprise Cascadia — a non-profit rural community development financial institution, and Chicago's ShoreBank Corporation. We own and manage commercial timberlands through Ecotrust Forests LLC including carbon credit sales. Together, we have a collective staff of over 130 professionals and more than \$300 million in assets.

Ecotrust believes we need fresh thinking — innovation — that creates market (economic), environmental, and social “value.” We need an innovative systems approach to our challenges because social, economic and environmental conditions are all interconnected and interdependent parts of a larger system of life support. Only systemic solutions solve systemic problems. And we need resilience in order to survive and restore in times of stress. We need to innovate our way towards more **resilient** ecosystems, economies and social systems.

The deepest, most powerful “fresh” thinking is inspired by nature because we are a dependent part of natural systems. Over the evolutionary history of life on Earth, nature has solved all the fundamental design challenges of resilient, adaptive organisms, living communities, natural economies and robust “institutions.” We can achieve “reliable prosperity” by practicing a natural model of development not because it is a better model, but because it is the only one (Jane Jacobs).

The Economist defined innovation is as “fresh thinking that creates market value.” Fresh thinking inspired by nature is **deep innovation**. Crisis creates the opportunity to scale deep innovation for transformational change.

Market Design is Critical in Public Trust Assets

To the point of this hearing, I am the Founder/Chair of the North Pacific Fisheries Trust, a \$6M community quota revolving investment fund.

We are working with longline fishermen in Southeast Alaska on the Alaska Sustainable Fisheries Trust, working with many communities in the Community Quota Entity program in Gulf of

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Alaska, and community fishing associations in Port Orford, Oregon, San Francisco and San Diego, California.

Our finance activities are but tailpipe solutions that struggle to work as a result of some weak policy choices that have been made in existing catch share programs. Choices that we are on the verge of repeating in the pending Pacific trawl IQ program on the U.S. west coast.

Catch shares (known as limited access privilege programs in the Magnuson Stevens Fishery Conservation and Management Act) are a good tool for establishing individual vessel accountability in a fishery with a clear Annual Catch Limit, can stop the “race for fish” thereby increasing the safety of fishing and fishing fleets, and creating a more even flow of fresh, higher value seafood products to consumer markets.

But catch share programs also generate powerful financial incentives that can warp the long-term outcomes and success of such programs. These effects are growing stronger and in some cases just manifesting themselves.

Catch share programs need to be carefully designed need to address long term issues in community stability, economic viability, and intergenerational processes. We call this the 3E’s: ecosystems, economics, and equity. Fisheries are a **public trust and community economic development asset** and should remain as such. In October 2007, Ecotrust developed a Market Design Workshop for Limited Access Privilege Programs in U.S. Fisheries at the Harvard Business School. Many new markets have been created from public trust assets. Catch share programs in fisheries should learn from these experiences.

Recommendations:

NOAA needs to strengthen the new policy on Catch Shares to set the following required standards of U.S. fishery management councils if and when they undertake catch share programs:

- Create catch share design pilot programs with fixed terms for quota ownership, periodic auctioning of all or part of the catch shares, triple bottom line (ecological, economic, social) performance based allocations, and other strategies to understand the effects of quota programs on long-term sustainability.
- Mandate direct allocation of quota shares to community entities.
- Mandate community ownership of at least 10–25% of all quota shares in each fishery management council region.
- Require the development of Community Fishing Associations, Regional Fishery Associations and other community structures now authorized in the Magnuson Stevens Act as enacted.

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- Initiate a national quota share trading registry to promote ownership, transaction and pricing transparency.

NOAA should also act to:

- Fund the National Fisheries Innovation Fund of the National Fish and Wildlife Foundation for the support of community entities interested in participating in catch share programs.
- Review existing catch share programs in terms of their performance to date, to determine what those experiences can offer for the design of new programs, rather than putting in motion a set of parallel efforts that are not informed by what has happened on the ground/dock/ocean already.

Why do I make these recommendations?

The recently issued NOAA Catch Shares Policy is a set of program goal statements but that the agency is challenged to actually implement the policy. Many of the desired policy elements that fishing communities would like to see as outcomes are there, but the reality is quite different.

For example, the policy states:

Fishing Community Sustainability: *NOAA encourages Councils to take advantage of the special community provisions in the MSA to help assure sustainable fishing communities, including the continuation of working fishery waterfronts, fishery infrastructure, diverse fishing fleets, and resource access...*

...To this end, NOAA will help support community-based design and investment in innovative fishery management options. This partnership would include providing technical assistance in the development and submission of community sustainability plans under MSA Section 303A, and providing technical assistance in the creation of fishing community trusts or permit banks to help retain access to fisheries resources by fishermen in local communities.

The capricious political process of the fishery management councils does not guarantee that community issues will be addressed even using the current standards, presumed requirements, and options now in the Magnuson Stevens Fishery Conservation and Management Act (MSA). NOAA needs to provide mandatory oversight measures in any U.S. catch share program to address these community issues.

Key Issues

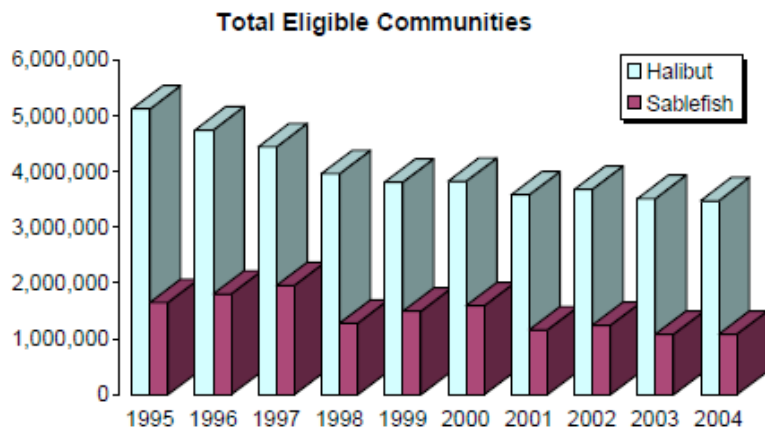
Ecotrust, and its finance subsidiary the North Pacific Fisheries Trust, have been monitoring and evaluating several issues related to the patterns emerging from the quota fisheries that are in place in Alaska and British Columbia.

History in these fisheries shows that groundfish are an important economic development asset that provides the broadest set of benefits when access is tied to the traditional pattern of fishing communities on our coast. The IQ program needs the flexibility to meet the multiple goals it has defined either explicitly or implicitly such as bycatch avoidance, rebuilding of stocks, community stability, and economic “effectiveness” (not necessarily always efficiency) via different incentives. In changing resource, policy, and business environments, stability and flexibility can foster innovation and adaptation in new markets, fishery methods, and adaptive organizations such as Community Fisheries Associations.

Community stability: quota can migrate away

Fishery quota shares are intangible assets that can migrate away from communities. A NMFS study found that in the small communities of the Gulf of Alaska, the number of persons holding halibut quota shares dropped by 46% from 1995–2004.

Comparison	Total IFQ Holding by Year		
	1995	2004	% change
Halibut lbs.	5,123,263	3,478,763	-32%
No. Persons	739	402	-46%
Sablefish lbs.	1,650,761	1,085,911	-34%
No. Persons	127	61	-52%



Report on Holdings of Individual Fishing Quota (IFQ) by Residents of Selected Gulf of Alaska Fishing Communities 1995 – 2004, March 2005. Alaska Region, NOAA Fisheries Service (NMFS) Restricted Access Management Program, Juneau, AK 99802 www.fakr.noaa.gov

Quota programs empower the first generation of recipients and hamper the future.

Testimony from the recent North Pacific Fisheries Management Council February 2010 meeting from the Alaska halibut fishery shows that second generation (even with gifting of quota — which generates capital gains tax stress) does not earn the same revenues as those who were

initially issued quota. An examination of fifteen years of data on quota transactions also shows an emerging pattern of market price, debt, and social effects.

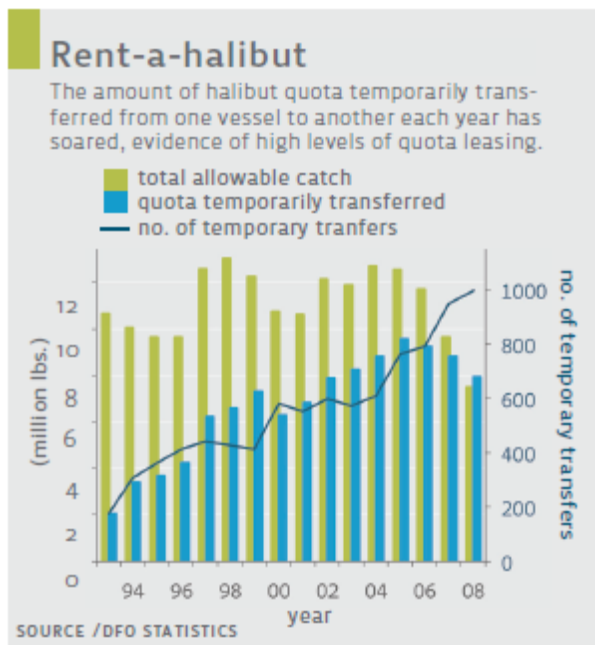
Leasing and debt kills the culture of fishing and fishing communities

Ownership structures are key; our national policy should not allow the creation of perpetual leasing operations (family corporations or otherwise). The current Pacific Trawl IQ program does just this, and will stifle innovation, reduce the benefits of liquid trade of quota shares (one of the presumed benefits of catch share programs), individual ownership, incentives for new entrants, divert revenues from crew, communities, and economic multipliers. The Pacific Trawl IQ was set up for economic efficiency, not as a strategy for conservation or community viability.

In the pending Pacific trawl TIQ program, the current definition of “eligible to own” quota shares does not limit the ability of prospective owners of quota shares to lease those shares into the future. The biggest risk associated with leasing is the dissipation of fishing revenues away from active vessel owner/operators, new entrants, crewmembers and communities as leasing fees come “off the top” before regular expenses and wages are paid. In some cases lease fees are 70% of gross landing receipts (Alaska crab fisheries). Whenever and wherever lease rates reach these levels, it is very difficult for non-owners to earn a fair return on their fishing assets and time.

“Desperation”

Two recent publicationsⁱ (see endnote) from the British Columbia quota fisheries experience have demonstrated that leasing of quota undermines the financial stability of remaining fleets after the implementation of an IQ program, particularly in situations where non-fishing owners and processors control quota share.

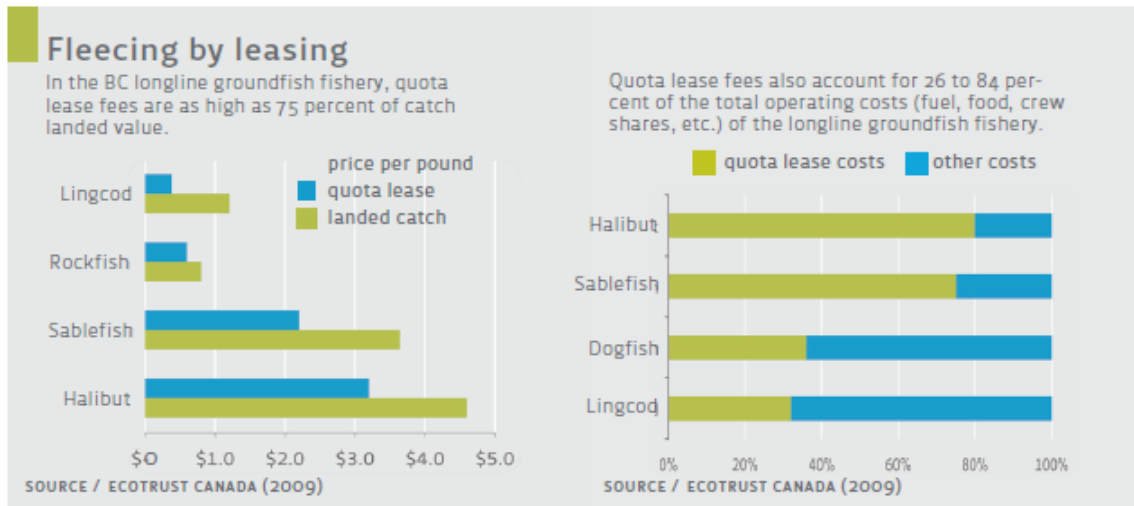


“A Cautionary Tale About ITQs in BC Fisheries”, Briefing, Issue 8, 2009, May 2009, Vancouver, BC: Ecotrust Canada.

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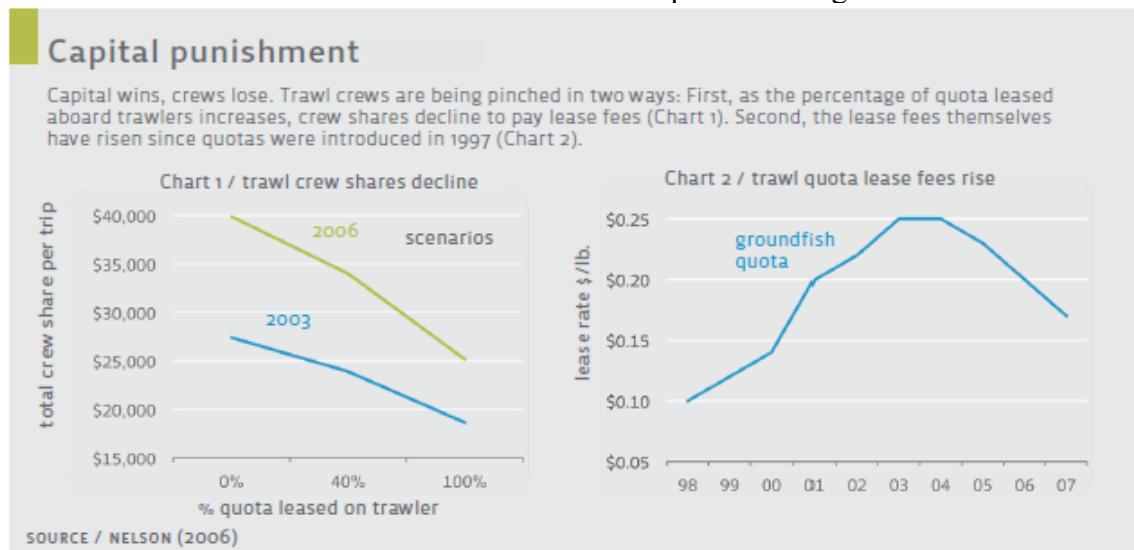
- 75% of the landed value in BC halibut fishery goes to pay lease fees to the non-fishing owners of quota.
- 84% of the total costs in the BC halibut fishery is lease fees.

Evelyn Pinkerton of Simon Fraser University, in a long-term study of the effects of leasing in British Columbia quota fisheries, heard characterizations of small boat fishermen as “desperate” in the control of processors who dominate the holdings of quota shares. Vito Giacalone of Gloucester, Massachusetts, who operates a permit bank for trawlers, says leasing will lead to fishermen being sharecroppers.



“A Cautionary Tale About ITQs in BC Fisheries”, Briefing, Issue 8, 2009, May 2009, Vancouver, BC: Ecotrust Canada.

- 30–50% decline in crew shares occur when all quota on BC groundfish trawler is leased.



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Debt:

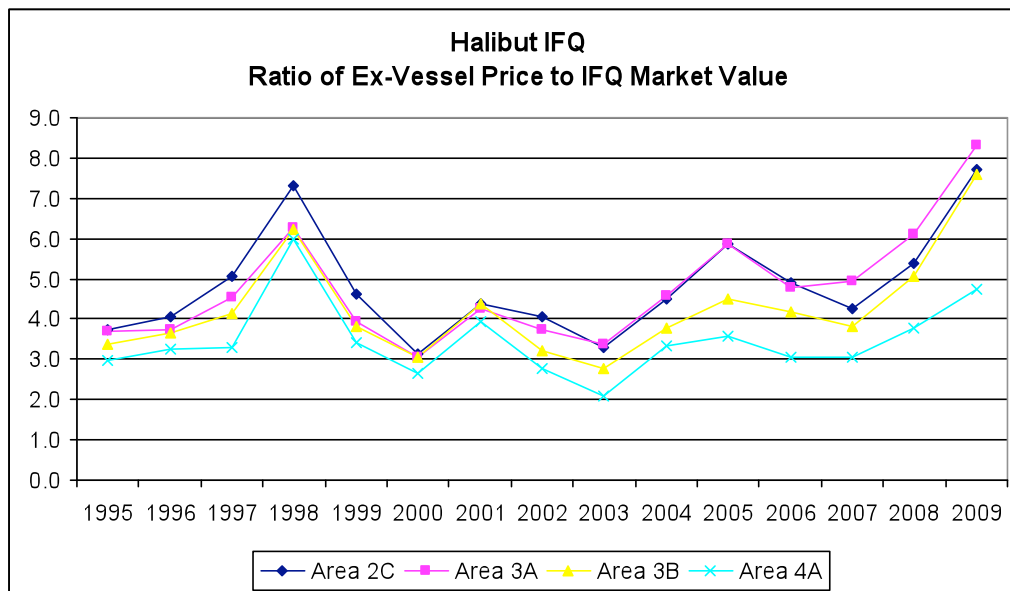
A serious issue that will face the next generation of fleet members is debt associated with Quota Share purchases. In order to enter the fishery, new entrants will buy quota shares, be gifted Quota Share, or lease them from initial recipients.

We are empowering the current generation of quota recipients, who have certainly earned their way by building businesses, but we are saddling all future generations of fishermen with debt (unless you have quota issued already in the family — but even that generates capital gains pain... gifting quota from one family member to another is a taxable event.)

As a specific example, 25,000 lbs of halibut QS at \$24/lb. = \$600,000. If a new entrant could acquire a NMFS loan at 30% down, the cash upfront required would be \$180,000. The remaining debt would be \$420,000. At 8% interest for 30 years, payments would total \$1.12M including principal and interest (interest of \$700k , which is 166% of the principal.)

Prices Escalate: Price/Earnings Ratios of Fisheries Quota

We can use the data from the Alaska halibut IQ fishery from the period 2000–2007 as a benchmark example. Every year, between 38 and 52% of transfers in that period were financed. The Alaska halibut QS price has been tracking with dock prices but has inflated on a relative basis from 1995 to 2009ⁱⁱ (see endnote). The historical ratio of QS/ex-vessel prices has been generally in the range of 3–5:1, but has been substantially above that range for the past several years. Recently, both QS and ex-vessel (dock) prices have been coming down, but dock price has fallen much faster (back to historic long term levels near \$2.50 – \$3.00/lb), with the result being that the QS price/dock earnings index is now double historical norms at approximately 8:1, worse by 100%. **New entrants** that need to finance QS in order to enter the fishery have been and are continuing to face a strong headwind in this environment.



One issue driving the run-up in this ratio appears to be Gifting of QS to new entrants. Gifting of AK QS halibut shares was 18–28% from 2000–2007ⁱⁱⁱ. Gifting cuts the cost basis of acquiring

new QS substantially, creating a major competitive advantage for further accumulation of QS by the Giftee. On the other hand, Gifting usually comes with an implied revenue commitment of at least 50–70% to the Gifto. Thus the Price/Earnings ratio is at least 25% better for the Giftee compared to a new entrant.

What do we need to do?

We need firm program requirements as national standards that must be implemented in all catch share programs.

Community Fisheries Trusts: creating different incentives

Require Councils to make at least a 10% (or more) allocation to Community Trusts:

Why?

- Having an allotment of quota that is permanently anchored in communities can help community and geographic stability.
- Trusts with no debt can lease for 8–12% overhead rates.
- New entrants to the fishery have an incentive to stay and fish in that community if they can get a start with low rate leases of quota.
- New entrants can then bootstrap themselves into gradual individual ownership of quota as they earn greater revenues with less overall debt.
- Trusts can offer capital gains tax solutions to retiring fishermen, thus investing additional amounts of quota into the community.
- Community or Regional Fishery Associations as written the Magnuson Act can function as Trusts.

Community Fisheries Trusts (including Regional and Community Fishing Associations) can contribute to environmental, economic, and community needs, including:

- **Protecting smaller ports and smaller-scale fishermen.** Community Trusts can help protect smaller ports and smaller-scale fishermen by initiating strategies to (a) anchor fishing quota in the community; (b) facilitate intergenerational transfer of fishery access; (c) incentivize and leverage affordable catch share financing; (d) help fishermen diversify their fishing ‘portfolios’; and (e) deliver health care to fishermen and their families. In turn, these activities will support the maintenance of fisheries related infrastructure in communities and attract new entrants to the fishing community.
- **Participating in the development and design of effective fisheries management.** Trusts can provide a key role in emerging catch share systems (e.g. program design, planning, permit auctions, finance, marketing) by bringing fishermen’s voices to FMC meetings or by retaining specialized expertise. In addition, they can participate in bycatch reduction initiatives such as gear modification, mapping bycatch hotspots, improved fishing practices, etc.
- **Creating fishery conservation networks.** Community Trusts can serve as vehicles for information sharing, contribute to scientific research, reduce carbon footprints, and mentor young fishermen.

- **Building and participating in new emerging markets for sustainable community-based seafood products.** In recent years, increases in aquaculture production and seafood imports have had a profound effect on the domestic ocean fishing industry. While aquaculture and foreign seafood may have a competitive advantage in price, US fishermen still have several advantages over producers of these product types. First, many domestic wild fisheries have the advantage of being closer to markets and therefore a shorter supply chain to the consumer. At the same time, the demand for both fresh and locally caught seafood is growing rapidly. A CFA could capitalize on these advantages by (a) supporting development of regional brand; (b) initiating marketing to reach key consumers and providing increased coordination for existing marketing efforts; and (c) promoting awareness among consumers about local and seasonal seafood options.

The Magnuson Stevens Act now allows for the creation of these kinds of community-based fishing support organizations and innovative fishing communities around the country have already been finding ways to meet the major challenges they face. **We need to support the development process of Community and Regional Fishery Associations early and widely, however, so that communities may engage in the creation of the standards or guidelines to be developed to encourage these alternatives to mature.**

Experiences from Alaska fisheries: one that works, one that does not.

Let us look at the Community Development Quota corporations in Alaska — successful due to allocation (vs. Community Quota Entities — which have to purchase on open market, not competitive).

Two experiences in Alaska with Community Fisheries Trust-like entities are instructive for developing the Community FA framework: Community Quota Entities (CQEs) and Community Development Corporations (CDQ).

CDQs were established 15 years ago by an act of Congress and were allocated 10% of overall quota in many species. Today they are vibrant multi-million dollar revenue community based economic development engines.

Community Quota Entities (CQEs) were formed 10 years into the Alaska IFQ program by the North Pacific Fishery Management Council and were not allocated any Quota Shares and must buy them on the open market. They do this with great difficulty, given the price for quota and the capital barriers to entering into the market.

Both CDQs and CQEs are examples of Community Fisheries Trusts. The management processes of both organizations create a sense of cohesion and cooperation at the scale of communities. Both forms have evolved considerable managerial skill and capacity. In terms of viability, however, one system is healthy, one is not.

The major lesson here is that it is beneficial to establish Trust type institutions immediately when starting an IFQ program.

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As a 2004 Government Accounting Office report found (GAO-04-277), “the easiest and most direct way to help protect communities under an IFQ program is to allow the communities themselves to hold quota.”

Recommendations:

NOAA needs to strengthen the new policy on Catch Shares to set the following required standards of U.S. fishery management councils if and when they undertake catch share programs:

- Create catch share design pilot programs with fixed terms for quota ownership, periodic auctioning of all or part of the catch shares, triple bottom line (ecological, economic, social) performance based allocations, and other strategies to understand the effects of quota programs on long-term sustainability.
- Authorize direct allocation of quota shares to community entities.
- Mandate community ownership of at least 10–25% of all quota shares in each fishery management council region.
- Require the development of Community Fishing Associations, Regional Fishery Associations and other community structures now authorized in the MSA as enacted
- Initiate a national quota share trading registry to promote ownership, transaction and pricing transparency.

NOAA should also act to:

- Fund the National Fisheries Innovation Fund of the National Fish and Wildlife Foundation for the support of community entities interested in participating in catch share programs.
- Review existing catch share programs in terms of their performance to date, to determine what those experiences can offer for the design of new programs, rather than putting in motion a set of parallel efforts that are not informed by what has happened on the ground/dock/ocean already.

Thank you for your time and I look forward to your questions.

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ⁱ “A Cautionary Tale About ITQs in BC Fisheries”, Briefing, Issue 8, 2009, Draft 13 May 2009, Vancouver, BC: Ecotrust Canada. Pinkerton, E. and D. Edwards, 2009, “The elephant in the room: The hidden costs of leasing individual transferable fishing quotas”, *Marine Policy* 33:707-713.

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ⁱⁱ Ex-vessel prices based on data from Alaska Commercial Fisheries Entry Commission for 1995 thru 2007. Estimated prices reflect weighted average ex-vessel prices reported for all fixed gear types (longline, troll, jig, and handline) and all delivery/condition types. Estimates reflect deliveries by catcher vessels to shoreside processors. 2008 and 2009 values based on anecdotal evidence.

2) IFQ market value based on NMFS/RAM data for 1995 thru 2005, PermitMaster for 2006 thru 2009.

ⁱⁱⁱ Table of Alaska Halibut Transfer data summary (2000–2007), courtesy of the Restricted Access Management Program, NOAA Fisheries, Juneau, AK, prepared March 2009.