

Date: November 26th, 2007

DFO named in fishermen lawsuit

British Columbia halibut fishermen have launched a class action lawsuit against the federal Department of Fisheries and Oceans, claiming that a DFO initiative implemented in 2001 has unfairly withheld 10 per cent of the annual halibut harvest in the years 2001 through 2006. According to the B.C. government's Year in Review report on Seafood for 2006, the B.C. halibut catch was valued at \$53.9 million and represents nearly 45 per cent of the total harvest of groundfish caught in B.C.

The action was filed by Ellis Business Lawyers. "The lawsuit seeks declaratory relief, restitution and damages from the federal minister of fisheries," explained Meldon Ellis, a senior partner in the Vancouver firm.

Lorne Iverson, a Burnaby-based halibut fisherman, explained that DFO transferred a percentage of the entire halibut quota to a single license holder, who then sold the quota back to other fishermen at inflated prices.

The DFO then shared in the additional levies, claims Iverson, a plaintiff, and potential representative of 436 halibut fishermen in the lawsuit. The funds were allegedly used to support DFO research.

Ellis said the lawsuit is based, in part, on a 2006 Federal Court ruling on a similar scheme on the East Coast. In that judgment, the Court found that fisheries minister did not have the legal right to finance his department's research through the sale of snow crabs. The Federal Court of Appeal determined that "the Minister financed his scientific research program without first appropriating the funds necessary and by misappropriating resources that do not belong to him."

Gerald Dalum, the president of Fishing For Freedom, an association of B.C. fisherman that is funding the disbursements for action, said the B.C. Case is "long overdue and could have far reaching implications for the west coast fishing industry." He added, "the industry doesn't object to contributing to science and research but does object to funding costly government policies over which the industry has no input".

"The fisheries were subjected to a funding scheme implemented by the DFO without legislative authority. In effect, the Minister assessed a tax without parliamentary debate or budgetary approval, thus violating one of the longest standing principles of tax law and constitutional democracies that there be 'no taxation without representation'", Ellis said.

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