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AUG 18 2008

PFMC

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, OR 97220-1384

Lewis E. (Mac) MacCarter
761 Butte Ave., Apt. 6
Morro Bay, CA 93442

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(805)771-9927

Dear Council members,

I am an applied ecologist and former coastal monitoring biostatistician who now resides in Morro Bay. I am writing to comment both as a potential member (researcher) of the fishing community, and as a present resident who is concerned about the environment of the area of my residence. I am alarmed by the Council's present approach to capitalization reduction in the groundfish fishery which is directed at causing boats to drop out of the fishery as is clearly stated in **PRELIMINARY DRAFT ENVIRONMENTAL ASSESSMENT FOR PACIFIC COAST GROUND FISH FISHERY MANAGEMENT PLAN AMENDMENT 22: CONVERSION OF THE OPEN ACCESS FISHERY TO FEDERAL PERMIT MANAGEMENT.**

Although the Magnuson-Stevens Fishery Council and Management Act (MSA, As Amended Through January 12, 2007) allows a reduction in capitalization, as by natural attrition, I submit that simply forcing boats to be scrapped by manipulation of regulations constitutes a taking. Such takings via the actions of the Council along with excessive and ineffective attempts at regulation has already seriously damaged the once healthy fishing community in Morro Bay and elsewhere on this coast. A very large proportion of both the boats and the skilled fisher-persons required to operate them are aging and, under the present economic conditions, attrition should be adequate to reduce capitalization. As to the boats themselves, even if there were skilled craftspersons to man them, there is little in the way of capital or credit available for boat replacement. Continuing to force boat elimination, as by the inclusion of the window associated with Alternatives 3 through 6 in the three state region, will soon lead to the extinction of the historic fishing communities of the west coast of the continental US.

The MSA, NEPA, etc. clearly include human communities as a part of the environment and, as such, they must be conserved along with fish, game, vegetation, and other parts of the environment. The MSA specifies that the Secretary of Commerce and the Councils shall consider the fishing community as defined therein: **99-659, 104-297 (17) The term "fishing community" means a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community, with respect to its preservation, its sociology, and its economics.** It is clear that this definition does not, for instance include farmers, railway workers, foresters, saw mill workers, etc, even when they are geographically intermixed with the fishing community.

The MSA also states that: **Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2),1 in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities [16 U.S.C. 1851 MSA § 301, 109-479(8)]. Alternatives 3 through 6 do not 'provide for the sustained participation of fishing communities'.**

The MSA mandates that the Secretary of Commerce shall provide for the collection of such data as is needed by the Councils (for instance: 104-297 SEC. 402. INFORMATION COLLECTION 16 U.S.C. 1881a 109-479). The Secretary also has authority over the U.S. Census Bureau which has authority to ask questions which no contracted survey company or NGO may compel the persons solicited to answer. The confidentiality of information collected under the authority of the Census Bureau is guaranteed by law. NGOs have agendas which must disqualify them from being the source of such data.

The point being that the Secretary of Commerce under which the Councils operate has reasonable and adequate access to such data as is needed if the Secretary directs that appropriate actions be taken by the Census Bureau. The Census Bureau often collects data outside the regular national census, sometimes in cooperation with other departments. So, the Council should not have to wait for the more familiar nationwide Census which is useless for fulfilling the mandates of the MSA in that it lumps agriculture and forestry with fishing.

Would the Council please request a determination by the Secretary that such information is required and also request the Secretary's aid in obtaining it, with the assistance of, and under the authority of, the Bureau of Census. Said survey should include numbers of workers by ethnicity, family sizes in relation to income, and whatever else in the way of social and economic data, specifically relating to flesh and blood persons of the fishing community, as defined in the MSA, is needed to regulate fishing in a responsible manner that will insure the fishing community's sustainability.

The Council has shown insufficient evidence that sablefish are overfished and yet, under the MSA, the only possible justification for impacting the fishing community is to prevent overfishing and even that reason has to be justified by sufficient data concerning both the biological impact and the human impact. The Council's own plans to eventually increase the sablefish limits appears to support the conclusion that the present levels of fishing do not threaten to overfish it or its associated bycatch species.

Other interrelated problems related to this proposal include:

The proposal seems to be based on information regarding the number of boats which is now at least two years old and yet boats have been dropping out of the fishery at an increasing and alarming rate. The assumptions of overcapitalization intrinsic in this draft proposal and in the GROUND FISH STRATEGIC PLAN are out of date and erroneous and threaten the continued existence of the West Coast fishing community.

Small boat operators are now, as is frequently the case, at sea laboring to support their families and thus unable to read hundreds of pages of proposed regulations comments and reports, let alone attend widely scattered meetings. The natural limitations on their opportunity to contribute to its interpretation may call for special attention to their interests when data is officially collected and assembled.

Hispanics constitute a very large proportion of the members of the fishing community handling fish after they are landed. This may mean that reduced landings, or a reduced fleet leading to reduced landings, may have a disproportional impact on a minority, but data collection has regarding this issue been neglected. The proposal erroneously implies that the Council has data proving this impact is nonexistent.

Incomes in the fishing community are lower than those of most other US industries and (when data becomes available) this industry is likely to be found to include disproportionate numbers of economically disadvantaged families and individuals who are being adversely impacted by Alternatives 3 through 6. However, the proposal erroneously implies that the Council has data proving this impact is nonexistent.

There is a problem, when fishing in deep water, that rockfish bycatch which arrive at the surface fatally injured by expansion of the air bladder are thrown overboard and thus wasted. This has to be addressed to stop this waste which is occurring, in that landing the normal rockfish bycatch is not going to have any greater impact than throwing the dead fish overboard. Perhaps this problem should be handled in cooperation with the Groundfish Advisory Subpanel. But, please consider that supply affects price and that some people cannot afford adequate high grade protein for their children.

As in Morro Bay, the fishing communities of the three states affected are presently so fragile that continued experimental regulation (adaptive management) both endangers its sustainability and threatens it with extinction. Adaptive management cannot work where strategies which are ineffective are going to cause irretrievable negative results as is the case for the fishing community. In order to avoid the possibility of expensive and wasteful litigation, the Council must proceed with due caution, and it can only proceed with restrictive regulation when valid data becomes available. Because such data is not presently available, I respectfully request that the Council scrap this proposal (choose Alternative 1, or a cautious open fisheries implementation of Alternative 2). I further request that the council likewise scrap all other potentially harmful (that is more restrictive than present regulations) proposals in any fishery until the Council has the data necessary for responsible, equitable, humane, and legally justifiable management.

Sincerely,



L.E. MacCarter, MAg, MPH, PhD

12/08/08

Subject: Fw: Open Access Licensing
From: nursejolene <nursejolene@cox.net>
Date: Mon, 18 Aug 2008 17:20:35 -0700
To: pfmc.comments@noaa.gov

----- Original Message -----

From: nursejolene
To: PFMC.comments@NOAA.GOV
Cc: nursejolene@cox.net
Sent: Monday, August 18, 2008 5:04 PM
Subject: Open Access Licensing

Public comments Amendment 22 Open Access Licensing PFMC meeting September 7 - 12, 2008

Kelly Fukushima
1517 La Corta st
Lemon Grove Ca, 91945

Dear Council Members,

Please take the time to consider some suggestions from many of the commercial fishermen that will be greatly affected by the outcome of your decisions regarding the Open Access Licensing requirements. All participants have many different opinions about qualifications however, everyone involved has the same goal which is to remain in the fisheries that they have invested time and money in and depend on for their livelihood. I am a full time commercial fisherman that has overcome great obstacles in all fisheries and economic situations. Now I find myself trying to remain in a fishery that I have participated in for many years. I am not asking for something new, just trying to keep what I already have. Here are some of my opinions regarding licensing requirements.

1. The permit must be issued to the fisherman that qualifies not the vessel. This is the most important factor in the decision. Many fishermen have upgraded their vessels or sold vessels that they had traditional landings in. By issuing permits to vessels, it could eliminate the fishermen that have a history in the fishery and allow someone new with no experience to participate. since the Open Access trip limits are already established, it should not matter what size of vessel a fisherman has if they have upgraded to a larger vessel.
2. The NMFS has had the observer program in place for many years in the groundfish fishery. Although it is supposed to be random selection, many vessels have very large numbers of observed trips in various fisheries while many vessels have little if any. The vessels that have the most observed coverage, obviously are the most active participants and the most willing to cooperate with NMFS and PFMC to remain in the fisheries. This is important to consider because it shows dedication to the fishery.
3. Due to decreased catch limits and area closures over the past several years many fishermen have not been able to rely strictly on groundfish to survive. The fishermen that have been able to adapt to fishery and economic changes by participating in other fisheries should not be punished by losing access to a fishery that they depended on until it was no longer viable. There are many fishermen that do not have huge landings of groundfish, however that does not mean that it is no longer important to them. Changes in the fishing or regulation could make it possible for fishermen to utilize groundfish at a later time as long as they were still allowed to participate.
4. Take into consideration fishermen that participate in fisheries that have groundfish as bycatch that would be forced to discard marketable fish if not granted a permit, for example live fish trapping for state regulated fish

and gillnets.

5. Make an easy appeals process for fishermen that have special circumstances in different fisheries such as gear interaction with groundfish species or any person that is denied access with reasonable qualifications.

Thank You for your time and consideration,
Kelly Fukushima

Public Comments - Amendment 22 - Open Access Licensing
PFMC Meeting - September 7 -12, 2008

John Law
2795 Massachusetts Ave.
Lemon Grove CA. 91945
858-414-9731
WILDWESTJL@YAHOO.COM

Please accept the following as public comment on Amendment 22.

Dear Council Members,

I am asking the council to keep in mind the amount of time that many of us have participated in the ongoing debate over open access licensing. I am not happy with the decision to award the permit to the vessel rather than the fisherman. Not knowing our fate has been a mental and financial drain, as many like myself have been forced to keep a vessel that should have been upgraded or retired long ago. Some fishermen have upgraded to new boats and may be unknowingly eliminated from the fishery, while others, with no intention of participating in the groundfish fishery, may be awarded a permit because they purchased a qualifying vessel. In addition some large modern vessels joined the fleet at the last minute and landed large quantities, knowing they had no long term participation, but hoping to be awarded a permit because of high catch rates.

To address my concerns I offer the following suggestions:

- 1) Reconsider the decision to award the permit to the vessel instead of the fisherman.
- 2) Emphasize long term participation. Vessels and /or participants that have no long term participation should not be considered. The window of 2004-2006 should be combined with additional participation in prior years. Landing qualifications should be distributed over the entire time period also. My suggestion is two metric tons over the entire period of 1998 -2006 with catch history before 2004 and landings every year from 2004 - 2006. This works out to an average catch of roughly 500 LBS per year.
- 3) Vessels that meet the qualifications but are not currently engaged in the groundfish fishery should not be granted access to the fishery. Landings of 500 LBS. in 2007 and 2008 should be required.

My business is rapidly being taken over by imported rockfish from Mexico. I ask the council to put the open access permit process on the fast track and make immediate adjustments to the bi-monthly trip limits, so the many hard years of work I have done will not be lost forever. John Law.

Subject: Amendment 22

From: John Law <wildwestjl@yahoo.com>

Date: Tue, 19 Aug 2008 10:12:53 -0700 (PDT)

To: pfmc.comments@noaa.gov

Please consider this E-mail as public comment on Amendment 22 - open access licensing.

Dear Council Members, After submitting a public comment letter yesterday I met with a group of San Diego CA. area groundfish fishermen. The most important issue to all involved is the possibility that some will be eliminated from the fishery if the open access permit is issued to the boat and not the fisherman. Two of the fishermen were in total disbelief and spoke about how hard they had worked to participate in the entire process including observer coverage and VMS compliance. None could understand how a person who worked hard and managed to upgrade his business could be eliminated. All spoke of the hardship this would create as they try to provide for their families and pay for houses in hard economic times. We have struggled through this process since the strategic plan was proposed and there is still time to continue to revise the thought process to make the proper decisions. Please do not jump to a quick decision that will hurt our ability to provide for our families.

John Law



CRAB BOAT OWNERS ASSOCIATION, Inc.

2907 Jones Street
San Francisco, California 94133-1115
415-885-1180

Agenda Item I.4
September 2008

Mr. Don Hansen, Chairman of the PFMC, and Council Members
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, OR 97220-1384

Dear Mr. Hansen and members of the Pacific Fishery Management Council,

I am submitting these comments on Amendment 22 on behalf of the San Francisco Crab Boat Owners Association. Our members include 30 boats and 50 fishermen, many of whom have fished the area for over 20 years.

Despite our organization's name, salmon is the heart of our fishing community. Historically, our boats have relied on multiple fisheries over the course of a year, including crab, nearshore and shelf rockfish, lingcod, and sablefish. Instead of specializing in a single fish, our trap and hook-and-line boats have diversified, so that regardless of fluctuations in ocean conditions or stock status, we had the chance to fish each season.

We strongly believe that there needs to be a place for the professional small boat fisherman in the future of the groundfish fishery, which is why we are concerned about the use of the qualifying trip criterion in the Open Access License Limitation analyses. A "qualifying trip" is defined as a fish ticket where 50% of the revenue comes from lingcod, sablefish, shelf rockfish, slope rockfish, flatfish, and/or small sharks and rays. All of the options before the Council use this "qualifying trip" criterion in some way, over time periods between 1998 – 2006.

We believe this approach will prevent many of our members from initially being granted a B permit. In 1998, new regulations to protect fish populations restricted opportunities for small boats to take shelf and slope rockfish. Accordingly, our boats took fewer groundfish and shifted to other, more plentiful species, like salmon and crab. Over the last decade, our boats have been asked to land fewer and fewer qualifying species; we now find that following the rules in the past disqualifies us from fishing for groundfish in the future.

The Council can accomplish the goals of limiting new entrants and better tracking fixed gear effort through a limited access program, but the Council will not be able to significantly reduce actual fishing effort or increase opportunity for the boats that remain. Those actions are constrained not by the number of boats, but by the other regulations the Council has in place to rebuild groundfish: low allocations of TAC, trip limits, and the RCA.

We ask you to include boats that regularly landed groundfish prior to 1998 in the initial qualification criteria for a B permit. We also recommend that the Council consider restricting the transferability of B permits within a state, or within subzones designated by the state, such as the four zones designated for California's nearshore fisheries.

The Council is looking to a new future for the trawl fleet through the rationalization program. We ask you to also look for innovations for the hook-and-line and trap fishermen as well, starting with the limited access program. Use the limited access rules to describe the world of historic and current participants, and then provide incentives that give professional fishermen a chance to help the Council improve groundfish management in the future. We recognize that our association rarely participated in earlier groundfish discussions, but we must also change with the times to keep our boats on the water, our buyers and processors at the docks, and our fish populations sustainable. Like many fishing communities along the west coast, we are looking to the ideas of co-management, co-ops, and other structures that can help small boats access groundfish and we hope that the Council will take up the discussion regional fishery associations in the next two years.

Thank you,

A handwritten signature in black ink, appearing to read "Larry Collins". The signature is fluid and cursive, with a long horizontal stroke at the end.

Larry Collins, President

Subject: amendment 22 open access licensing

From: nglawson@san.rr.com

Date: Tue, 19 Aug 2008 19:43:35 -0700

To: pfmc.comments@noaa.gov

Dear Council Members,

I am writing you this letter to state my grave disappointment and concern regarding the open access licensing amendments. I recently upgraded to a new vessel and could not believe I may lose my groundfish access. I strongly believe the new permit should stay with the fishermen not the vessel. I have been fishing groundfish for many years, installed a vms, had many trips with observers and abided the trip limits. The new owner of the vessel should not be rewarded for my many years of hard work. I am a life long commercial fisherman and sole provider for my family. Losing access to any fishery will be detrimental to my lively hood.

I know there are other fisherman who are also going to be negatively affected by this amendment. Commercial fisherman rely on many fisheries to make their living. Please consider changing the amendment and have the permit stay with the fisherman, not the vessel.

Thank you for your consideration,
John Glawson
3856 Tomahawk Lane
San Diego CA 92117
F/V Nicole Ann

Subject: for Briefing book Thanks Kenyon
From: khensel@charter.net
Date: Wed, 20 Aug 2008 09:01:34 -0700
To: Merrick.Burden@noaa.gov

Kenyon Hensel
871 Elk Valley Rd
Crescent City CA
95531
707-465-6857

To the Council Family,

I am sending Bill James as my alternate for this meeting. The main reason I am doing so is because of his of research and diligence on the process of permitting open access. He has my support for his presentations. At the same time I strongly ask that the council does not pick the preferred alternative at this meeting. The location of this meeting makes it almost imposable for small boat fishermen to attend. While I have worked towards the goal of having a limited small boat fishery to replace the open access sector, I recommend that the council takes the time to get this decision right. You need to be sure that you have fulfilled your obligation to the law. You are creating a small boat sector. The end product of your actions should have a fleet of local fishermen who work from their local ports. They are currently harvesting shelf rockfish and near shore stocks. Their landings are of the highest value. Each port along our coast has this fleet of fishermen. Our ports need these fishermen to harvest shelf fish in the future.

If you choose recent years catch and set your poundage limits high, you will discount a large number of fishermen who have not had access to the shelf because of the RCA. If you are going to use large landing limits and discount near shore catches, you will have fishermen discarding shelf fish. You cannot go fishing for rock cod and manage your catch to insure that a small fixed percentage of your target species is shelf fish. You may catch a twenty-pound lingcod on you first drop. Without any other near shore fish on board, what do you do? Throw it back? This will simply cause hardship on near shore fishermen. I have no problem with having a few more fishermen in the sector. Our goal is to have a fixed number of fishermen, not necessarily a small number. We can set accurate trip limits knowing that number. If the limits are a smaller per boat (due to a larger number of fishermen) the sector will deal with it. We must have enough boats with shelf permits to maintain markets at far-flung ports. This is more important then having a small sector to start with. I hope that in the future we can talk about the stacking of permits or buying back and retiring permits. There are many ways to consolidate this fleet, but few ways to make it bigger. Thank you for your consideration of issue. I look forward to seeing all of you at future meetings.

Kenyon Hensel