

March 2009 Draft Meeting Minutes: Open Access License Limitation

G.5.a Agenda Item Overview (03/12/09; 4 pm)

Mr. LB Boydston provided an agenda item overview which included a Powerpoint presentation, Review and Update of Open Access Fishery Preliminary Draft Environmental Assessment, Proposed Amendment 22,

http://www.pcouncil.org/bb/2009/0309/G5b_SUP_EA_TEAM_PPT_0309.pdf. During the powerpoint, Mr. Kevin Ford, NMFS, joined Mr. Boydston to answer questions. The slide show summarized (1) the license limitation alternatives, (2) the analysis of Alternative 6 (same as A-6, the Council's September 2008 adopted preliminary preferred alternative), and (3) new information regarding cumulative impacts and post window period landings.

During questions, it was clarified that the administrative process for the proposed B permit program would mimic that of the Limited Entry (A permit) program.

G.5.b Reports and Comments of Agencies and Advisory Bodies

Mr. Jones provided Agenda Item G.5.b, Supplemental GMT Report. Among other things, he noted that sablefish trip limits would not change until the fleet size was lowered to about 250 vessels and that a license limitation program would improve some aspects of the current management.

[Council adjourned for the day; returned back to Agenda Item G.5.b, on 03/13/09; 8 a.m.]

Mr. Ancona provided Agenda Item G.5.b, Supplemental GAP Report. The Council asked questions about issuing permits to previous vessel owners or fisherman and why the GAP recommended a relatively low landing threshold for a sablefish endorsement given that it made very little difference between the 100 lb or 500 lb thresholds.

Dr. McIsaac summarized Agenda Item G.5.b, GAC Report.

Ms. Vojkovich summarized Agenda Item G.5.b, Supplemental CDFG Report

Mr. Lockhart summarized Agenda Item G.5.b, Supplemental NMFS Report. In addition, Dr. Clark reported that the proposed license limitation program under Alternative 6 would cause the observer program to redesign their at-sea sampling strategy and increase overall program cost.

Mr. Steve Williams summarized Agenda Item G.5.b, Supplemental ODFW Report.

G.5.c Public Comment

Mr. Dave Bitts, PCFFA, Eureka, CA
Mr. Steve Gray, Bell Buoy Crab Co., Seaview, WA
Mr. Bill James, Port San Luis Commercial Fishing Association
Mr. Larry Collins, Crab Boat Owners Association, San Francisco, CA
Mr. Jason Salvato, fisherman, Petaluma, CA
Mr. Santi Roberts, Oceana (for NRDC), Portland, OR

Public comments ranged from taking no action to requesting a much higher standard for a sablefish endorsement (to several thousand pounds).

G.5.d Council Action: Adopt a Final Preferred Alternative for Implementation (03/13/09; 9:55 am)

Mr. Moore moved and Mr. Warrens seconded the following motion (Motion 39):

I move that the Council approve converting the Open Access Fishery to Federal Permit Management using the Council Preliminary Preferred Alternative (A-6) with the addition of sablefish and lingcod endorsements using the following criteria:

- The current owner of a vessel is eligible for a B permit if that vessel(s) was (were) used to make one or more directed B species open access fishery landings totaling ≥ 100 pounds from Federal and/or state waters off the Washington, Oregon or California coasts during the period April 9, 1998-September 13, 2006 (window period); and that at least one directed fishery landing was made during January 1 2004-September 13, 2006;
- A lingcod endorsement will be affixed to a B permit if a vessel qualifies for a B permit and landed ≥ 100 pounds of lingcod in any one year during the window period;
- A sablefish endorsement will be affixed to a B permit if a vessel qualifies for a B permit and landed ≥ 500 pounds of sablefish in any one year during the window period;
- Allow both a lingcod and a sablefish endorsement to be affixed to a B permit if the vessel qualifies for both endorsements;
- Affix species endorsements permanently to and for sole use with the original B permit and allow directed fishing for the endorsed species in addition to other B species groundfish;
- The endorsement provision is intended to preclude non-endorsed vessels from directly fishing for (targeting) endorsed species, but allow B permitted vessels without endorsements to land incidental amounts of the endorsed species under cumulative landing limits identified during the normal specifications process;
- Vessels that apply for and receive B permits, including any associated species endorsements, would be allowed to take and land B species groundfish using open access gear in amounts specified in Federal groundfish regulations;
- Vessels that do not receive a B permit and that do not possess a Limited Entry (A) permit will be allowed to take and land B species groundfish incidental to fishing for non-groundfish species in amounts specified in Federal groundfish regulations;
- Permits and associated species endorsements are transferable between vessels, including transfer during the first year;

- Allow A and B permits to be used alternately on the same vessel in the same year, but not in the same cumulative limit period. A declaration process is required as part of the A and B provision;
- Establish a process for initial issuance appeals;
- Remove C permit program provisions and provide a mechanism to account for and manage incidental catch of groundfish in these fisheries

Motion 39 was not voted on because Mr. Dan Wolford made a substitute motion.

Mr. Wolford moved and Ms. Kathy Fosmark seconded a motion (Motion 40) to adopt, with one exception, Alternative 2 (the vessel registration alternative on page 35 of Agenda Item G.5.a, Attachment 3) which establishes an annual federal license requirement for vessel owners that intend to participate in the open access groundfish fishery. The one exception would be in the last sentence of the paragraph under Alternative 2 which should read: “However, a vessel owner may apply for an open access license for the following year at any time during the year.”

Mr. Wolford stated that there has been a lot testimony by the public that the current fishery was viable and that many long time fishermen, for one reason or another would not qualify to continue fishing under the more limiting alternatives. He noted that the fleet size reduction had been achieved; the proposed B permit program was too complex; the vessel monitoring system (VMS) requirement is effective in limiting fishery participation; a \$100 to \$200 annual registration fee would discourage frivolous vessel registrations; and a salmon vessel effort shift did not appear to be a problem in the fishery.

Mr. Wolford reviewed the seven items under the need for the proposed action of page 4 of the EA and compared his motion with the preliminary preferred alternative. His Alternative 2 with a simple registration program would be expected to have fewer vessels; would allow simple market forces rather than regulatory action to determine how communities would benefit; is as effective or more effective than the preferred alternative with regard to eliminating restrictive landing limits; assists in efficiently meeting management goals with the registration of vessels; is neutral with regard to economic viability issues and salmon effort shifts; and achieves improved management and enforcement through simple registration as effectively as the preferred alternative.

He further noted that the analyses for Alternatives 2 and 6 had very similar results and that the directed fishery was too small to justify the high cost of a limited entry program.

It was further clarified that the purpose of this alternative is to identify all vessels and vessel owners that participate in the open access fishery and to aid managers in estimating fishery impacts to target and non-target species. This alternative would not limit fishery participation and the registration would be valid for directed or incidental fishing operations in both state and Federal waters. Registration would have to occur far enough in advance of the next year to allow for processing by NMFS.

Mr. Lockhart stated he would not be supporting the substitute motion. The primary reason is because the problem with OA is that it does provide an outlet for potentially increasing and expanding effort in the fishery. We don't see a lot of people in the fishery right now, but that hasn't always been true, and we don't know what will happen in the future. The Federal

Government has a strong position in limiting capacity and matching capacity to the resource. And without capping this fishery, we cannot achieve that match. A simple registration does not do that. When we created this fishery 15 years ago, we did not anticipate that we would be here today when the LE system was designed. Everyone thought OA would be a minor thing, but it is not. There is significant effort on sablefish and possibly a growing problem with lingcod. The economic issues mentioned by Dan Wolford are a concern, but all of these fisheries are linked. Decisions in one fishery affect other fisheries. The trawl rationalization decisions, such as the Adaptive Management Program, could help to alleviate some of these economic problems in the Open Access fishery. The EFP for a Community Fishing Association could be another venue for addressing some of these economic problems identified by Dan. But the substitute motion at its core does not address the primary problem, but the original motion does.

Mr. Warrens said that he was at the table when LE was created. We did not cut deep enough at that time, and now is the time to limit this. If not now, you will be back at this table again and again. I oppose the motion.

Ms. Vojkovich said she would support this motion as the PPA. The suite of management measures we had 15 years ago are not that same as those we have now. If we give out 1000 permits under the PPA, it would not match the capacity to the resource given that California now has less than 700. The complexity of the program is far in excess of what is needed. It will have disproportional effects on California. Dan's motion takes care of part of the issue, and we could discuss sablefish as a separate item.

Mr. Moore said the need for the proposed action is stated in the EA which says the number of vessels needs to be limited to match capacity and effort to match resource availability, but the analysis for Alternative 2 says this alternative would not limit fishery participation. I will have to oppose the substitute motion.

Ms. Fosmark stated she would support the motion. What she sees going forward with a more restrictive permitting system would not allow people to come in and out of a fishery that serves as a safety net. Our aging fleet and harvesters will leave, and young fishermen want to get in. This fishery allows them to get in with cheaper vessels and gear – you can't get into a more expensive fishery because no one will loan you the money to do so. This fishery is necessary to provide opportunity for young folks to enter the fishery.

Mr. Wolford said that with regard to how many permits would be available, the analysis under Alternative 2 estimates less than 713 permits would be needed initially and less than 713 permits in the long term. The same analysis shows that Alternative 6 would use those same numbers, but the analysis shows the PPA would have in excess of a 1000 boats that would qualify. Therefore, the PPA does not limit entrants into the fishery any more than a simple registration. That excess is not needed.

Ms. Culver said that WDFW proposed an option similar to this 3 years ago to the Council, but over that time she realized she couldn't convince all Council Members to support it. One of the things that concerns her with the PPA is that 15 years ago the LE fishery was developed over 6 or 7 years. As a result, there were people identified that would not qualify for an LE permit. The Council decided an OA component would be available for people to enter annually when other fishing opportunities were not available, such as Dungeness crab and salmon troll. And for the

last 15 years that's what OA was used for. The GMT said the trip limits would not change under the PPA; the landings in this fishery are directly related to the amount of sablefish that is available in the OY and OA allocation; and the trip limits would roughly be the same under the substitute motion. If we have concerns about the amount of effort in this fishery, and the quickness with which the OA allocation is obtained, and the potential bycatch in the fishery – then the Council should do a better job of managing the fishery through trip limits, and by applying the bycatch rate appropriately. The one thing she is most uncomfortable with in the PPA is creating a new LE permit that looks like a property right, even though we say it isn't. We had testimony today from people who feel like they have had a property right in the past, and giving out a permit sets that in concrete a little bit more. She stated she will support the substitute motion.

Motion 40 passed on a roll call vote with all voting members present. Mr. Moore, Mr. Warrens, Mr. Lockhart, Mr. Williams, and Mr. Ortmann voted no. Mr. Jerry Mallet abstained. The vote was 5 no, 7 yes, 1 abstention. The Chair did not vote nor abstain.

PFMC
06/01/09