

October 16, 2016

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

RE: 5-Year Catch Share Review Gear Switching

HAS A MANAGEMENT MISTAKE BEEN MADE?

To answer the question, let's take an objective look back at how we got to this point. Forget the lawyers, forget the NGOs and the Nature Conservancy. Forget how bad some folks want ITQs to be the silver bullet solution to management mistakes. ITQs are a tool not a solution.

The ground fish crisis was caused by two primary factors;

- 1) Too much fishing effort.
- 2) The decadal oscillation changed ocean conditions and those conditions resulted in a prolonged episode of poor groundfish recruitment.

The Management response;

The PFMC acted decisively by adopting the Ground Fish Strategic Plan.

The Strategic plan adopted a two pronged solution approach;

- 1) implement species specific stock assessments as a tool to inform managers as to the health of the stock so that effective measure could be put in place to prevent overfishing.
- 2) Control fishing effort with limited entry permits issued based on fishery participation history. Commercial fishing effort was then further segregated by gear type and a limited number of transferable permit were established for each gear sector; Trawl—Longline—and Trap. Sector allocations were determined and apportioned. Weekly trip limits and by-monthly quotas controlled fishing power and protected overfished stocks. Losses in

profitability were shared equally by all sectors.

The Strategic Plan approach was rooted in the concept that fishing was a privilege.

Since overfishing was a major problem, this privilege was reserved for the individuals that historically participated in the fishery and future individuals who purchased the original privileged-based permits on the open market. An open access component was adopted but with significant opportunity restrictions.

This Strategic Plan approach, applied the principal of fairness to this privileged based system;

- 1) It restricted the allowable rate of catch for each permit holder through the mechanism of trip limits and bi-monthly quotas. Each gear sector competed with the others on a level playing field.
- 2) No sector was granted any special privilege or right over any other sector. This is the root principle governing the concept of fairness. Our democratic system is rooted in this key principle of fairness. When laws are applied unfairly society unravels, human dignity is lost and problems are created.

MANAGEMENT MISTAKE PART ONE: Failure to comprehend the implications and negative consequences associated with mixing or merging two distinctly different management approaches into the same fishery and gear type.

ITQs are inherently a rights based management system. Rights based systems are very different from privileged based systems. Rights based ITQ systems award ownership rights and encourage the pooling of individual units of fishing effort. The goal of this management approach is to match individual fishing power with resource extraction availability. This practice grants ownership of what were, at one time, multiple individual pools of accumulated bi-monthly quotas. This 'owned pool of fish' can be sold, leased, transferred, and harvested, any where, at any time, and at any rate. It is the complete, polar opposite of the privileged based management system currently governing the Fixed Gear Limited Entry Fishery!

The ITQ trawl program has transformed a privilege based system into a rights based system. Trawl permit holders are no longer constrained to the rigid set of restrictions which control individual fishing effort and ultimately profitability in the Fixed Gear Limited Entry (longline/trap) sector.

Understanding this important distinction between the two

management approaches is the key to understanding the first part of the management mistake that was made when gear switching was authorized.

RIGHTS BASED MANAGEMENT SYSTEMS CAN NOT BE FAIRLY MIXED OR INTERTWINED WITH PRIVILEGE BASED MANAGEMENT SYSTEMS. THE TWO MANAGEMENT SYSTEMS ARE INHERENTLY INCOMPARABLE. THE ITQ GEAR SWITCHING PROGRAM MIXES THE TWO SYSTEMS TOGETHER.

With regard to the first management mistake, developing a trawl ITQ program is not the root problem. Trawl sector allocation and trawl gear based permits acted as a fire wall protecting fixed gear sector permit holders. For the most part, South of 36, the trawl and fixed gear sectors fished different location for different species. Black cod was more of a by-catch in the trawl sector generally speaking. Attempting to longline or trap in a trawl zone would likely result in a lot of lost and damaged fishing gear. The ITQ Trawl program is not the problem

THE ROOT PROBLEM WAS CAUSED BY THE TRAWL ITQ GEAR SWITCHING PROGRAM. THIS PROGRAM REMOVES THE FIRE WALL THAT PROTECTS THE FIXED GEAR SECTOR FROM THE RIGHTS BASED ITQ TRAWL PERMIT HOLDERS. RIGHTS BASED PERMITS OVERPOWER PRIVILEGE BASED PERMITS IN EVERY FISHERY AROUND THE WORLD. THEY OPERATE FREE FROM THE RESTRICTION THAT CONSTRAIN PRIVILEGED BASED, FIXED GEAR, LIMITED ENTRY PERMITS HOLDERS IN THIS FISHERY.

THE ITQ GEAR SWITCHING PROGRAM DISENFRANCHISES THE FIXED GEAR SECTOR BY ALLOWING INDIVIDUALS WHO QUALIFIED FOR TRAWL QUOTA , A COMPETITIVE ADVANTAGE IN THE FIXED GEAR SECTOR. A SECTOR WHICH THEY DO NOT HAVE A PRIVILEGE OR A RIGHT TO PARTICIPATE IN, UNDER THE FRAMEWORK OF THE GROUND FISH STRATEGIC PLAN ADOPTED BY THIS COUNCIL.

Mixing the two systems without any meaningful safeguards for the weaker, more vulnerable, privilege based, fixed gear sector is mismanagement. Failure to correct the error is dereliction of management duty. For a more detailed explanation of the consequences of this management mistake, please reference my letter to the PFMC dated October 5, 2016

MANAGEMENT MISTAKE PART TWO; Failure to develop and install safeguards to prevent regional depletion, by the newly created, uncontrolled pools, of gear-switching fishing effort at a specially explicit level.

The ITQ gear switching fishery is so poorly conceived and implemented that it endangers the sustainability of the stocks it targets, and the fishery sector it invades (fixed gear) . **ITQ Gear switching, removed the successful effort controls put in place by the Council under the Ground Fish Strategic Plan. These ‘fixed-gear-harvest-rate-effort controls’ were functioning as de-facto regional management. They were safeguarding the resource from excessive regional harvest extraction.** The fishery science supporting the strategic plan, mandates at least a 50% reduction in fishing effort in each gear sector. In the Fixed Gear Sector, this reduction was achieved by instituting weekly trip limits and bi-monthly quotas. Gear switching introduces large pools of new, unrestrained fishing effort into the fixed gear sector. Mismanagement is not only allowing, but encouraging the introduction of gear switching effort into the fixed gear sector, Managers should have known that the fixed gear sector relied on these highly restrictive management control, in order to meet the mandated 50% effort reduction. introducing more effort only make the problem more difficult to solve. While ITQ gear switching may have the support of the fishermen it benefits and the NGOs who naively and eagerly promote it as their preferred fishery management solution, it is devastating to many in the fixed gear sector which it unfairly invaded.

Gear switching effort can concentrate high levels of extraction on individual deepwater reef structure without any consideration for regional extraction rates or regional sustainability.

All successful ITQ longline fisheries which target residential or semi-residential species have built in control to prevent the concentration of fishing power from causing regional stock depletion and regional overfishing. The ITQ gear switching program does not have any dedicated controls to prevent regional depletion it encourages it! This is a major management mistake that was caused by failing to evaluate the program correctly.

For a more detailed explanation on the consequences of this

management mistake, please reference my letter October 5, 2016. For a better understanding of regional effort controls in ITQ fisheries, please examine the Pacific ITQ halibut and blacked fisheries.

If your goal is to transform our management system from a privileged based system into a rights based ITQ system, that task requires much more thought, consideration and coordination with the fixed gear permit sector. changes in the structure of the fixed gear sector must apply to all participants fairly, not just a select few invading it with trawl ITQ quota.

Action item request.

Terminate the gear switching program or restructure the entire Fixed Gear limited entry program.

**Respectfully,
Chris Hoeflinger**