



Ms. Dorothy Lowman, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, OR 97220

RE: WIDOW ROCKFISH REALLOCATION AND DIVESTITURE ISSUES

Dear Chair Lowman,

We write on behalf of Pacific Seafood to provide comments for the Council's consideration of widow rockfish (widow) reallocation and associated issues with the scheduled divestiture of aggregate non-whiting groundfish quota share (QS) holdings under Agenda Item J.2.

For the reasons detailed below, we urge the Council to (1) proceed with widow reallocation in accordance with either one of the two strawman alternatives four or five (Agenda Item J.2.a, Attachment 2) as previously endorsed by the GAP in November 2011, (2) delay divestiture for the aggregate non-whiting control limit pending the upcoming five-year review of the IFQ program, and (3) proceed with a formal rulemaking for revoking forfeited QS over the control limits.

1. Widow Should be Reallocated per Strawman Alternatives Four or Five

Now that widow is rebuilt, there is a need to address the increased fishing opportunities, especially for those who developed and are looking to participate in directed widow fishery. Historically, widow was a large revenue contributor to harvesters and processors and enjoyed good market reception. As the output and profitability of the present IFQ West Coast non-whiting fishery were recently declared to be a disaster by prominent members of the fishing community, the widow reallocation could be an important piece of the economic "stimulus package" necessary to jump start the IFQ non-whiting fishery. Strawman alternatives four and five presented in Agenda Item J.2. a, Attachment 2 achieve the goals and objectives of

the trawl rationalization program and are most fair and equitable when compared to the other proposed alternatives.

2. Delay Divestiture for the Aggregate Non-whiting Control Limit Pending the Upcoming Five-year Review of the IFQ Program

When the Council created the trawl catch share program, both the individual species and the aggregate non-whiting QS control limits were established. The aggregate non-whiting control limit of 2.7% places a significant restriction on the QS holdings in the sense that no QS holder will be able to maximize his/her holdings for individual species (i.e. have QS up to individual species limits) if they have a handful of non-whiting species with large ACLs in their QS portfolio. As the Council and NMFS recognized, the widow QS reallocation creates significant problems pertaining to the current aggregate non-whiting control limit and divestiture requirement as highlighted below.

- Widow reallocation may change an entity's aggregate non-whiting QS holdings. Some QS holders might be pushed over the 2.7% control limit while others might find themselves under the limit after the widow is reallocated (Agenda Item J.2, Situation Summary, pg. 2). It is somewhat complicated to estimate whether an entity might be over or under the 2.7% control limit and by how much exactly after the widow reallocation. This is particularly true in more complex cases where an entity owns and/or controls and/or has an ownership and/or controlling interest in multiple permits and QS accounts. The effect of the widow reallocation on the aggregate non-whiting QS holdings might be small in simple situations where for example an individual owns one permit and one QS account associated with that permit, as stated in Agenda Item J.2 a, Attachment 2 (pg. 11, paragraph 2). This may not prove to be the case in circumstances where an entity fully or partially owns and/or controls multiple permits and QS accounts. In addition, the rebuilding formula was used for widow and other species that were overfished when the initial allocation was implemented to determine a person's aggregate non-whiting QS holdings. Given the possibility of changing the formula for widow and/or the method for calculating the aggregate non-whiting control limit and entities' aggregate holdings, the widow reallocation effect on divestiture to meet the aggregate control limit is indeed unclear as stated in NMFS report (Agenda Item J.2.b).
- Widow reallocation affects the ability to decide which species and how much of it to divest in order to meet the 2.7% aggregate non-whiting control limit. Not understanding precisely, and well in advance of a reallocation, how much additional widow an entity may or may not receive will result in ill-informed decision making regarding divestiture.
- The moratorium on widow QS trading not only prevents any QS holder divesting down to 5.1% widow control limit but also forces the QS holders to undertake divestiture decisions that might not be the most optimal choice for their business operations.
- Widow reallocation scoping document (Agenda Item J.2.a, Attachment 2) suggests that excluding the widow from the aggregate non-whiting control limit might be one of the possible solutions for the issues created by the widow reallocation. It is

important to note here that the issues with the current IFQ control limits and divestiture regulations arising from the widow QS reallocation will be the same or even more complicated for other rebuilding species once they are declared rebuilt. Furthermore, the same issues arise each time the composition of species in four complexes managed by IFQs is changed. While interesting, the idea of excluding the widow from the aggregate non-whiting limit does not resolve the problem pertaining to aggregate QS holdings. Once the widow is reallocated and included back into the aggregate non-whiting limit equation, it may change an entity's aggregate holdings. Simply excluding the widow from the aggregate non-whiting calculation not only does not solve the issues currently at hand but it does not resolve the overall problem of dealing with the other potential reallocation cases mentioned above. Widow reallocation might actually be the most straightforward since the current widow QS can be traced directly back to the permits for which the QS was initially issued due to the widow trading moratorium (Agenda Item J.2.a, Attachment 2, pg. 5, last paragraph). This raises the question of whether the future reallocation of the other currently rebuilding species for which there is no trading moratorium is feasible.

Under the "Implementation Scenario 1" (Agenda Item J.2.a, Attachment 1), divestiture for the aggregate non-whiting control limit would not be delayed if the widow reallocation can be completed and implemented by October 2015 and assuming the QS holders know their expected widow QS reallocations well in advance of divestiture deadline. Even if the widow reallocation is implemented by October 2015, one month is not a reasonable amount of time to complete all divestiture transactions. This scenario would be ideal for those individuals looking to "pick off" non-widow QS from the individuals being forced to "sell-off" in the one month period. Sellers however, would suffer having their trading opportunities and negotiation power severely diminished. Furthermore, the assumption that QS holders would know their expected widow QS reallocations well in advance is a questionable assumption. In order to somewhat accurately estimate the widow QS reallocation, quota holders would need to know not only the history of their permit(s) but also the history of *all* other permits and exactly which three years will be dropped for each of the permits. It is our belief that this will be a Council/NMFS staff task that will need to be accomplished well in advance of October 2015 to meet November 2015 divestiture deadline. It would seem that the scope of this work would force staff to delay work on almost all other important issues.

At September 2014 Council meeting (Agenda Item J.1.d, Public Comment), we submitted an economic analysis comparing the West Coast and British Columbia (BC) groundfish catch share programs. We noted that the single biggest element that is different in the better performing BC program is "built in flexibility to maximize economic results". This is achieved, among other things, by not having the aggregate non-whiting control limit but rather only individual species control limits. The Council should evaluate the need for the aggregate non-whiting control limit during the five-year IFQ program review. The use of individual species control limits alone without the aggregate non-whiting limit allows for a more flexible program which could lead to (among other things) target species specialization, better economic performance for the whole sector and coastal communities, more consistent

market supply of the West Coast groundfish, and less problems with potential future reallocations.

Postponing divestiture for the aggregate non-whiting control limit will not harm anyone, but *NOT* postponing it will complicate the widow QS reallocation and cause a burden to the non-whiting IFQ program which is already struggling. We believe that without the removal of the aggregate non-whiting control limit the same problems we are dealing with now will occur again when other species are rebuilt, become overfished or are moved in and out of the complexes.

3. The Council Should Proceed with a Formal Rulemaking for Revoking Forfeited QS over the Control Limits

The aggregate non-whiting QS control limit is a significant constraint on the regulatory framework and general ability of the West Coast IFQ program to reach its economic potential. For this reason, we believe the need for the aggregate non-whiting control limit should be thoroughly evaluated at the five-year program review to see whether this limit is necessary for the West Coast IFQ program to meet its objectives. However, if it is the Council's conviction to push ahead forced divestiture for individual species and/or the aggregate control limits, as presently scheduled, then it should go through a formal rule making process that allows for public input and analysis.

Conclusion

Pacific Seafood has invested heavily in our infrastructure to support the fisheries home ported in our communities on the West Coast. We employ a great number of individuals in our coastal plants, the majority of whom are dependent on the IFQ non-whiting groundfish for employment. We believe a great opportunity exists to increase our harvest within the ACL constraints. This would create higher employment, help rebuild lost market share, and increase the revenues from an underutilized public resource. We also believe that a key factor to accomplish this under the present program is to remove some of the regulatory restrictions that are preventing us from a full launch. However, we cannot assume that regulatory relief alone is enough to provide the engine and fuel for the next steps necessary to reach the program's economic goals and objectives. The markets to purchase our groundfish products must be reinvigorated as well. This will require an effort on all our parts; but as much as anything else a new spirit of cooperation. With the advent of MSC certification we have a valuable tool to aid us but it will require a "go to market" strategy, and consistency of delivery as well. Most of us in the industry have faced daunting challenges in our past and found solutions. The challenges we face now are unique but they can be solved. The stakes are simply too high not to move forward.

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