

FORMAL SCOPING PERIOD COMMENTS ON
DEDICATED ACCESS PRIVILEGES (INDIVIDUAL QUOTAS)
FOR THE
PACIFIC COAST LIMITED ENTRY TRAWL GROUND FISH FISHERY

Summaries of the hearings and summaries of written comments are provided in this document, and transcripts of public testimony from the hearings and written comments are attached as an appendix.

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HEARING SUMMARY

*Scoping Hearing on
Individual Quotas (Dedicated Access Privileges) for
the Pacific Coast Groundfish Trawl Fishery*

Pacific Fishery Management Council

Crowne Plaza Hotel

Alexandria I Room

1221 Chess Drive

Foster City, CA 94404

June 13, 2004

Public Attendance: 12

Council Staff: Dr. Kit Dahl, Mr. Jim Seger

Testifying: Seven people testified representing five organizations.

Mr. Bob Osborne	United Anglers of Southern California
Mr. Kent Crawford	Coastal Jobs Coalition
Mr. Peter Huhtala	Pacific Marine Conservation Council
Mr. Tom Raftican	United Anglers of Southern California
Ms. April Wakeman	United Anglers of Southern California
Mr. Pete Leipzig	Fishermen's Marketing Association
Mr. Steve Bodnar	Bandon Submarine Cable Committee

Summary of Comments:

Mr. Bob Osborne, United Anglers of Southern California

- We have asked to have a recreational angler represented in the process.
- Seems like an individual fishing quota (IFQ) program would be granting rights.
- Seems the Council is trying to avoid difficult questions, such as cross-sector transfer of quotas and call for National Standards.
- Concerned about bycatch and habitat damage caused by trawling.

Mr. Kent Crawford, Director, Coastal Jobs Coalition

- Support balanced fisheries rationalization.
- Strongly support IQ system.
- Believe any IQ system must provide equally for harvesters and processors.
- Support establishment of community development quota (CDQ) or community quota to operate parallel to IFQs.
- Council should analyze the use of an auction-based system.
- Council should analyze different combinations of allocation, including 50-50 initial allocation of IFQ to trawl permit owners and primary processors, and combinations of initial allocation to trawl permit owners, primary processors, and community entities.

- Urge study of the recently rationalized Bering Sea crab fishery.
- Concerned that this environmental impact statement (EIS) process is premature; allocation should be dealt with first.

Mr. Peter Huhtala, Pacific Marine Conservation Council

- Concerned about bycatch.
- Concerned that move into IFQs might be distracting the Council from bycatch issues; should spend time completing the bycatch EIS.
- A programmatic EIS should be completed before a trawl IFQ EIS.
- The fact that allocation isn't being dealt with now is a problem; can't conduct cumulative impact analysis without considering allocation.
- Support U.S. Ocean Commission recommendations regarding National Standards.

Mr. Tom Raftican, United Anglers of Southern California

- The groundfish fishery needs a programmatic review before an IFQ can be considered.
- The recreational sector must be included in the initial program and in the design of intersector allocation.
- The Ad Hoc Groundfish Trawl Individual Quota Committee (TIQC) should include recreational representatives.
- Funding for the TIQ program must be discrete and secure.
- Support National Standards for IQ programs.

Ms. April Wakeman, attorney (United Anglers of Southern California)

- Include recreational sector in planning, etc. for trawl IQ program.

Mr. Pete Leipzig, Fishermen's Marketing Association

- Support moving forward with IQ program.

Mr. Steve Bodnar, Coos Bay Trawlers Association

- Trawl fleet supports the program, but now that it's about trawlers, there's much attention being paid.

HEARING SUMMARY

*Scoping Hearing on
Individual Quotas (Dedicated Access Privileges) for
the Pacific Coast Groundfish Trawl Fishery*
Pacific Fishery Management Council
National Marine Fisheries Service
7600 Sand Point Way NE
Seattle, WA 98115
July 20, 2004

Public Attendance: 22 (12 representatives of government/academia, three environmental representatives, one fisherman, three processors, and three unknown).

Council Staff: Mr. Jim Seger

Testifying: Five people testified:

Mr. Ray Hartwell	Environmental Defense
Mr. Tom Casey	Bering Sea crab vessel owners' representative
Mr. Dave Fraser	Fishing vessel skipper
Mr. Peter Huhtala	Pacific Marine Conservation Council
Mr. Joe Bersh	Supreme Alaska Seafoods (mothership)

Summary of Comments:

Mr. Ray Hartwell, Environmental Defense

- Supports development of IQ alternatives.
- Supports addition of coastal community representative on the TIQC.
- Process should be open to stakeholders' input.

Mr. Tom Casey, Bering Sea crab fishing vessel owners

- In the Alaska crab ITQ program, ownership caps favor processors leading to vertically integrated operations. Impose the same ownership caps on processors as apply to fishermen.

Mr. Dave Fraser, fishing vessel skipper

- The Council should move ahead quickly with ITQs.
- Doesn't support fourth option on page 2.9.
- Doesn't support individual processor quota (IPQ) programs.
- It is important to maintain a competitive marketplace.
- Communities may or may not support processor shares. Communities contain both harvesters and processors.
- Allocation of harvester shares to skippers or permit owners should be considered as one of the options.

Mr. Peter Huhtala, Pacific Marine Conservation Council

- The IFQ development process is premature because a programmatic EIS needs to be completed for the groundfish fishery and National Standards developed for IFQs before the TIQ program goes forward.
- A program of sector-specific bycatch caps for overfished species should be considered as an alternative to IFQs. Such a program could be implemented more quickly.
- Bycatch caps, if implemented, should not be tradable.

Mr. Joe Bersh, Supreme Alaska Seafoods (whiting mothership)

- Some rationalization has occurred during the window period established to qualify for initial allocation in a TIQ program. As a result, individuals who have permanently left the fishery could qualify for quota shares. Therefore, there should be an ongoing participation requirement.
- A control date should be established for processors, in the event that the program includes processor shares.
- Consider allocating shares to processors who are not vertically integrated, since the issue of preserving non-mobile capital is not as important for vertically integrated operations.
- Consider an accumulation limit for processors that takes into account harvester ITQs they receive through fishing vessel ownership.
- There are significant differences between conditions on the U.S. West Coast and British Columbia—overfished species in particular—which makes it hard to readily transfer the British Columbia model to West Coast fisheries.

HEARING SUMMARY

*Scoping Hearing on
Individual Quotas (Dedicated Access Privileges) for
the Pacific Coast Groundfish Trawl Fishery*
Pacific Fishery Management Council
Mark O. Hatfield Marine Science Center
2040 SE Marine Science Drive
Newport, OR 97365
July 27, 2004

Public Attendance: 22 (eight representatives of the fishing industry; three representatives of non-governmental organizations; three representatives of state or federal agencies; three members of academia; three representatives of coastal community organizations; and two unknown).

Council Staff: Mr. Jim Seger

Testifying: Five people testified:

Mr. Leesa Cobb	Port Orford Ocean Resource Team
Mr. Peter Huhtala	Pacific Marine Conservation Council
Mr. David Jincks	Midwater Trawlers Cooperative
Ms. Dorothy Lowman	Environmental Defense
Mr. Denny Burke	F/V Timmy Boy

Summary of Comments:

Ms. Leesa Cobb, Port Orford Ocean Resource Team

- Identify Port Orford as an individual port; do not lump with Brookings, etc.
- Consider CDQs.
- Analyze impacts on Port Orford, especially inter-sector allocation.
- Identify how fishing opportunities are allocated, so communities know whether effort will be shifting into their areas.

Mr. Peter Huhtala, Pacific Marine Conservation Council

- This is an extremely controversial topic.
- Support development of National Standards by Congress to ensure that shares are allocated equitably and to prevent domination of industry by a few large businesses.
- Advocate a programmatic EIS to review the groundfish fishery management plan (FMP), paying attention to effects of management changes on communities.
- Advocate hard bycatch caps by sector (total mortality caps) for overfished species.
- Difficult to consider cumulative impacts without knowing how fisheries will be allocated.
- Cumulative impacts section should look at all recent management changes (area closures, buyback, etc.).

Mr. David Jincks, Midwater Trawlers Cooperative

- Support TIQs.
- Need to rationalize the fishery.
- IQs will bring stability.

Ms. Dorothy Lowman, Consultant, Environmental Defense

- Support dedicated access privileges from groundfish trawl fleet.
- Include alternative that looks at bycatch caps for overfished species; allocate them as tradeable quotas.
- Consider CDQs or other methods to address concerns of coastal communities.
- To maintain fishing and processing opportunities in coastal communities, consider holding back a percentage of the IQ each year to be allocated annually based on joint proposals with fishermen and processors.
- Analyze initial allocation to skippers who can demonstrate history of dependence on the fishery.
- Consider area-specific IQs based on socioeconomic and biological considerations.
- Consider a mechanism to allow communities to form nonprofits that can hold and lease quota to community members and allow the nonprofits to apply for loans.
- Don't wait too long to start inter-sector allocation discussion.
- Modify the Ad Hoc Allocation Committee, so all sectors and stakeholders are represented.

Mr. Denny Burke, fisherman

- Support quota program.
- Don't make shares smaller than they are now. It's very hard to make a living.

SUMMARY OF WRITTEN COMMENTS

*Scoping on
Individual Quotas (Dedicated Access Privileges) for
the Pacific Coast Groundfish Trawl Fishery
Pacific Fishery Management Council*

Number of Written Comments: Nine submissions from seven parties

Comments were received from the following parties:

Captain Gordon Murray (F/V Blue Horizon)
Coastal Jobs Coalition (Mr. Kent Craford)
Environmental Defense (Dr. Rod Fujita)
International Pacific Halibut Commission (Dr. Bruce Leaman)
Pacific Coast Federation of Fishermen's Associations (Mr. Zeke Grader, Jr.)
Pacific Marine Conservation Council (Mr. Peter Huhtala: two letters and one e-mail)
B. Sachau
West Coast Seafood Processors Association (Mr. Rod Moore)

Summary of Comments:

Captain Gordon Murray, Past Captain of the F/V Blue Horizon

- Captains and crew who were responsible for significant past catch records, but who did not own the vessels they fished, should not be overlooked, but should be granted IFQ access shares.

Coastal Jobs Coalition (Mr. Kent Craford)

[Coastal Jobs Coalition written comments from Kent Craford are identical to oral testimony taken at June 13, 2004 scoping hearing and are summarized as part of that hearing.]

Environmental Defense (Dr. Rod Fujita)

- Consider sectoral bycatch caps allocated as transferable bycatch quota.
- Initial allocation alternatives should address the potential impacts on coastal communities.
- Mechanisms should be explored that would help maintain fishing and processing opportunities in coastal communities.
- Analyze an initial allocation to skippers who can demonstrate specific history and dependence on the fishery.
- Explore using an auction mechanism, but recommend that it be tiered to provide opportunities for diverse operations to effectively compete.
- Consider area-specific IFQs based primarily on biological considerations to address concerns about local depletion.
- Urge effective monitoring of any IFQ system. Support 100% at-sea observer coverage, 100% dockside monitoring and mandatory vessel monitoring systems.
- Explicitly ban highgrading.

- Develop measurable environmental performance objectives to which the IFQ program will be held accountable.
- Support cost recovery for the monitoring activities described, as well as industry financial contributions to research and management. Urge considering a “sliding scale” or initial loan opportunities for members of the fleet who might be disadvantaged in paying these costs.
- Allow coastal communities to form nonprofits whose purpose would be to hold and lease quotas to community members, and these nonprofits qualify for any loan program opportunities.
- Include unambiguous language that is thoroughly vetted with stakeholders who have expressed concerns about IFQs constituting or evolving to become a de facto property right.

International Pacific Halibut Commission (Dr. Bruce Leaman, Executive Director)

- Any provision allowing retention of trawl-caught halibut would require IPHC approval.
- The Halibut Catch Sharing Plan would need to be amended to account for retention by this additional user group.
- Requiring retention of halibut would double the amount of legal-sized halibut mortality by the trawl fishery and would exceed the current catch limit for the directed commercial halibut fishery.

Pacific Coast Federation of Fishermen’s Associations (PCFFA) (Mr. Zeke Grader, Jr., Executive Director)

- Consideration of the trawl IFQ program is premature; an analysis of the effect of the buyback on trawl effort, reallocation of quota back to other groundfish sectors, and establishment of National Standards for IFQ programs should take place first.
- The justifications for an IFQ system are not strong enough. The proposal fails to say how an IFQ program will lessen bycatch, and the rationale for groundfish management seems to have changed from supporting a year-round fishery to allowing fishermen to fish when they want. An explanation for this change in rationale is needed.
- No mention is made of the increased cost of IFQ systems. The cost issue needs to be carefully considered.
- PCFFA urges the Council not to proceed at this time with the preparation of an IFQ system.

Pacific Marine Conservation Council (Mr. Peter Huhtala, Senior Policy Director) letter of May 25, 2004

- Concerned that this process is moving forward too quickly.
- The Pacific Council should decline to approve a public scoping document for a trawl ITQ EIS, and should instead recommend that NOAA Fisheries proceed with the issuance of a Notice of Intent (NOI) to prepare a comprehensive programmatic EIS that will facilitate an open public process for planning for the future of the groundfish fishery as a whole.
- A comprehensive programmatic EIS must be completed for the West Coast groundfish fishery prior to consideration of options for new forms of dedicated access privileges specific to the trawl sector of this fishery.
- The NOI to prepare an EIS regarding implementation of dedicated access privileges in the groundfish trawl fishery is deficient, and some premises set forth in the NOI can be considered misleading.

- The process leading to the public scoping document has been severely flawed, inherently tainting the material offered to the Council.
- Under objective criteria developed by the National Research Council, the West Coast groundfish trawl fishery is unlikely to be considered an appropriate fishery for implementation of an IFQ system.
- The way in which exploration of a possible IFQ system has transformed into a rush to implement a trawl IFQ program, demonstrates the need for Congress to enact National Standards. If Congress cannot act swiftly to pass National Standards, then a moratorium on new IFQ systems should be established until they are adopted.

Pacific Marine Conservation Council (Mr. Peter Huhtala, Senior Policy Director) includes letter of July 29, 2004, and comments in separate August 2, 2004 email

- Believe time and resources are being inappropriately diverted to design the dedicated access privileges (DAP) system, while a comprehensive programmatic EIS for the groundfish FMP is overdue.
- Urge completion of the bycatch program EIS, its associated FMP amendment, and implementation of associated regulations.
- Propose a new alternative based on sector caps on the total catch of each overfished species. (Detailed proposal included).
- Consider longer cumulative landing limit periods under status quo management (three, four, or six months).
- Elements of the attached proposal could be implemented swiftly, while not precluding additional solutions.
- Consider how any DAP system will respond to or discourage future changes in area-based management, both for biological and economic reasons.
- Recommend analyzing a range of sunset provisions from one to ten years. Also, consider reviewing the performance of the IFQ system prior to the sunset date. Short-term sunsets (such as two years) would increase flexibility.
- Sunsets would help ensure the IFQ program achieves its goals.
- Recommend the program be required to achieve measurable conservation goals.
- Offer a range of referendum scenarios, including a double referendum where two-thirds of those involved in the fishery would be allowed to vote first on whether to develop an IFQ system, then whether to implement the system.
- Analyze the current fishing situation spatially and model scenarios to help understand the biological and economic changes that various IFQ systems might cause.
- Concerned that IFQs could encourage local depletion of some populations. A spatial analysis could help address this concern.
- Constitutional problems may arise with community quotas. Please describe the range of legally possible solutions for community quotas and requiring landings in certain ports.

B. Sachau

- Raises questions about how the public is protected from self interest of fishermen and supports protecting the public from the self interested actions of fishermen.
- The resource belongs to the general public and the Council should make that clear.
- Reduce the number of fishermen so that seasons will be longer and fishermen will not rotate between fisheries.
- Establish marine reserves, and reduce quotas by 50% and 10% every year thereafter.
- Capacity rationalization through market forces is not appropriate.
- Community quotas are not appropriate as the fish are a public resource.
- Incorporates by reference Pew Foundation reports on overfishing and the Councils.

West Coast Seafood Processors Association (Mr. Rod Moore, Executive Director)

- Have concerns about the process chosen to develop the EIS; allocation should come first.
- Cannot analyze the social and economic effects of a DAP without first knowing whether fishing will be allowed and how it will be allocated.
- The DAP should include all species of Pacific groundfish covered under the FMP and legally available for harvest; or separate DAPs should be developed for Pacific whiting and for non-Pacific whiting groundfish fisheries.
- Providing privileges to some but not all harvested species will negate the economic benefits of a DAP and reduce impacts on bycatch reduction.
- The Council should consider three groups for initial allocation of privileges: owners of limited entry (LE) trawl permits, processing companies that purchase LE trawl-caught groundfish (with a sub-option of processing facilities, rather than companies); and communities where at least 1% of the annual landings of LE trawl-caught groundfish are made.
- The Council should consider allocating directly to recipients through a regulatory process and distributing privileges through an auction system.
- The Council should consider having no caps on quota ownership in order to allow maximum economic flexibility. The Council should also consider having different caps for different privilege holders.
- For ease of enforcement, the Council should analyze an option that limits the number of ports where trawl-caught groundfish may be landed.

APPENDIX A

TRANSCRIPT OF PUBLIC COMMENTS

Trawl IQ Scoping Hearing

Pacific Fishery Management Council

Crowne Plaza Hotel

1221 Chess Drive

Foster City, CA 94404

June 13, 2004

Mr. Bob Osborne, recreational angler and fishery consultant for United Anglers of Southern California

It's been over a year since we started talking about this. We've been asking for an opportunity to get a recreational angler into the process to discuss putting some potential alternates into the process, looking at other stuff that would affect recreational angling that might be covered in the process with the team currently in place.

I've heard where it's at that the Council doesn't consider this IFQ program to be granting rights, but the last time I was aware of a process where it made that determination that didn't involve the full public was King George, with the colonials. It's complicated. ... The complications are covered in the NOAA publication "Sharing the Fish." I don't think it's simply cut and dried to have an IFQ program without answering some of these more difficult questions that the Council seems to be trying to avoid.

For example, cross-sector transfer of quotas; in addition, the call for national standards for IFQs, from a broad sector, very clearly states that this is not an easy process and that there needs to be a wide public process in establishing the goals and objectives for this process and in designing (it well?). Bycatch still is a problem. There are number of fish species subject to bycatch, such as northern bocaccio, which there is no stock assessments on. Another issue is habitat considerations. The damage to bottom habitat, over which the drag gear passes; and also offsite damage from the dragger gear, from clouds of sediments that increase water turbidity and may have smothering effects on filter feeders well away from the trawl passage. Thank you.

Mr. Kent Craford, Director, Coastal Jobs Coalition

We're a group recently formed by the WCSPA to evidence the broad base of support for *balanced* fisheries rationalization that recognizes and provides for all stakeholders in the west coast groundfish fishery, including seafood dependent communities. I'm here today representing dozens of companies and organizations employing thousands of people in primary processing and its supporting industries, including transportation, cold storage, and packaging, for example, in addition to seafood industry customer groups, like restaurants... Thank you for the opportunity to comment today... first I'd like to express our coalition's strong support for dedicated access privileges or IQ systems. There are significant economic and management benefits that can be derived from IQ systems for these 2 groundfish fisheries, but the key to obtaining those benefits, especially economic

benefits, is in the proper design of an IQ system. We've heard it said many times by both processors and fishermen that neither can exist, much less succeed, without the other; therefore it is imperative that any IQ program...recognize this fact, and work to foster the vitality of both for their mutual benefit and the benefit of the communities that depend on them. So the primary message we'd like to send today is that any IQ system must provide equally for harvesters and processors. A balanced approach will bring needed stability to both sectors, for supporting industries as well as coastal communities. With this in mind we formally proposed the inclusion of the following alternatives... And some of these may already be partially covered in the scoping documents. We feel that the socioeconomic impacts of each of these alternatives should be analyzed fully and independently of each other. The alternatives we propose are:

1. Establishment of community quota or CDQ to operate parallel to an IFQ. Despite use in other fisheries, this option was rejected by the ad hoc trawl IQ committee without sufficient justification. CDQ is a reasonable alternative and should be analyzed in the EIS.
2. Second, an auction-based system should be analyzed as a reasonable alternative to status quo or an IFQ system, so we'd like to see an auction-based system put alongside a more traditional IFQ system. Such was the recommendation of NRC to include an auction-based system in the scoping process, as referred to in the scoping document. ...

As stated in the EIS, initial allocation of quota is the most controversial aspect of quota systems, recognizing the tremendous economic and social impacts and shifts that will occur through the initial allocation. ... We support analysis of various combinations of IFQ initial allocation. Each of these deserves equal consideration as a reasonable alternative to status quo in the EIS.

3. A 50-50 initial allocation of IFQ to trawl permit owners and primary processors.
4. Combinations of initial allocation of IFQ to trawl permit owners, primary processors, and community entities.

Additionally, the Coastal Jobs Coalition supports analysis of existing dedicated access privilege or quota systems related to the above-mentioned alternatives, as well as others considered in the EIS. As part of the analysis, we feel it imperative to study our nation's most recently rationalized fishery, Bering Sea crab. We recognize and understand that Congress has temporarily prohibited the consideration of such a system as a reasonable alternative to status quo for west coast groundfish, but analysis of that system is appropriate for learning purposes. As seafood industry business, we feel strongly that the short experience we've had with crab rationalization will speak well for the socioeconomic benefit that such a balanced approach can have for processors, harvesters, community, and all stakeholders on the seafood industry. Ignoring the most recent and relevant American fishery quota system while we try to develop our own from scratch would be foolish.

Finally we must express our concerns that this EIS process is premature. It's been recognized that allocations between groundfish harvest sectors need to be negotiated before any trawl IQ system can move forward. Why is this not being done first? To march down the path towards an IQ system without even knowing where the trawl fishery stands vis a vis fixed gear, open access, and recreational fisheries is putting the cart before the horse. ... [We will participate actively in the coming months. Thanks.]

Mr. Peter Huhtala, Pacific Marine Conservation Council

I would like to introduce a letter submitted under C9, would like the substance considered in this process. Thanks for opportunity to speak. Although I have a lot of concerns about process (I'll limit those to the C9 discussion on Thursday), I have relevant comments on the notice of intent. I'll primarily talk about the cumulative impact analysis required. The NOI came jointly from the NOAA Fisheries and PFMC, and at every Council I'm racking my brain to find that moment where the Council explicitly voted to instruct staff and NOAA Fisheries to move forward with a trawl IQ EIS. I haven't figured that out yet. But I know we're working on a bycatch program EIS... and there is some sort of linkage. It's very important to PMCC to get a good handle on bycatch – both in monitoring and reducing bycatch, and coming into legal compliance with the FMP amendment for bycatch – and not just legal compliance, but getting down to producing regulations that improve this fishery, and that move us in the future, that increase the economic viability of the fishery and the health of the resource in both the short and long term.

I get the impression though, [that we are] moving quickly and heavily resource oriented into trawl ITQ development, that we may be losing sight of the bycatch EIS itself, referred to in the NOI. The resources, to my mind, really could be better spent in completing, as best we can, that bycatch program EIS, and developing a really useful FMP amendment that can be the basis of regulations for improving the fishery. The resources diverted into this trawl ITQ development could also be better spent on the programmatic EIS, and actually, are requisite to developing a trawl ITQ EIS, because the type of analysis that would be required to take place within the programmatic EIS is the type of information you need to complete the cumulative impacts analysis for these dedicated access privileges. The comprehensive programmatic EIS would not only link our bycatch monitoring and reduction efforts, our efforts to protect EFH, our approach to rebuilding overfished fish populations and preventing overfishing, but it would also provide a forum for analysis of major changes that have occurred in the fishery over the past several years, including our response to overfished species, but also the major closed area management decisions, which have had tremendous impacts on recreational and commercial fishing and fishing communities. And completing the analysis of the open access situation. Should we move the open access fishery into LE? We haven't completed that debate yet.

These are some of the ways that a programmatic [EIS] can start bringing us up to at least a baseline understanding of the what the past effects, the present actions, and possible future actions, could be, in a process in which the public can have a voice in the future of this fishery. And if the public, with eyes wide open, says a trawl ITQ is the way to go to really improve this fishery, then that's the way we go. [But we should go there through an open and inclusive process.]

The NOI and scoping document and the process that's been laid out here today has a fatal flaw which the previous speaker pointed out, in that the idea is to design the trawl ITQ program and then figure out allocation. Well, the cumulative impact analysis can't even be reasonably complete unless you consider the development of the program as well as the allocation. The allocation has considerable impact on fishing community, processors, the recreational fishing fleet, adjacent fisheries, fixed gear, OA, etc., and there is no way that we can separate these, whether the allocation should go first – maybe it should; in some ways, in completing and implementing the bycatch program EIS perhaps there needs to be some allocation issue worked out. But certainly in the context of a trawl ITQ, the program cannot be separated from the allocation, because it's far too complex

and we end up with a program design that is a foregone conclusion before we get the allocation, and that is no way to be fair in the social and economic analysis necessary to protect our fisheries and our fishing communities.

Finally the fact that DAP is the new buzzword is interesting to me. It became popularized with the US Commission on Ocean Policy report. The US Commission was supportive of considering DAPs at various times, but they very specifically, in their draft report, recommended a series of national standards that these programs should adhere to, or lacking standards, that ... and they're remarkably similar to the standards proposed by the MFCN, a group that the PMCC is part of...there are over 170 groups involved (said who is involved in MFCN.) But the US Commission—I have to read their recommendations into the record here:

At a minimum, the national guidelines should require DAPs to specify the biological, social, and economic goals of the plan; recipient groups designated for the initial quota shares and data collection protocols; provide for periodic reviews of the plan to determine progress in meeting goals; assign quota shares for a limited period of time to reduce confusion concerning public ownership of living marine resources; allow managers flexibility to manage fisheries adaptively, and provide stability to fishermen for investment decisions; mandate fees for exclusive access based on a percentage of quota shares held; these user fees should be used to support ecosystem-based management. Fee waivers, reductions or phase-in schedule should be allowed until a fishery is declared recovered, or a fishermen's profits increase. Include measures such as community-based quota shares or quota share ownership caps to lessen the potential harm to fishing communities during the transition to DAPs; and something we haven't heard about yet today, hold a referendum of all permitted commercial fishermen after adequate public discussion and close consultation with all effected stakeholders to ensure acceptance of the dedicated access plan prior to final RFMC approval. Worth reflecting on.

Mr. Tom Raftican, United Anglers of Southern California, and speaking on behalf of United Anglers of California, who couldn't be here today

The groundfish fishery needs a programmatic review before an IFQ program can be considered. According to NEPA, federal managers are required to analyze the impacts of recent changes to the groundfish fishery. The fishery is in tremendous flux, and needs this type of analysis before moving into a major reconfiguration of the fishery. Implementation of the trawl IFQ could lock us into sector allocations and gear configurations that may not be appropriate.

2. The recreational sector must be included in the initial program and design of intersector allocation. Trawl IQ committee membership has excluded representatives of the recreational sector. We have requested membership from the Council, and our exclusion has created uncertainty in the recreational community about the impacts of trawl IFQ on the recreational sector, especially w/regard to bycatch. Participation in the inter-sector allocation portion of the process is impaired by not having (been) part of the initial program design.
3. Funding for the trawl IFQ must be discrete and secure. The rush to complete an IFQ for the trawl sector has led to a virtual scramble for funds. The scramble indicates that the cart has been placed before the horse, and that a well thought out, integrated approach for design and funding should take place.

4. National standards for Congress have not been enacted. While it's certainly in the Council's right to pursue an IFQ program given that the moratorium has expired, it is the position of the UA of SC and the UA of CA that national standards such as those described in HR 2621 be enacted before new IFQ program are approved by NOAA Fisheries. NOAA Fisheries has made it clear that they want to see criteria from Congress before approving any new IFQ programs.

Ms. April Wakeman, attorney representing United Anglers of Southern California

Want to reiterate the fact that recreational fishermen will be affected, and do need to be represented, and would appreciate the chance to participate. From a personal point of view, buy-in is much better if everybody has participated in the solution, so it's just good common sense.

Mr. Pete Leipzig, Fisherman's Marketing Association

... This process is going to be a long one. It's a complicated issue, and a lot of work will go into putting this together. For many of us it will be a very frustrating process. Much of what is going to occur is very bureaucratic. But it's a requirement; you have to adhere to the requirements to complete all the necessary analysis. But for someone like myself, I feel much like a father bringing an injured child to the emergency room, and before he can be attended to there's the requirement to complete all the insurance paperwork. He needs attention, but we're gonna spend the time dealing w/the paperwork. And as I hear some of the other speakers, it's almost as though that analogy has expanded, that they're suggesting that perhaps we need to have a review of the admission procedures before we can begin the paperwork before we can have the child see a physician. This is frustrating. I hope that we can continue to move forward. Some of these issues that people raise can occur concurrently, in parallel with the work that the committee is doing, with the work that the analysis group is doing. The council has been requesting for years to get along with sector allocations. We've limped along; we have some things in place because of the declaration of overfished species; they're not adequate; we need to get past these things. But they don't have to occur sequentially. Those who suggest that they occur sequentially, I have to be very skeptical; in view of what you're saying, I believe you're not interested in having an ITQ program go forward, and that the perfect way to delay it, to kill it, is to have it go sequentially. Thank you.

Mr. Steve Bodnar, Coos Bay Trawlers Association and Bandon Submarine Cable Council

The trawl fleet wants the IQ program; everybody comes to the door and is knocking there; it is amazing to me that there wasn't this kind of attention done when the fixed gear, the LE fixed gear, pulled the same thing and got their IQs basically by permit stacking. It's just amazing to me that the gear makes the difference in who's at the door and who wants in. Welcome aboard everybody!

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TRANSCRIPT OF PUBLIC COMMENTS

Trawl IQ Scoping Hearing
Pacific Fishery Management Council
National Marine Fisheries Service
7600 Sand Point Way NE
Seattle, WA 98115
July 20, 2004

Mr. Hartwell, Environmental Defense

Environmental Defense fully supports the Council's decision to move forward to develop IQ alternatives for the West Coast groundfish fishery. We look forward to working with Council in developing a program to improve management and resource sustainability and bring economic sustainability to fishermen, processors, and coastal communities. We are interested that there be a range of alternatives to address coastal community concerns. Over the summer we are working with coastal community leaders to better understand their concerns and needs and will be presenting a report to the Council at their September meeting describing our findings and their implications for IQ alternatives. We are pleased that the Council recently added a coastal community representative to the Trawl IQ Committee. We believe that it is of utmost importance that the process continues to be open to all stakeholders' input throughout the EIS process. Finally, ED will be hosting an open forum on the British Columbia ITQ program in Newport, Oregon, next week from 9 am to 1 pm on July 27th. The public will have an opportunity to hear firsthand about the environmental and economic benefits of IFQs from participants in the BC groundfish fishery and will be able to discuss the implications for our own ITQ development process. We will be submitting a summary of this meeting as part of our formal written scoping process after July 27th. I encourage interested parties to seem me after about the Newport forum. Thank you.

Mr. Casey, Bering Sea crab vessel owners representative, Woodinville, Washington

My clients are Bering Sea crab vessel owners, and if I lie to you today Bob Alverson and Dave Fraser can tell you that they saw everything that I saw. I simply came to warn you. I read this article on the web about what you are doing and all my remarks refer to page A9, accumulation limits. I simply wanted to tell you what happened in Alaska and warn you about a socioeconomic virus that I think we let loose up there and could very easily come down here all along the Pacific coast. In my opinion with the next rewrite of the Magnuson Act it spread all over the country. I believe it is against a hundred-year historical tradition in this country of antitrust containment. Here is what it is in a nutshell. I ask you to write down two numbers: eight, which is the percent of the IFQs in crab that processors own in the Bering sea. That's what they qualify for under the qualifying year scenarios decided on by the [North Pacific] Council. Number two, please write forty, question mark. I believe this is right; I get that number by multiplying eight processors times a five percent ownership cap. As you know, every fisherman, Dave Fraser for example, may only accumulate one percent of the IFQ in crab, according to the Secretary of Commence. Glenn's people may each acquire five percent. This is all legal, all above board, all on the public record. But when I tell you who decided that I think you will be surprised. Gary Locke decided that.

Governor Kulongowski decided that. Governor Kitzhaber decided. Governor Knowles decided that. And Governor Murkowski decided that. And do they even know it? Of course not. However, the Magnuson law says that they have a seat, a voting seat ex-officio, on those councils. All of their representatives voted to give Dave Fraser one percent max and give Glenn's people each five percent max. And when I read your article I thought maybe we can contain this to crab in the Bering sea. You remember who decisively won the Civil war by overrunning Atlanta? He had a brother who wrote a law called the Sherman—not William Tecumseh Sherman, his brother—the Sherman Antitrust law. You know that we've come to that in Alaska. The way the decision was made all of Glenn's guys are subject to the antitrust laws today and into the future. There is no escape from that. But what is the golden ingredient that gets all the way around that? It's the five-to-one ratio. If 240 Dave Frasers can only own one percent and eight processors can own five percent each, who cares about the Sherman or Clayton Antitrust Acts? Within 10 years, most likely the harvesting privilege will be owned and controlled by the vertically integrated operations. And you know what? Some of them are fishermen owned. Let's not point fingers. Not only international corporations, they are partnerships with the fishermen. We tend to think that's the wrong way to go, and I hope that when you guys make this decision.... I think I was looking at page A9, it says one percent or nine percent, and that's where we started too. I hope you make it the same. My message is purely that. Whatever you decide, give the fishermen the same as the processor. Otherwise I believe you are creating a system—remember in the *New Industrial State* John Kenneth Galbraith talked about countervailing power between labor and capital? This is a little different. But to maintain a competitive market it seems to me you don't want to accumulate large blocks of fishing privilege in the hands of a small group. Eight, and 240 can only have one percent. Thank you.

Mr. Dave Fraser, F/V Muir Milach

I haven't taken much time to go through this and I hope there's an opportunity to submit email comments on this. I just wanted to say real quickly that I support the comments of EDF. I think that the experience we had early on in the presentation from the B.C. fishermen and processors presents a real good model. I think the Council should move ahead quickly—2009 didn't sound real quickly—but as quickly as possible to move toward a rationalized environment. On page 2.9, socioeconomic environment, I think its real important, this is in the context of the allocation options on page 8-21, and I'm assuming the ones under the TIQ recommendations are the ones that will be further developed. [Inaudible response from Jim Seger.] Right. And I have no objections to the first three on the list. I think option number four isn't currently legal and I wouldn't encourage moving in that direction. One that isn't on the list that I've seen supported elsewhere is individual processing quotas in addition to the the allocation of quota to processors, which is a horse of a different color. I don't support IPQ systems. But I do think that the NRC set some good guidelines in *Sharing the Fish*. Looking at processor concerns is relevant, and in that context and coming back to what's on page 2.9, it's important to look at the relevant amounts of non-malleable capital invested in the harvesting and processing sectors and how relevant that capital is to the particular fishery. You can have a non-malleable processing plant, but it may be doing crab and salmon and sardines and this and that. So those sort of comparisons are relevant if you go down the road of alternative three of allocating harvest

share to processors and trying to put that in perspective. I think an important element that needs to be woven into the socioeconomic environment is maintaining a competitive marketplace. The one IPQ system that is recently popularized, the Department of Justice pointed out very serious competition issues with that. I heard the comments about communities, and EDF comments, and it's interesting to note what's important to communities can go two different ways. In Alaska, the Pribilof Islands are totally isolated from road access and kind of different situation from communities down here. They sort of jumped on board with the processors. On the other hand, Kodiak Island felt that they would be best served by a single pie system that encouraged competition in the marketplace, which would be good for the community as a whole. I'm just thinking about our situation on whiting, we deliver in Ilwaco. But some of our fish is processed in Ilwaco and some of it ends up in a truck going up to Bellingham or Stanwood, going up the road. The community issue doesn't necessarily resolve in one specific direction. Our crews are scattered from Bellingham to Port Townsend. Anyway, I'll try to submit more coherent comments by email. [Inaudible comment from Jim Seger.] I think it is a relevant option in terms of that. I mean the connection between the communities is both harvesters and the processors. One thing I did mean to mention, I found it rather odd that the TIQC included the allocation of harvest shares to processors but excluded the option of allocation to harvesters or skippers or permit owners. And that seem contrary to the general tone of advice from the NRC. It always baffles me why skippers would end up lower on the totem pole. [Inaudible comment from Jim Seger.] Yea, thank you.

Mr. Peter Huhtala, Pacific Marine Conservation Council

Some interesting additions to the discussion today. PMCC has commented on this before and we will in the future. We are real concerned about some of the issues that have been brought up today, around consolidation, also about potential loss of fleet diversity. We look forward to the detailed analysis in that regard. And certainly the issues of vertical integration and the real potential for this to spread to processor quotas, if not explicitly in this initial process, inevitably perhaps. PMCC's position remains that this process is premature to adoption of national standards for IFQ programs by Congress and premature to completion of a programmatic EIS for the groundfish fisheries, the whole programmatic to review the current state of the groundfish FMP and in an open process to establish the values, goals, and direction of the groundfish fishery. Today I'm going to just briefly offer an alternative to the primary issue as it's stated in the problem statement of the notice of intent to prepare an EIS, which basically comes down to we have a serious problem in the fishery that is constrained by the incidental catch of overfished—certain overfished groundfish species—and in association with healthy stocks. Our suggestion is to analyze something that is a little different from what was stated in the NOI. We'd like to look at a system of hard caps on the total mortality of each overfished species by sector. And in this case you may consider, for example, the nonwhiting groundfish trawl fishery to be a sector. The sector cap would be established through some sort of allocation process. Perhaps not a permanent allocation, but at least an allocation adequate to the season involved or two year period involved. The sector would receive a cap on each overfished species, and upon attainment of the total mortality cap for any of those overfished species the sector would cease fishing. Other sectors that may encounter the same species, as long the sector that was shut down didn't blow past the OY, could continue to fish. Within the sector, individuals

would have the opportunity to choose to opt out of the sector cap, taking with them an individual bycatch cap for their operation. In order to do that, the individual vessel or permit owner would need to agree to carry an observer to verify their compliance with the hard individual bycatch cap. They would, in exchange, also receive access to additional higher trip limits of the healthy target stocks. These individuals that have opted out may also choose to form groups or clubs to pool their hard individual bycatch caps and share the risk. In the case of a sector being shut down, the individuals that opted out would not be shut down; they would get to continue fishing regardless. In addition, the current system of two-month cumulative caps for each of these species could be analyzed in different ways. The hard total mortality caps could be for two months, they could be for four months, they could be for six months, they could be for a year, or they could even be for a two-year period. We're not going to get too far down into the weeds of that, but we'd like analysis looking at getting away from the two-month cumulative limits. But also maintaining some potential for somebody to get back into the fishery and not get shut out for a full two-year period, perhaps. It makes more sense to start that cap over again. We'd like to see this type of hard cap system analyzed in relationship to the complexity and time necessary to develop the other systems that have been suggested to deal with the problems that were stated in the NOI. In the end, we suspect this could be implemented in shorter order, or at least aspects of it, pilot programs, similar to this could be implemented. In fact, the arrowtooth flounder EFP moving to regulations next year is an example of a fishery that is managed very similar to what we are talking about. This allows additional time to go through a programmatic process to review the possibilities for different sorts of dedicated access privilege systems that may be a longer term solution to rationalizing the fishery. But in the meantime we are impatient and we'd like to get on with getting a better hand on the total mortality of groundfish that are in an overfished state, rebuilding those with some degree of assurance and providing access to healthy stocks through the use of incentives in reward. My little offering for today. [Inaudible comment from Jim Seger.] Well yea, if you run into a total mortality cap for one of the other species and you may have to quit fishing. But as far as hard sector caps, going through this, which is a bit of an allocation problem initially, focus on the overfished species rather than going through the full allocation battle. There is sure to be a battle on all the other species as well. Does that clarify what I mean? [Inaudible response from Jim Seger.] Probably. [Inaudible comment from Jim Seger.] Yea. Ultimately, but right now having the kind of monitoring necessary to set hard caps on the recreational sector sounds to me like a nightmare. You know, eventually we're going to have to have them, but since the subject of this problem statement is the trawl fishery, and the subject of this discussion is developing dedicated access privileges for the trawl fishery, I limited it to the trawl fishery. It is easier to define sectors; you can define it as the entire trawl fishery; you can divide up the whiting fishery out; you can divide up the sectors of the whiting fishery; and its relatively easy compared to some of the other sectors, open access for example. [Inaudible comment.] Yea it is; yea, I think that's correct Jim. I just see it in a different way than was presented in the ICA [Inaudible comment from Jim Seger.] And we're clearly not interested in tradable total mortality caps for the overfished species. But that doesn't mean you can't analyze them, which I'm sure you will. Thank you.

Mr. Joe Bersh, Supreme Alaska Seafoods

We operate the Excellence, a mothership in the tribal and nontribal whiting fisheries. My first point has to do with provision A13.2 and its interaction with provision A6, the use-it-or-lose-it and the recency provisions. Unfortunately, this program is apparently going to take some time to implement; yet we fixed in time the recency cap limits, which I believe are 2000 to 2003. At the present time there is a set or fixed allocation period for history years, which I don't see necessarily any reason to change. But one of the goals of this is rationalization through market forces, and I think an analysis of participation in this fishery would show that there has been rationalization that's occurred during the allocation years. Which if the recency requirements don't continue to call for an ongoing participation requirement, if they don't move forward when it comes time to allocate some of this in an IFQ, it's going to give fish to people who have long since retired from the fishery and currently have no intent to return to the fishery. I would say that an ongoing participation requirement would be consistent with the A6 use-it-or-lose-it requirement. If my memory serves me, use it every three out of five years is the requirement there. My next item would be provision A13.5. I suspect I'm not the first person in any of these scoping meetings to raise the issue regarding returning to putting a control date in these and that there is an allocation to the processing sector or to non-harvest sectors. So I would ask that that would be reconsidered. Comments from members of the TIQC suggested that the reason that it was not appropriate to put in the control date was because it somehow validated the concept of giving IFQ to processors. Certainly that is not a reasonable position as to why it should not be considered. If there are reasons for a harvesters' control date to prevent speculative harvesting, I would argue there is a reason to do it to prevent speculative processing. Another non-popular issue relative to allocation to processors would be to—or maybe this would be a popular one, I don't know—would be to consider alternatives which would only provide ITQ to processors who are not vertically integrated. The concept of preserving non-mobile capital really isn't such an overriding concern if the processor has its own harvest fleet which is already receiving ITQs. So I would suggest that there might be an analysis of placing some type of accumulation limit in the event that shares are given to processors, which would take into account what they are receiving as a harvester ITQ as owners of harvesting vessels. My final comment is I think that the panel has put together a group of people to put in input. We have strong input regarding the Canadian program. Yet I think there's—I fear a tendency to follow too much of the B.C. program without peeling back the layers of the onion in their program to see how it works for them and why it works for them. I would say why some of these provisions would not work for us is because we are faced with a very serious problem regarding overfished species. Peter makes some valid points as to how to treat overfished species. I don't think that there's anything within the B.C. model that can be readily transferred to our system. So I just hope we won't become too focused on looking at their system, thinking that it is working for them and that it will work in all areas for us. I think it's a good starting point, but we need to address our unique issues ourselves. Thank you.

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TRANSCRIPT OF PUBLIC COMMENTS

Trawl IQ Scoping Hearing
Pacific Fishery Management Council
Hatfield Marine Science Center
2040 SE Marine Science Drive
Newport, OR 97365
July 27, 2004

Ms. Leesa Cobb, Port Orford Ocean Resource Team

Firstly, when you do measure any impacts, if you get to that type of work with this program, and we hope you will... identify Port Orford as an individual port and don't lump us in with Brookings or Coos Bay, which has consistently been the practice in the past. It's going to be very important to us during this work that that doesn't happen because of our long history with the groundfish fishery. So we'd like to get that on the record.

I also want to speak in favor of CDQs as an alternative as you're developing these scoping issues. Our community has a community based management project in place that's been up and running for 3 years, so we have the infrastructure to manage a quota, and there's work being done in central California also with another group that could manage a quota. So we're interested in you scoping that.

And [we] request that as at this work proceeds, and as you identify alternatives, that you analyze the impacts on our community all through the process, and one that comes to mind is that when you talk about inter-sector allocation, we're interested in—I guess that means who gets the fish, right?—We're particularly interested in that type of analysis, because of our long history in groundfish fisheries in Port Orford, and essentially not fishing now on groundfish because of the closures on the prohibited species and also the area closure that we have. So we need that type of analysis done. That would help our community understand what this trawl IQ plan is going to mean to us.

In addition, as you do break up the fish and the trawl fleet and develop a process for that, we'd be very interested to identify where that fish is going, so we'll know if there's going to be a shift of effort into our area, accumulation into our area, that might impact our fishing grounds. Thanks.

Mr. Peter Huhtala, Pacific Marine Conservation Council

I've been talking to folks up and down the coast about this issue, had some meetings, public forums in Astoria, Port Townsend, and – gosh. There's a wide range of opinion and you know just for the record, the general idea of this proposal is outrageously controversial. There's some who really think that full-blown tradable IFQs for every species is the cat's pajamas. And there's the more extreme side, saying this is a gifting of a public resource and many of the people who are getting the gift are those who just took the buyback money from the public coffers, which need to be paid by a lot of folks in both the trawl fishery and other fisheries like pink shrimp and crab. There's some—in Astoria—that were [concerned] that

IFQs would reward those responsible for creating the problems that they intend to solve. Others are saying it's a grand economic experiment whose time has come.

I've talked to you a bit about the anxiety that many in PMCC have about the potential IFQs [have] to squeeze out small businesses, cause the loss of jobs and communities—potentially result in big boat domination of the fishery and alternately contribute to the processing sector being monopolized by a few major processors that end up coming in on the coattails of this. I don't know that all of that would happen, because there's a lot of ways that this could go. So we've consistently advocated that national standards be adopted by Congress as recommended by the US Commission on Ocean Policy, and I'm not going to go into the standards exactly right now, certainly we have before; but this would be a development of a some basic national standards in a democratic process in Congress, and it would give us a whole lot more comfort if some of these sideboards on accumulation, vertical integration, time periods for these programs to be expired or be reviewed... because I know you keep mentioning the Council's a public process and all these meetings are open to the public, but frankly the Council may be a public process, but it's not necessarily a real accessible institution, and the actual decision making authority is made by folks that—there's no requirement for the non-fishing public to have any representation on the Councils whatsoever.

So ... not only are we interested in national standards to be developed through a democratic process, but we've also advocated for a programmatic EIS to review the FMP. We consider a programmatic EIS review outrageously overdue, and potentially very useful. This would be a way, a public process, in which the public can look at the goals and objectives and future policy directions of the FMP, and consider the major changes that have occurred in this fishery over the past several years. The overfished species that need to go into rebuilding plans—what's that doing to our communities? What's that doing to our fisheries? The spatial management, the closed area management, wide areas of the coast—how is that affecting individual communities? The buyback itself—how did that play out? What really turned out, what capacity was reduced, and what's that doing to our towns?

That said, in Seattle, Jim, I talked with you a bit about looking at another alternative within this process—assuming this process does move forward, with or without a programmatic EIS—and that was looking at what we call hard bycatch caps by sector, or total mortality caps—very similar to the cumulative catch limits that are described in the scoping document. ... Basically we advocate for a cumulative catch limit, total mortality catch limits by sector, first off; (?) defining the trawl sector—you can surely subdivide that if you like—and giving individuals the option of opting out of their sector, taking with them the personal vessel total mortality cap—we're talking only on overfished species. And in exchange for accepting personal accountability, you get more fish, and if your sector gets closed down, you don't get closed down if you stay within your cap. You can also share the risk with your friends if you trust them, and pool those caps. Which is not unreasonable, because people may want to use gear, techniques, shorter tow times, simply communication to keep away from hot spots of the overfished species, that sort of thing. And we think this makes good sense, especially if we combine this with longer, potentially analyzing longer cumulative periods, so you end up with higher trip limits, higher cumulative period limits, and more flexibility within that period. And we believe this can be accomplished in far less time than 2008-2009;

...we're only talking about the overfished species, and this can be accomplished with what I call soft allocation or [the] annual process of making sense of what ... to offer each sector, and we don't have to go through the whole complete allocation battle, but we can actually start getting a handle on reducing bycatch of overfished species, gaining access to the healthy stocks that we're foregoing at this point, and making things better for the fishery, even as the longer-term potential for other types of dedicated access privileges for the trawl fishery or for the whole west coast groundfish fishery are explored over a longer period of time.

Finally, today I have to touch on a part of this—NEPA documents have a section called the cumulative impacts (or effects) analysis—and what that means is you've got to look at the combined effects of decisions that have been made, or are being made, or are likely to be made sometime in the near future on the decision at hand. And when you're looking at the cumulative impacts of this hard bycatch proposal or any of the other dedicated access schemes on the table, you're gonna have to look at cumulative impacts. And it's really hard for me to get my mind around how you look at the cumulative impacts of the designed phase of a trawl IFQ without looking at the allocation issues—who gets the fish... the communities, the fisheries, the trawl fishery itself—unless you know how many fish are gonna be roughly available between the sectors as well as within the sector. It's really hard to complete that cumulative impacts analysis.

In addition, the cumulative impacts analysis should take a look at the cumulative impacts [for] communities of the major changes in the fishery recently—the rebuilding plans, the shelf closure, the buyback, and look at those impacts carefully, and look them most specifically in how they affect the smaller boat fishermen, the smaller communities, the lower income and minority workers, local processing businesses of all sorts, and certainly adjacent fisheries.

Mr. David Jincks, President, Midwater Trawler's Cooperative, and owner of trawl vessels that fish in Alaska waters and off the West Coast

I'm speaking in favor of trawl ITQs; in favor of ways that I think will benefit not just the trawlers that are fishing, and the vessel owners, but also the communities that the vessels fish out of; the ports; I think it'll be a good thing for all. As far as rationalizing the fishery and moving through ITQs, there are several different ways besides ITQs; there are IFQs, there are several names to put on it; but one of the things that's needed in this fishery is some incentive for the fishermen to continue fishing, and to help with conservation and sustainability of the fisheries that they're fishing for. It gives us the opportunity to go to sea knowing what we can catch, how much we can catch, without throwing the fish away that we caught that we didn't intend to catch. Allocation issues—yes, there will be allocation issues; as I believe Jeff mentioned that between hook, longline, pot, shrimp, open access, we do have some issues there, but right now we are fishing under these scorecards that are ratcheted up and down on us, so not knowing fully each year what that scorecard's going to be set at makes it a little harder to fish. Some of the fisheries that try and fish clean, their scorecard might be dumped down lower to help another fishery. So yes, there should be allocations; we will need allocations. But as far as a set-aside to a certain group of fishermen, yes, I think this is needed; I think it's a long time coming. We've had buyback; I supported

buyback only with the thought of moving into ITQs. My vessel personally just fishes for whiting down here; my part of the buyback, which will go for probably the incidental catch that I bring in, but I am more than willing to still support it; I think it was a good thing, but only if we move into ITQs. Without ITQs, I think buyback wasn't necessary. We need to rationalize the fishery. I'm fully in support of it. The National Standards are in place today. As they change, possibly we'll have to change with them. I think that ITQ Committee, which I am also a member of, in some of our statements we did mention that if new national standards come into place they also will be looked at and incorporated if possible. Right now it's open to look at everything. But it is worth moving ahead with. It will bring stability to these fisheries. Thank you.

Ms. Dorothy Lowman, Environmental Defense

I'm going to give a few comments on behalf of Environmental Defense. E.D. does believe that designing a groundfish trawl dedicated access privilege that utilizes individual quotas may be one of the most important management initiatives ever undertaken by the Pacific Council. We've studied a lot of IFQ programs from around the world and we believe that IQs combined with other management measures can greatly improve the sustainability and economic viability of fisheries. E.D. is very committed to working in partnership with the Council and with all of the stakeholders to ensure that the West Coast trawl IQ process considers a full range of alternatives and their impacts. We really believe that if we work together we can design a program that meets the needs of the resource, industry, and our coastal communities. So we're going to provide you with some written comments, but I wanted today just to highlight, just concentrate on things that I don't think are in the scoping document at this time, that we ought to include to expand the scope at the beginning of this process before we start narrowing the scope.

And first of all, over on the general ideas of alternatives to be analyzed, given Council action on the programmatic bycatch EIS and some of the bycatch objectives that are identified during this process so far, that we should include another alternative for analysis which would be to look at having bycatch caps or incidental catch caps—I don't think I have my terminology quite right—for the overfished species, for all sectors, and then, where possible, allocate them as individual tradable quotas that could be traded between sectors as well as between individual vessels.

We also are concerned that when we design IFQ programs that it is critical that we understand and address the concerns of coastal communities. We're actually going to present a report to the Council in September that will describe the concerns of coastal communities that may not otherwise be engaged in the planning process, and some means of mitigating potential problems based on a summer-long outreach effort that we're currently undertaking. At that time we might have some additional design proposals, but at a minimum we think that it's too soon to take off the table initial allocation to coastal communities. And so we should include CDQs or some other mechanism to allocate to coastal communities.

In addition we ought to look at some other alternative that might be able to be explored to help maintain fishing and processing opportunities within coastal communities. One option that we recommend is to hold back some percentage of the IQ each year to be allocated

annually based on joint proposals with processors and fishermen. Fishermen and processors could present their proposals to the Council or some other body that would rank proposals based on a set of criteria that could include things such as contribution to coastal jobs, maintenance of processing opportunities, sustainable fishing practices, among other ideas. This is based on the British Columbia GDA mechanism, but of course we would modify it to meet the needs of our fishery.

We also think that we should analyze some initial allocation to skippers that could demonstrate some specific history of dependence on the fishery.

Also, in terms of the issues of area-specific IFQs, there may be localized depletion concerns that could warrant area-specific IQs. Therefore we recommend the consideration of area-specific IQs based on socioeconomic as well as biological considerations.

I'm not going to talk about things that are already in the document, although there are certainly some very important monitoring options and others that we think are going to be critical to design of a good program. Finally, one other area that I think we'd like to see a little extension is there's a section on trying to look at maybe a loan program or other options for new entry. We suggest [including] a mechanism [that allows] coastal communities to form nonprofits whose purpose would be to hold and lease quota to community members, that would allow these nonprofits to then qualify for loan program opportunities.

We have not addressed issues related to inter-sector allocations, not because they're not important, but because we know this is a separate EIS. But it's clearly going to be a very important and difficult set of decisions, and we believe that the impact analysis and the controversy of these decisions that we shouldn't wait too long to start that process. I urge the Council to being that soon, and modify the allocation committee to ensure that all sectors and stakeholders have representation and are actively involved.

Mr. Denny Burke – Fisherman with 55-foot crab, blackcod, shrimp boat

I support quota. The trip limit system that we have now isn't really an effective tool with the amount of fish available. When we get our 60-day limit, we really have 15, maybe 20 days and we're done. So if a guy doesn't have something else to do, he parks his boat a lot. So I'm for something other than what we have now, but having said that, I want to express that I have fear for the future. I've had my boat close to 20 years, and in that 20 years every year I've seen less and less access to the ocean and to fish. I mean, I used to catch a lot more pounds than I do now, and it's not because the fish aren't there; the fishing's actually good. I just don't have any access. So I'm for quota, but I'm hoping that as this thing comes down the road, when allocation comes, a guy's share isn't less than he already has now. I mean, what I consider we have now is a real weak pot of soup. It's been watered down, and what's left hardly keeps you alive. Dragging really is maybe 25-30% of my income, and I hope that when this thing's done, it doesn't give a guy less share than he has already, 'cause what he has now isn't enough to stay in business. And along those lines, something I want to ask the Council is, you're gonna get a lot of pressure to change that cutoff date. People are going to want to extend that, and I hope that they stick to their guns and keep it at the November 2003. That's one thing that can help. Another thing, I hope they don't do to make the pot of

stew even weaker than it is already is spread the allocation any further, in other words, right now we don't have access to the ocean. We don't have pounds today, and all we're talking about is the catchers. I mean, the fish is divided among people that are on the boat fishing, the trawlers, it's open access, fixed gear, but it's the actual catchers. There's other groups now looking for allocation—processors, I've heard suppliers, you know; I'm not selfish, but if I have 20 days out of 60 days that I can work now, and somebody else wants some of that, am I gonna get 10 days? So I'm for it. I just hope that when it's over, we don't all look each other in the eye and go "whoa, that was another mistake" because a lot of things that we've done, I didn't see any relief, really, from limited entry; so far I haven't gotten an increase from buyback—the only good thing is so far, there's no payback. And I hope that stays that way. Cause I mean, you know, my cannery has more boats than it used to, and my limits are no better. So I can wander on forever. I'm for this; obviously status quo isn't going to get it. But we can't water this down any more than it is. Everybody wants a piece of the pie. It's an awfully small pie already. I hope it stays where it started, which is with the fishers. Thank you.

WRITTEN COMMENTS

Following are the actual written comments received.

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RECEIVED

July 29, 2004

AUG 02 2004

Pacific Fishery Management Scoping Council

PFMC

Concern: Access Privileges
Individual Fishing Quotas

I started working on West Coast Trawlers in Eureka, CA in 1970. I worked on deck for 8 years. In 1978 I started operating a multitude of West Coast Trawlers. As a Captain I saw the fishery as prolific and sustainable.

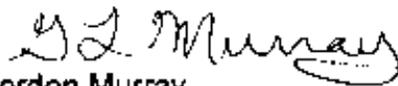
I have devoted over 20 years of my life to catching groundfish as Captain/Manager. I have saved money towards purchase of a Trawler in the Capital Construction Fund. I may lose over half of this fund as my ability to buy a boat has changed with the buyback.

Captain/Crew who were responsible for significant past catch records but did not own the vessels they fished should not be overlooked and instead be granted IFQ Access Share in groundfish. As I state my situation I speak for many others.

I received nothing from the buyback. I am unemployed in less than a viable job market in my preferred and chosen profession.

Access to groundfish after many years of past catch history seems just. More just than Processors acquiring IFQ.

Sincerely,



Captain Gordon Murray
Past Captain of the FV Blue Horizon
PO Box 948

Astoria, OR 97103

Email Address: Gordon & Murray @ EarthLink.NET

Cell: (503) 551-4846

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Coastal Jobs Coalition

Working for Sustainable Fisheries and Communities

Testimony of Kent Craford
Pacific Fisheries Management Council IQ Public Scoping Hearing
Foster City, CA
June 13, 2004

My name is Kent Craford and I am the director of the Coastal Jobs Coalition. We are a group recently formed by the West Coast Seafood Processors Association to evidence the broad base of support for balanced fisheries rationalization that recognizes and provides for all stakeholders in the West Coast groundfish fishery including seafood-dependent communities.

I am here today representing dozens of companies and organizations employing thousands of people in primary processing and its supporting industries including transportation, cold storage and packaging for example, in addition to seafood industry customer groups like restaurants. Together, these many specialized sectors make up the seafood industry.

Thank you for the opportunity to comment today on reasonable alternatives for the development of dedicated access privileges for the West Coast groundfish trawl fishery, and potential impacts of those alternatives.

First, I would like to express our coalition's strong support for dedicated access privileges or individual quota systems. There are significant, economic and management benefits that can be derived from IQ systems for these two groundfish fisheries. But the key to attaining those benefits, especially economic benefits, is in the proper design of an IQ system.

We've heard it said many times by both processors and fishermen that neither can exist, much less succeed, without the other. Therefore it is imperative that any IQ plan developed for West Coast groundfish recognize this fact, and work in such a way as to foster the vitality of both for their mutual benefit, and the benefit of the communities which depend on them. And so, the primary message we would like to send today is that any IQ system must provide equally for harvesters and processors. A balanced approach will bring needed stability to both sectors, their supporting industries as well as coastal communities.

With this in mind, we formally propose the inclusion of the following alternatives, to be given full and equal consideration in the EIS process in addition to those already outlined by the Ad Hoc Trawl IQ committee. We feel that the socio-economic impacts of each of these alternatives should be analyzed fully and independently of each other. The alternatives we propose are:

1. The establishment of Community Quota or CDQ, to operate parallel to an IFQ. Despite use in other fisheries, this option was rejected by the Ad Hoc Trawl IQ Committee without sufficient justification. CDQ is a reasonable alternative and should be analyzed in the EIS.
2. An auction-based system should be analyzed as a reasonable alternative to status quo or an IFQ system. Such was the recommendation of NRC as referred to in the scoping document. Such a system has merits and should be analyzed.

As stated in the EIS scoping document, initial allocation of quota is the most controversial aspect of quota systems. Recognizing the tremendous economic and social impacts and shifts that will occur through the initial allocation of fishing quota if an IFQ system is adopted, we support analysis of various combinations of IFQ initial allocation. We feel that each of these deserves equal consideration as a reasonable alternative to status quo within the EIS. They are:

3. 50/50% initial allocation of individual fishing quota to trawl permit owners and primary processors
4. Combinations of initial allocation of individual fishing quota to trawl permit owners, primary processors, and community entities.

Additionally, the Coastal Jobs Coalition supports analysis of existing dedicated access privilege or quota systems related to the above mentioned alternatives as well as others considered in the EIS. As part of this analysis, we feel it imperative to study our nation's most recently rationalized fishery, Bering Sea Crab.

We recognize and understand that Congress has temporarily prohibited the consideration of such a system as a reasonable alternative to status quo for West Coast groundfish. But, analysis of that system is appropriate for learning purposes.

As seafood industry businesses, we feel strongly that the short experience we have had with Bering Sea Crab rationalization will speak well for the socio-economic benefits that such a balanced approach can have for processors, harvesters, communities, and all stakeholders in the seafood industry. Ignoring the most recent and relevant American fishery quota system as we try to develop our own from scratch would be foolish.

Finally, we must express our concerns that this EIS process is premature. It has been recognized that allocations between groundfish harvest sectors will need to be negotiated before any trawl IQ system can move forward. Why is this not being done first? To march down the path towards an IQ system without even knowing where the trawl fishery stands vis-à-vis fixed gear, open access and recreational fisheries is putting the cart before the horse.

Over the coming months as the Council and its appointed committees analyze options for groundfish and whiting IQs, the Coastal Jobs Coalition plans to participate actively to ensure that the full range of reasonable options are investigated. We look forward to working with you and thank you again for the opportunity to comment.

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August 2, 2004

Mr. Don Hansen, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

IFQ Scoping Comments

Dear Chairman Hansen:

Designing a groundfish trawl dedicated access privilege system, which uses individual quotas may be one of the most important management initiatives ever undertaken by the Pacific Council. Experiences from around the world show that properly designed IFQ programs, when combined with other management measures, can greatly improve the ecological sustainability and economic viability of fisheries.

Environmental Defense is committed to working in partnership with the Council and all of its stakeholders to assure that the west coast trawl IQ process considers a full range of alternatives and their impacts. By working together, we are hopeful that we can design a program that meets the needs of the resource, the industry and our coastal communities.

To this end, we have reviewed the June 2004 scoping document, and offer the following recommendations regarding the range of alternatives, IFQ design elements, and impact considerations. These are preliminary recommendations intended to meet the NEPA deadline, and we intend to provide ongoing comments through the Council process to encourage that the concerns of all stakeholders be adequately considered.

Additional Alternatives to Be Considered

Sectoral Bycatch Caps Allocated as Transferable Bycatch Quota

An additional alternative that should be considered is to develop hard bycatch caps for overfished species for all sectors of the groundfish fishery as a whole. Then, for the sectors where feasible, allocate the sectoral bycatch allowance as tradable Individual Bycatch Quota, which could be tradable between sectors as well as between individual vessels.

IFQ Design Elements

In designing an IFQ program, it is critical that we understand and address the concerns of coastal communities for which fisheries are an important part of their economy and culture. Environmental Defense intends to present a report to the Council in September that will describe both the concerns of coastal communities who may not be otherwise engaged in the planning process, and means of mitigating potential problems. The report

will reflect summer-long outreach efforts by our staff, and will describe strategies for ensuring that any IFQ system works for communities as well as industry and the environment. The results may provide some additional design options at that time. However, at a minimum the design options to be considered should include the following:

Initial Allocation

Out-migration of quota from a community has been a concern in other IFQ programs. Initial allocation alternatives should address the potential impacts on coastal communities. Mechanisms should be explored that would help maintain fishing and processing opportunities in coastal communities. One option that should be included is to hold back some percentage of the IFQ each year to be allocated annually based on joint proposals from fishermen and processors. Fishermen and processors would present their proposals to a committee that would include community representation and would rank the proposals based on a set of criteria that could include contribution to coastal jobs, maintenance of processing opportunity, sustainable fishery practices, among others. This option is based on the British Columbia Groundfish Development Authority but would be modified to meet the specific needs of our fishery.

We also recommend that initial allocation to skippers who can demonstrate some specific history and dependence on the fishery be analyzed.

With respect to Initial Allocation options that have already been identified, we support exploring using an auction mechanism, but recommend that it be tiered to provide opportunities for diverse operations to effectively compete for quota.

Area-Specific IFQs

There may be localized depletion concerns that could warrant area-specific IFQs. Therefore, we recommend consideration of area-specific IFQs based primarily on biological considerations. We suggest that agency and academic biologists recommend how best to determine area- and stock-specific management. Area-specific IFQs should also be considered as an option for protecting community interests, balanced with the need for flexibility and transferability to meet the primary objectives of the IFQ program.

Other Design Elements

Monitoring

Through our examination of other IFQ programs, we have been convinced that a key component of programs successful at achieving environmental goals have been individual accountability. Fishermen, managers, and processors in British Columbia alike testify to the importance of effective monitoring to support accountability. We support the 100% at-sea observer alternative as well as 100% dockside monitoring and mandatory VMS options that are included in the scoping document as critical design elements. We would also suggest that an explicit ban on highgrading be included.

Environmental Performance Objectives

The Council should develop measurable environmental performance objectives to which the IFQ program should be held accountable. Environmental performance objectives should be designed to protect habitat, conserve forage species, and sustain target and bycatch species/populations. Such objectives can result in innovative, practical, and cost-effective gear designs and fishing practices.

Cost Recovery

Environmental Defense supports cost recovery for the monitoring activities described above as well as industry financial contributions to research and management phased in over time. In order to preserve options for small boat participants, we also urge the consideration of some form of "sliding scale" or initial loan opportunities for members of the fleet that might otherwise be put at a disadvantage in paying for the costs of monitoring, management and research. Phasing of cost recovery should also be considered, to allow for a transition to a more profitable fishery that is more capable of cost recovery.

Level- Entry Opportunities

The scoping documents describes options for establishing a loan program to assist new entrants, small boat operators and crew who meet qualifying criteria in acquiring quota shares. We recommend that coastal communities be allowed to form non-profits whose purpose would be to hold and lease quota to community members; and that these non-profits also qualify for any loan program opportunities.

Definition of Individual Quotas as Privileges and Ensuring Against Defacto "Rights"

Congress was careful not to create a vested property right under Magnuson-Stevens, which states that an IFQ "shall not create, or be construed to create any right, title, or interest in or to any fish before the fish is harvested." (1996 Cong. US S 39 s 108(d)(3)(D)). Similarly, the National Marine Fisheries Service defines IFQs as a harvest privilege only and not as property for purposes of a takings claim.¹ The federal rule establishing an IFQ program in the Atlantic also emphasizes this point: "The system is not irreversible. It does not convey property rights in the resource...the right to sell an allocation exists only until the Council or the Secretary amend the FMP to modify or withdraw the allocation scheme." (55 Fed. Reg. 24187 (1990)).

¹ NFMS stipulates that the privilege "may be revoked or amended subject to the requirements of the Magnuson Fishery Conservation and Management Act and other applicable law." (50 C.F.R. s. 676.20(g) (1995)).

The government creates IFQs, and therefore has the ability to define them to ensure that they will not be considered legal property rights.² We encourage the Council and NMFS to include unambiguous language that is thoroughly vetted with those stakeholders who have expressed public concerns about IFQs constituting or evolving to become a defacto property right.

Conclusion

These scoping comments are focused on broad alternative and trawl IQ program design issues which were either not identified or had been initially rejected by the Trawl IQ Committee. We have not addressed issues related to inter-sectoral allocation. Clearly, this is going to be an important and difficult set of decisions and impact analyses that must occur before any trawl IQ program is implemented. We urge the Council to begin the inter-sectoral allocation EIS process as soon as possible and to modify the allocation committee to ensure that all sectors and stakeholders have representation and are actively involved.

We will be presenting additional information and comments based on ongoing outreach efforts in September and look forward to working closely with the Council, NMFS, and stakeholders on all aspects of this important management initiative throughout the design and implementation process.

Sincerely,

Rod Fujita

² The government can thus avoid takings claims under the Fifth Amendment. See Robert H. Nelson, 1986 U. Ill. L. Rev 363, 374 (1986).

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INTERNATIONAL PACIFIC HALIBUT COMMISSION

ESTABLISHED BY A CONVENTION BETWEEN CANADA

AND THE UNITED STATES OF AMERICA

June 30, 2004

DIRECTOR
BRUCE M. LEAMAN

P.O. BOX 95009
SEATTLE, WA 98145-9009

TEL: EPHONE
(206) 634-1838

FAX
(206) 632-2993

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JUL 06 2004

PFMC

Dr. Donald O. McIsaac, Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

Dear Don,

The staff of the International Pacific Halibut Commission (IPHC) has reviewed the materials available at the June meeting of the Pacific Fishery Management Council regarding the proposal for an Trawl Individual Quota (TIQ) program. An IQ program for this fishery clearly has the potential to address some of the problems currently facing this sector on the Pacific coast. However, the Council briefing document on the TIQ program suggests that prohibited species bycatch, which would include Pacific halibut, would be allowed to be retained by trawl vessels, presumably for sale. We have several comments on this issue for the Council as it develops the elements of the program.

1. Any provision allowing retention of trawl-caught halibut would require IPHC approval. Permissible gear for the retention of Pacific halibut is governed by the Halibut Convention between the U.S. and Canada and must be approved by the IPHC. Current IPHC regulations do not allow trawl-caught halibut to be retained, so allowing this type of retention would require approval by the IPHC and a change in IPHC regulations. In addition, the IPHC would need to address other management measures, e.g., fishing season and minimum size limit. Recent proposals to the Commission requesting trawl retention of halibut have not been approved, so it is unlikely that the Commission would adopt this proposal.
2. The Halibut Catch Sharing Plan (CSP) would need to be amended to account for retention by this additional user group. The CSP currently allocates the annual available halibut yield among recreational, directed and incidental commercial, and treaty tribal fishers. Allowing retention by trawls would effectively create another user group for the halibut resource off the west coast, which the Council would need to include in the CSP.
3. Effect on bycatch reduction. In 1991, Canada and the U.S. agreed to reduce halibut bycatch mortality in non-target fisheries by 50 percent. Requiring retention would, in effect, double the amount of legal-sized halibut mortality by the trawl fishery, as the current discard requirement allows for survival of those in the best condition, or 50 percent of the total caught. In turn, this 100% mortality associated with trawl retention would decrease the yield available to the other current harvesters of the halibut resource. The amount of additional mortality exceeds the current catch limit for the directed commercial halibut fishery.

A member of our staff will be attending the meeting scheduled for July 20, and can answer any questions the technical group may have.

Sincerely yours,

Bruce M. Leaman
Executive Director

cc: Commissioners

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Chuck Wise
President
David Birt
Vice-President
Larry Myamoto
Secretary
Mariye Tattistella
Treasurer
In Memoriam:
Nahumel S. Bonglans
Harold C. Christensen

PACIFIC COAST FEDERATION of FISHERMEN'S ASSOCIATIONS

W.E. Zeker-Gander, Jr.
Executive Director
Glen H. Spain
Northwest Regional Director
Mueli Furo
Fishery Enhancement Director
Vivian Bohn
Wassered Conservation Director
Duncan MacLellan
Salmon Advisor

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AUG 04 2004

Fax Received 8-2-04

PFMC

<http://www.pcffa.org>

Please Respond to:
 California Office
P.O. Box 29370
San Francisco, CA 94129-0370
Tel: (415) 561-5080
Fax: (415) 561-5464

Northwest Office
P.O. Box 11170
Eugene, OR 97440-3370
Tel: (541) 689-2000
Fax: (541) 689-2500

30 July 2004

BY FAX AND BY MAIL

Dr. Donald McIsaac, Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220

RE: Comments on Notice of Intent to Prepare an Environmental Impact Statement (EIS) for Consideration of Establishing an Individual Fishing Quota (IFQ) System for the Pacific Coast Groundfish Trawl Fishery.

Dear Dr. McIsaac:

The Pacific Coast Federation of Fishermen's Associations (PCFFA), representing working men and women in the west coast commercial fishing fleet, has reviewed the document noticed in the 24 May 2004 *Federal Register* (Vol. 69, No. 100, pp.29482-29485) noticing the intent of the Pacific Fishery Management Council to prepare an Environmental Impact Statement (EIS) and take scoping comments for the purpose of considering an Individual Fishing Quota (IFQ) system for the Pacific Coast groundfish trawl fishery. PCFFA, which represents some trawl fishermen along the central and southern California coast and various limited access and open access longline and hook-and-line fishermen in the groundfish fishery, has the following comments:

Consideration of Trawl IFQ Program is Premature

PCFFA believes that prior to proceeding with the preparation of an EIS to consider an IFQ system for the Pacific groundfish trawl fishery a number of steps must first be taken. It is premature at this time to be considering an IFQ system for trawling or any other sector of the groundfish fishery until the following occur:

1. **Analysis of Affect of Buyback on Trawl Effort.** Prior to moving ahead with an IFQ system, basing the reasons on many of the factors preceding the buy-back, that just took place this year, an analysis should be done to describe what the affect has been. Has the buyback appreciably reduced effort in the trawl fishery? Have vessels with "latent" trawl

permits moved in to fill the void left by the departure of the buy-back vessels? How does the new trawl fleet catch capacity/economic needs stack up against projected groundfish stock abundance? An analysis of the existing system as affected by the buy-back is needed prior to moving to a new system that may not be warranted by such an analysis.

2. ***Reallocation of Quota Back to Other Groundfish Sectors.*** Prior to moving ahead with consideration of an IFQ system for the trawl fleet, the Pacific Council has an obligation to consider the needs of the non-trawl limited entry fishery and the open access fishery. Both of these fisheries have watched their share of the groundfish resource be whittled away since 1982 in order to provide for the bycatch of the trawl fleet and the somewhat specious claims by some processors that they had to have access to trawl-caught groundfish throughout the year, disregarding either biological considerations (e.g., spawning periods) or economic considerations (the higher value of some of the hook-and-line or longline caught fish). Now that it is evident trawl groundfish may not be available throughout the year and the need to maximize the value of the fish that can be taken, the Pacific Council should consider first reallocating some of the total catch back to the non-trawl sector prior to issuing quota shares in the trawl fishery.
3. ***Establishment of National Standards for IFQ Systems.*** Neither the Pacific Council, nor the National Marine Fisheries Service should proceed with any IFQ system until Congress establishes national standards for the creation of such systems. Since 1996, Congress had a moratorium on IFQ systems, which was to allow time for NMFS to prepare a set of standards for IFQ systems. NMFS failed to do what Congress asked and the moratorium elapsed in September 2003. There is legislation currently in the House and language has been introduced in the Senate to establish standards. The Pacific Council and NMFS should wait, out of deference to the Congress and out of respect for those in the groundfish trawl fishery (in the event Congress enacts standards forcing changes in any groundfish IFQ system), until national standards for IFQ systems are established to assure any program created by the Pacific Council is consistent with the national standards.

Justification of an IFQ System

PCFFA recognizes that for some fisheries an IFQ system may be preferable, providing a number of conditions are met, including assurances that all the active participants in the fishery have access to quota, the quota is apportioned fairly, and ownership of quota is restricted to fishermen. However, in addition to the concern raised above that consideration of an IFQ system for the groundfish trawl fishery is premature at this time, PCFFA believes the rationale given in the notice, fails to make a compelling case for consideration.

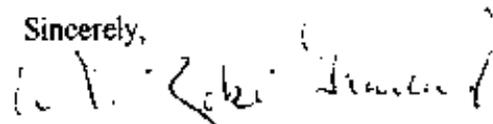
1. ***Bycatch Reduction.*** The proposal for consideration of an IFQ system discusses the bycatch issue in the trawl fishery but fails to say how an IFQ system will improve lessen bycatch over the current trip limit system. Are bycatch quotas being considered as well? Not only is no basis given for how bycatch will be reduced under an IFQ system, the issue of "highgrading" (i.e., sorting through fish to take only the largest or most valuable fish pursuant to a quota) is totally ignored. The notice discusses the problem the groundfish fleet has with being constrained, not be allowed to fish abundant stocks because of the incidental take of less abundant species. That issue is hardly unique to groundfish, but is something the salmon fishery has had to deal with since the Pacific Council instituted "weak stock" management for that fishery.

2. ***Change in Rationale for Groundfish Fishery?*** In the notice it is mentioned one of the advantages for fishermen under an IFQ system is the ability to fish when they want, when the weather and markets are best as well as to access other fisheries. This rationale is contrary to that given by the Pacific Council for nearly two decades to assure there was groundfish fishing year around to supply shoreside plants and processing lines. Indeed, as mentioned above, the rationale for wanting a year around trawl fishery was used to take catch from the non-trawl fishery. How does the Pacific Council and the IFQ proponents explain this change in rationale for groundfish management?
3. ***Cost of an IFQ Program.*** No mention is made of the increased cost of IFQ systems, or even the cost of preparing the EIS, at a time when the councils and NMFS are under pressure to contain costs given the magnitude of the federal budget deficit. PCFFA questions proceeding with an EIS at this time given the costs and the issues raised above, or the ability to pay for such a system if it were adopted. The cost issue has to be carefully considered.

PCFFA, for the reasons state above, urges the Pacific Council not to proceed at this time with the preparation of an IFQ system. The only reason PCFFA can see for rushing ahead with an IFQ system at this time is to grant as much of the fishery as possible to the trawl vessel owners with large catch histories. This is not a proper basis for moving ahead at this time.

If you have any questions regarding these comments, please do not hesitate to contact us.

Sincerely,



W.F. "Zeke" Grader, Jr.
Executive Director

(Blank)



Pacific Marine Conservation Council

May 25, 2004

Donald K. Hansen, Chairman
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

Re: Trawl Individual Fishing Quota public scoping document

Dear Chairman Hansen,

The Pacific Marine Conservation Council (PMCC) is a public-benefit, non-profit corporation that works with fishermen, marine scientists, conservationists, and the general public. PMCC seeks to ensure that needed steps are taken to rebuild and sustain depleted groundfisheries along the West Coast, as well as to balance healthy marine ecosystems with viable fishing community economies.

PMCC is very concerned that the development of an individual transferable quota (ITQ) system for the trawl sector of the groundfish fishery is moving forward with inadequate forethought. The haste in which the Pacific Fishery Management Council (Pacific Council) is being asked to approve a public scoping document to support this development is objectionable, and commencing scoping for a trawl ITQ environmental impact statement (EIS) is, in itself, inappropriate and premature.

The Pacific Council should decline to approve a public scoping document for a trawl ITQ-EIS, and should instead recommend that NOAA Fisheries proceed with the issuance of a Notice of Intent (NOI) to prepare a comprehensive programmatic EIS that will facilitate an open public process for planning for the future of the groundfish fishery as a whole. Within this programmatic EIS process, scientific investigation should occur which examines the biological, social, and economic implications of instituting various forms of dedicated access privileges within the West Coast groundfish fishery – including the possibility of ITQs in the trawl sector. The Pacific Council could, through the programmatic EIS process, also draw on the expertise of their Science and Statistical Committee (SSC) to attempt to reconcile divergent scientific points of view on this controversial subject. This process would assist the Council in deciding whether or not to move forward with an EIS regarding a specific IFQ program – based on a credible scientific foundation.

A comprehensive programmatic EIS must be completed for the West Coast groundfish fishery prior to consideration of options for new forms of dedicated access privileges specific to the trawl sector of this fishery.

PMCC has consistently cautioned against moving forward with a major management change such as a trawl ITQ program, and its associated allocations, before taking stock of the major changes that have already occurred in the groundfish fishery in recent years. These include several overfished species with rebuilding plans under development, large areas of the continental shelf closed to certain types of fishing effort, the buyback of 91 trawl permits and the subsequent transfer of at least 17 latent permits, and environmental impact statements under development for both bycatch and essential fish habitat. PMCC has called for analysis of these major changes and linkage between the various National Environmental Policy Act (NEPA) initiatives. This would require an open, public process, where informed decisions can be made about a vision for the future of the groundfish fishery – a comprehensive programmatic EIS.

Prior to taking the radical step of seriously considering ITQ-based management, it is essential to review and analyze the impacts of recent changes to the groundfish fishery, and important new information that is now available. NEPA (at 40 C.F.R. § 1502.9(c)) requires preparation of supplemental [programmatic] EIS when “the agency makes substantial changes in the proposed action that are relevant to environmental concerns;” or when “there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.” The groundfish fishery certainly qualifies on both accounts, and it would be entirely appropriate for the Pacific Fishery Management Council to urge NOAA Fisheries to begin work on a programmatic EIS as soon as possible, both for the utility of the process and to comply with the law.

The willingness of NOAA Fisheries to fund the trawl ITQ-EIS process should raise concern in light of a statement made by Bill Robinson of the Northwest Region at the June 2003 Council meeting, when development of a comprehensive programmatic EIS was abandoned in order to focus more narrowly on bycatch. From page 34 under B.12.b of the NMFS report: *“Mr. Robinson wanted to point out to the Council that the concept of a broader programmatic EIS is still alive as far as NMFS is concerned. But the resources available didn't allow preparing three major EIS's simultaneously. The EFH EIS and bycatch reduction are mandated by the Court so they take precedence. Hopefully, NMFS can prepare a programmatic EIS in the future once resources were made available.”* Yet, resources were apparently found for developing a trawl ITQ, instead.

The Notice of Intent (NOI) to prepare an EIS regarding implementation of dedicated access privileges in the groundfish trawl fishery is deficient, and some premises set forth in this NOI can be considered misleading.

Providing exactly 21 days of notice of the only Pacific Council meeting-associated scoping session, as is here the case, for an EIS which would herald a major departure for Council-system management is outrageous. When taken along with a promise to provide a draft public scoping document *at the time* of the session, outrage must turn to grief for the insult to public process that

this represents. This is an issue that affects people's lives, their livelihood, our ocean environment, and is integral to the future management of West Coast marine fisheries. This is not an isolated instance where the timing of notice limited the ability for the public to be involved with this process. The October 2003 meeting of the Ad Hoc Trawl Individual Quota committee was held after providing just 14 days advance notice in the Federal Register, the exact minimum notice required under the Magnuson-Stevens Act. Only 15 days Federal Register notice was provided for this committee's second meeting in March 2004.

Frankly, I'm surprised that this NOI was pushed to publication in the Federal Register, since I'm still not sure where the funding for this EIS might come from. Mr. Chairman, we have all heard about the attempt to access for this purpose the remaining \$550,000 or so in California's share of the groundfish disaster relief funds. The irony is clear: take funds that were intended to help the fishing community cope with the economic hardship of a fisheries disaster, then use that money to set up a system from which a few people will profit while putting many times more out of a job.

The authors of the NOI seized upon a phrase used by the U.S. Commission on Ocean Policy: "dedicated access privileges," perhaps as a euphemism for the vilified "individual fishing quotas." In fairness, the new term broadens the concept somewhat. However, there is a big problem here in that the NOI authors selectively take the work of the U.S. Commission out of context, completely omitting the commission's recommendation to enact national standards for implementation of dedicated access privileges – to guide processes like that being placed before the Pacific Council. (Please see page nine of these comments for a list of the U.S. Commission on Ocean Policy recommendations for minimum standards.)

It would seem that those developing this trawl ITQ would either rather not wait for Congress to enact standards such as those proposed by the U.S. Commission on Ocean Policy, or perhaps they just don't like those particular standards. Judging from the ITQ proponents' opposition to setting quota shares for limited durations, or even allowing participants in a fishery to vote in a referendum as to whether an ITQ system should be established, to name two standards, I the latter is likely the case.

The authors of the NOI also engage in an unfortunate misappropriation of the Bycatch Program EIS and the Pacific Council's choice of a preferred alternative. The Bycatch EIS is an important document designed to help guide the Pacific Council's program for bycatch monitoring and reduction over the next few years. The Pacific Council's preferred alternative moves toward sector-based bycatch caps, while making explicate the status quo efforts to quantify and minimize bycatch. Support for potential "future IFQ programs in appropriate sectors of the fishery" was mentioned, but not explained. The Pacific Council specifically *did not* choose an alternative in the Bycatch EIS that would have centered around "rights-based" management, even though this option was presented to the Council as an alternative. To use the Bycatch EIS in any way to form a programmatic nest for a trawl ITQ is worse than a stretch, it would be utterly misleading and disingenuous.

This is not to say that IFQ systems could not have a beneficial impact on bycatch reduction. Apparently most have not, though, and many IFQ systems have exasperated bycatch problems. Since the NOI highlights bycatch and the constraints imposed by encounters with overfished species

as major problems in the West Coast groundfish fishery, it will be interesting to see how the offered public scoping document proposes to reduce bycatch over the status quo, if in fact this is attempted. If peer-reviewed science is offered that is contrary to much of the current literature, this could be useful within the scientific review process discussed earlier, in the context of a comprehensive programmatic EIS, including consideration by the SSC.

In any event, the Bycatch Program EIS needs to lead in short order to a Fishery Management Plan Amendment that fully addresses bycatch monitoring and reduction, in a legally-compliant fashion. A hypothetical trawl ITQ years in the future is not going to fulfill this requirement, any more than the Bycatch EIS lays the foundation for a trawl ITQ.

Again, it comes back to a reasonable mandate: the Pacific Council and NOAA Fisheries should fully engage in developing a comprehensive programmatic EIS, linking disparate efforts in a thoughtful, measured way, and fully engaging the public. This step could go a long way toward improving a management system that has too often been crisis-driven.

The process leading to the public scoping document has been severely flawed, inherently tainting the material offered to the Council.

When the Pacific Council's Trawl Individual Quota Committee (TIQC) met in March 2004, the TIQC continued to develop recommendations for *how* a trawl ITQ would function, working to create a public scoping document to "focus" public comment during scoping for an EIS that would support development of a trawl ITQ system. The committee report to the April Council meeting states: "Public scoping sessions are not a required part of the scoping process, however, because of the controversial nature of individual quotas and the scoping effort that has already occurred through the Trawl IQ Committee meetings, such sessions may be warranted. An open process that 'invites broad participation by stakeholders' is one of the recommendations contained in the National Research Council report produced pursuant to the Sustainable Fisheries Act."

PMCC continues to maintain that an open process is needed *before* considering moving forward with developing a specific IFQ program. Systematically attempting to narrow the scope of alternatives for the groundfish fishery by presuming that a trawl ITQ system (or even trawl "dedicated access privileges) is the public's preferred general direction is premature. Spending federal resources to support the TIQC's development of specific recommendations which may further prejudice public scoping (because recommendations have been agreed to by a Pacific Council-appointed committee, and now potentially approved by the members of the Pacific Council) raises eyebrows – especially when interested stakeholders from recreational, fixed gear, open access, and other potentially impacted fisheries have been deliberately excluded – along with conservation groups that support the agenda of the Marine Fish Conservation Network (a coalition of over 170 conservation groups, commercial and recreational fishing organizations, and marine science groups), that new IFQ programs should not be established until after Congress enacts national standards that protect fishermen, coastal communities, and the environment from the many potentially harmful effects of this type of management.

The preliminary motion creating the TIQC, made by trawl fisherman and Pacific Council member Ralph Brown, specifically named eight trawl fishery and three processor representatives as the primary representation. Although the official motion was modified to describe representation rather than individuals, the same people ended up appointed (along with a tribal representative, a representative from enforcement, and, later, another processor). The named individuals also included a contractor with Environmental Defense (ED) as a "conservation" seat. It is well known that ED is very unusual in the conservation community as proponents of rights-based management; the staff of ED had been strongly advocating in support of IFQs, and the organization has since contributed money to support the Pacific Council's development of a trawl ITQ system.

Mr. Brown as well as several individuals who were appointed to this committee, which is primarily supported by public dollars, stand to see substantial financial benefit if a trawl ITQ is enacted, while other commercial and recreational fishermen excluded from the development process may lose market share, or even their businesses, depending on how the ITQ might be implemented. This situation argues strongly for legislation that would require council members to recuse themselves from votes which would have a direct financial implication upon their business. As it now stands, Mr. Brown did not violate any law by acting to support his personal financial self-interest.

But even conflict-of-interest reforms at the council level would not ameliorate the inherent flaws in setting up a committee designed to avoid dissenting opinions, other than the tensions of negotiating power between trawlers and processors. This is an insider, backrooms game that excludes adjacent commercial fisheries, the less-efficient trawl businesses, the entire recreational fishery, and the American public. There is no wonder that this process has inspired the widespread perception that what is going on here is a privatization of this country's ocean resources, a "theft of the commons."

For the Pacific Council to take the dramatic step of approving a scoping document for a trawl ITQ-EIS would be extraordinarily unwise, because this would quickly be interpreted as Council support for the basic idea that a trawl ITQ is desirable, and all that's left is to debate the precise structure and allocation of species. This would also be a rejection of the right of the public to have a voice in the future of West Coast groundfish.

Under objective criteria developed by the National Research Council, the West Coast groundfish trawl fishery is unlikely to be considered an appropriate fishery for implementation of an individual fishing quota system.

According to the National Research Council's Sharing the Fish: Toward a National Policy on Individual Fishing Quotas, "*IFQ programs will be more successful when the following conditions are met:*

- 1) *The total allowable catch can be specified with reasonable certainty.*
- 2) *The goals of economic efficiency and reducing the number of firms, vessels, and people in the fishery have a high priority.*
- 3) *Broad stakeholder support and participation is present.*
- 4) *The fishery is amenable to cost-effective monitoring and enforcement.*

- 5) *Adequate data exist. Because of the long-term impacts and potential irreversibility of IFQ programs, it is important that sufficient data are available to assess and allow the mitigation of, insofar as possible, the potential social and economic impacts of IFQs on individuals and communities.*
- 6) *The likelihood for spillover of fishing activities into other fisheries is recognized and provision is made to minimize its negative effects.*

Certainly a situation exists (1) in groundfish where the allowable catch for each managed species or group of species is *specified* each year, although most of these species have not undergone a complete stock assessment. I think the intent here is to point out the difficulty inherent in setting up IFQs for populations of exceptionally variable biomass, such as Dungeness crab or pink shrimp. However, implementation of IFQs can also be problematic in multi-species fisheries that include depleted populations with a low biomass. The need to rebuild the populations of these species demands a higher priority than quota-holder access to their percentage of healthy stocks. Data reporting limitations in other fisheries (including recreational) that encounter the overfished species, and potential overages in these fisheries, can also contribute to considerable uncertainty regarding access to quota.

The capacity reduction feature of (2) seemed to have importance in the trawl fishery during advocacy for the buyback, even though the trawl industry and NOAA Fisheries preferred to leave a substantial number of latent and underused permits available for those who took the buyback money to re-enter the fishery or expand their businesses, or for processors to purchase in an attempt to replace lost delivery capacity.

So, I'm not sure that capacity reduction is really a high value. The buyback reduced some capacity, and a large number of skippers and deckhands were put out of work, and the business plans of some processing plants were challenged. Whether additional consolidation, efficiency, and unemployment are desirable would depend upon one's point of view. Less than optimally efficient businesses that support coastal families can provide a substantial benefit to our communities, and IFQ systems have been observed to destroy such businesses from British Columbia to Iceland.

As far as (3) goes, we don't really know whether there might be "broad stakeholder support and participation," because the Ad Hoc Trawl Individual Quota committee was set up specifically to limit participation. In addition, the public has been resoundingly excluded by the continuing resistance to a comprehensive programmatic EIS process. Additionally, in September 2003, the Pacific Council heard testimony *against* inclusion of a referendum where participants in the fishery might vote on whether they wanted to develop and implement IFQs. On all accounts the Pacific trawl ITQ process fails this condition; this is clearly an insider play by those who would gain the most.

To suggest that airing these issues within the council process accommodates sufficient public involvement is inaccurate. Even the voting body of the Pacific Council itself does not include a fair and balanced cross-section of all sectors of the fishery and the public interest. This is not the fault of the Council, but rather a subject requiring national reforms. But the point is that the Pacific Council is an inadequate forum to ensure broad public participation.

On the other hand, there are many stakeholders who participate in the Council process – and discuss issues among themselves – who would be limited in their involvement in this scoping process, as the comment period, after an adopted scoping document is provided, does not include a Council meeting.

Number (4) is interesting, considering the long-time resistance of many in the trawl fleet to at-sea observers. Will industry now be willing to pay for 100% observer coverage, even with catch levels constrained by encounters with overfished species? Or will the public be expected to foot the bill, even as public resources are “gifted” to the private sector? Meanwhile, enforcement personnel are already strained with current tasks, as well as with national security.

We have huge problems with (5) because of lack of data in the biological, economic, and social realms. As mentioned earlier, most of the managed groundfish populations have not been fully assessed – there are not enough data available to assess many of them. The status of non-managed marine life is, in many cases, even more difficult to evaluate. As we move toward a more ecosystem-based management approach, the concept of operating a system of single species-based IFQs seems incompatible, if not outright bizarre. It gets worse if we consider the adaptive management consequences of in-season adjustments which attempt to ensure that total catch by species in the groundfish fishery as a whole stays within allowable levels, particularly those involving overfished species or bycatch species on a reduction plan; the IFQ setup might actually create a race-for-fish, driven by the fear that the accelerated mortality of constraining species might shut the fishery.

The social and economic impacts of (5) are also challenging. Useful new tools, such as the Groundfish Fleet Restructuring Information and Analysis (GFR) project, undertaken as a proof-of-concept by Ecotrust and PMCC, demonstrate that there are the means to look at the likely effects of IFQ-driven consolidation, unemployment, loss of infrastructure, reduction in diversity, concentration of fishing effort, deleterious impacts to the recreational fleet, and the adverse consequences suffered by communities. This argues for careful evaluation of these types of effects, their possible mitigation, and any offsetting benefits of IFQ programs, within the larger context of a comprehensive programmatic EIS.

This is a complex subject that needs to be informed by both biological and social scientists. The information to be provided by the analytical team is a start, but it would be prudent to have a substantial amount of data, which *could* be made available, provided to the SSC, the Pacific Council, and the public, *before* a decision is made to proceed with a trawl ITQ-EIS. The situation here involves approving a scoping document to go forward with this EIS without scientific foundation, based instead on self-interest and politics. This would, of course, bolster the case often made by critics of the council process, that scientific decisions – biological, sociological, and economic – should be insulated from the political realm, leaving only advice on allocation matters to the regional fishery management councils.

Finally, there should be no problem in recognizing the spillover probabilities (6) of a trawl ITQ, both due to increased capitalization and more flexible business planning. The Dungeness crab fishery in

Oregon, for example, saw a tremendous influx of pots this year, in part due to the capital infusion from the groundfish buyback. Many of the same individuals who took the profits of the buyback and expanded operations in other fisheries stand to also gain financial advantage through ITQs, and would likely continue expansion. We could run some sociological and economic analysis and make reasonable projections of expected behavior – and we should – *before* we decide whether to commit to the development of a trawl ITQ-EIS.

These are just a few criteria for evaluating whether a fishery might be a candidate for IFQ management, as posed by the National Research Council. There are a number of other biological, social and economic factors that can be examined in evaluating whether a fishery is appropriate for IFQs. NOAA Fisheries has begun some of this work by looking at IFQs in multi-species fisheries internationally. A draft of these findings was made available to the NRC, but apparently went no farther within the council system. It is only reasonable to expect the fisheries service to present these findings as completely as possible, along with the other material discussed earlier, through a comprehensive programmatic EIS, with vetting before the SSC, before encouraging the Pacific Council to move blindly on a path from which return would be difficult at best.

The Pacific Council deserves full information and adequate opportunity for deliberation, rather than a rush for approval of a scoping document. Certainly at the present it appears that the West Coast groundfish trawl fishery is not an appropriate candidate for IFQ management.

The way in which exploration of possible use of individual fishing quota systems in the Pacific Region has transformed into a headlong rush to implement a trawl ITQ, demonstrates clearly the vital need for Congress to enact strong national standards to protect marine ecosystems, commercial and recreational fishermen, our coastal communities, and the public trust from potentially substantial deleterious impacts of individual fishing quota systems. If Congress cannot act swiftly to pass standards legislation, such as HR 2621, then a moratorium on new IFQ systems should be established until national standards are adopted.

PMCC supports the national agenda of the Marine Fish Conservation Network (MFCN) regarding IFQs, including the following:

The Magnuson-Stevens Act should be amended to:

- *Acknowledge that marine fish are publicly owned and that IFQs are not property rights;*
- *Ensure that IFQ programs enhance fish conservation;*
- *Protect fishing communities from excess consolidation;*
- *Limit IFQs to no more than five years, after which they may be renewed if conservation is enhanced; and*
- *Recover all administrative costs*

The PMCC board of directors adds these additional requisite standards:

- *Any IFQ must have a community component that results in appropriate harvest in the full fishing ranges of traditional coastal communities.*
- *Any IFQ allocation should provide incentives for use of gear which has the least bycatch and the least adverse impacts on habitat.*
- *No provisions that allow for the transfer of bycatch quota (including non-target marine life and overfished or Endangered Species Act-listed species) will be allowed.*

More details about the need for national standards, and about the impacts of IFQ systems worldwide, can be found at <http://www.pacificmcc.org>.

The U.S. Commission on Ocean Policy also understands the compelling need to establish national standards, if dedicated access privilege systems are to be considered. The Commission recommended on page 235 of their Preliminary Report:

At a minimum, the national guidelines should require dedicated access programs to:

- *specify the biological, social, and economic goals of the plan; recipient groups designated for the initial quota shares; and data collection protocols.*
- *provide for periodic reviews of the plan to determine progress in meeting goals.*
- *assign quota shares for a limited period of time to reduce confusion concerning public ownership of living marine resources,*
- *allow managers flexibility to manage fisheries adaptively, and provide stability to fishermen for investment decisions.*
- *mandate fees for exclusive access based on a percentage of quota shares held. These user fees should be used to support ecosystem-based management. Fee waivers, reductions or phase-in schedules should be allowed until a fishery is declared recovered or fishermen's profits increase.*
- *include measures, such as community-based quota shares or quota share ownership caps, to lessen the potential harm to fishing communities during the transition to dedicated access privileges.*
- *hold a referendum among all permitted commercial fishermen after adequate public discussion and close consultation with all affected stakeholders, to ensure acceptance of a dedicated access plan prior to final Regional Fishery Management Council approval.*

Conclusions:

It is clear from the information presented in this letter that it would be decidedly inappropriate to approve a public scoping document for trawl dedicated access privileges at this time, or in any way to encourage NOAA Fisheries to develop an EIS solely for a trawl ITQ system. Nor should Pacific Council staff time continue to be diverted to this effort.

The appropriate, valuable, and legally-required course of action is for the Pacific Council and NOAA Fisheries to forthrightly begin scoping for, and development of a comprehensive programmatic EIS for the commercial and recreational groundfish fishery. This is the proper vehicle to fully assess the efficacy and impacts of the Rockfish Conservation Areas; decipher the actual impacts of the buyback program; create linkages between rebuilding overfished populations, assessing and reducing bycatch, and protecting essential fish habitat; investigate how to better implement ecosystem-based management; and...evaluate whether types of dedicated access privileges might be appropriate tools for some sectors of this fishery.

Seeking the best work in the biological and social sciences, including worldwide experiences with forms of dedicated access privileges, to incorporate into the analysis within a comprehensive programmatic EIS is a wise way to proceed. After this science is reviewed by the SSC, and general policy alternatives are selected for the future directions of the West Coast groundfish fishery, only then might it be appropriate to begin development of an EIS to support dedicated access privileges in a particular sector.

Respectfully,

Peter Huhtala
Senior Policy Director



Pacific Marine Conservation Council

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July 29, 2004

Donald O McIsaac, Ph.D.
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220

Re: Trawl IFQ-EIS scoping comments

Dear Dr. McIsaac,

These comments are intended to supplement oral testimony that Pacific Marine Conservation Council (PMCC) has made at scoping hearings for this environmental impact statement (Trawl IFQ-EIS) at Foster City, Seattle and Newport. Specifically, I'll take this opportunity to elaborate on PMCC's recommendation for the council and NOAA Fisheries to analyze an additional alternative, should a decision be made to proceed with this EIS.

To be clear, PMCC remains resolved that we believe that time and resources are being inappropriately diverted to designing a trawl dedicated access privilege system while a comprehensive programmatic EIS for the groundfish fishery management plan (FMP) is overdue. In addition, we believe that focus and resolve needs to be committed to completing the Bycatch Program EIS, its associated FMP amendment, and implementing regulations that make for effective monitoring and reduction of bycatch. There remains, nonetheless, the current Notice of Intent (NOI) and scoping process, and if the council decides to continue down this path then an additional alternative should be considered.

The problem statement in the NOI highlights the bycatch problems in the groundfish fishery, particularly the unintended encounters with overfished species. This statement summarizes some of these concerns as "uncertainties about the appropriate bycatch estimation factors, few incentives for the individual to reduce bycatch rates, and an associated loss of economic opportunity related to the harvest of target species." PMCC agrees that these are significant problems that should be addressed as quickly as possible.

The NOI makes reference to the council's preferred alternative for the draft Bycatch Program EIS. I'm attaching for the record your letter of April 27, 2004, to Regional Administrator Robert Lohn, describing this alternative. This alternative has many elements in common with the "Draft Proposal

for Counting and Minimizing Bycatch in the West Coast Groundfish Fishery” submitted by PMCC and other groups for analysis within the Bycatch Program EIS process. I’m also attaching this document. I will draw upon ideas expressed in these two documents in describing a new alternative for the Trawl IFQ-EIS.

This alternative is based on sector caps on the total catch of each overfished species. While this concept is discussed in the scoping document (2.0 Alternatives and Impacts) under “Cumulative Catch Limits” and “ICAs (Pooled Species Caps),” it would be useful to include some additional flexibility with these tools.

We would like to accommodate an approach that begins with sector-based catch caps (in this case the limited entry trawl sector, although there might be ways to further subdivide this sector to, say, delineate the whiting fleet). All vessels within the sector would be required to stop fishing once the cap for any species was attained. Adequate, but not necessarily 100% monitoring would be required. This is not a huge departure from status quo, although the allocation to the trawl sector of catch of the overfished species would be explicit, at least for the time period involved.

Permit holders would have the opportunity to opt out of their sector for the fishing season. If they make this choice, they take with them a proportionate share of the catch caps on each overfished species, which now become individual catch caps. The vessels that have opted out of the sector must carry an observer or a compliance monitor (if operating in a full-retention arrangement) or otherwise assure 100% accounting of catch. Incentives for opting out of the sector will be provided to offset the cost of monitoring, such as higher cumulative landing limits for non-overfished species. The other implicit incentive is that vessels that have opted out of a sector would get to continue fishing if their sector was shut down, as long as they stayed within their individual caps.

Those have chosen to accept individual catch caps would additionally have the opportunity to pool their caps with others who have opted out of the sector. However, the entire group that has pooled their caps would have to stop fishing upon attainment of the aggregate catch cap of any species. PMCC does not advocate making the individual catch caps for overfished species transferable.

Additional performance standards and incentives could be built into this system, as suggested in the “Draft Proposal for Counting and Minimizing Bycatch in the West Coast Groundfish Fishery.” We expect that some analysis of similar constructs for the groundfish fishery as a whole will be included in the final Bycatch Program EIS, as the authors complete work to incorporate public comments and the council’s preferred alternative.

Turning to Table 2.1-1 in the scoping document, this alternative could be described as “Alternative 5” and simply include this hybrid of ICAs and Cumulative Catch Limits as the means to manage the overfished species within the trawl fleet. All other species would be subject to status quo management. (I should acknowledge that, although this proposal is pretty specific it might be wise look more generically at CL/ICA management for the overfished species, as the council could then request to see a range of options analyzed within this alternative.)

I’m not sure how this will fit in your scoping report, but I’d like there to be a mechanism for looking at longer cumulative landing limit periods under status quo management – perhaps 3, 4, or 6 months – and how that might play out with the new Alternative 5.

One important area to consider when looking at Alternative 5 is the timeline for possible implementation. Elements of this proposal could be implemented more swiftly than other dedicated access privilege systems under consideration, while not precluding consideration of additional solutions. The benefits of superior accounting of bycatch to reduce uncertainty about the total catch of overfished species, and instituting incentive systems to reduce bycatch can lead to increased economic opportunity even as conservation mandates are fulfilled. Even though we are asking that Alternative 5 be considered and compared with other dedicated access privilege systems within the Trawl IFQ-EIS, the council could choose to move in this proposal into regulation without going through the lengthy process expected under other options. We believe this could be in place by the beginning of 2007, if not sooner.

Appendix A of the scoping document includes a discussion on area restrictions (A.2.0). We suggest anticipating that some groundfish stocks that are managed on a coast-wide basis may be determined in future years to include genetically distinct populations, and that we don't have the biological basis now to determine these future geographical ranges. Therefore, it's important to consider how any dedicated access privilege system will respond to or discourage future changes in area-based management, both for such biological reasons or for enhancing economic equity. Alternative 5 could provide the flexibility needed for making adaptive management decisions, particularly in that the catch caps are set by season and are non-transferable.

Thank you for considering this alternative and the other suggestions PMCC has made during this scoping period.

Respectfully,

Peter Huhtala
Senior Policy Director

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Draft Proposal for Counting and Minimizing Bycatch in the West Coast Groundfish Fishery

March 31, 2004

This proposal to count and minimize bycatch relies on enhanced bycatch observation in the groundfish fishery, the use of bycatch caps for sectors of the groundfish fishery, and the continued use of spatial management to reduce bycatch. The sectors referred to in this document match those currently used in the Council's "bycatch scorecard" and can be further subdivided by area. We propose that a statistically adequate reporting methodology to assess the amount and type of bycatch occurring in each fishery be established using the criteria contained in "Evaluating Bycatch: A National Approach to Standardized Bycatch Monitoring Programs" (Powers Report) and "How Much Observer Coverage is Enough to Adequately Estimate Bycatch" (Pikitch report). Implementation will be phased in over time based on a ranking of need and feasibility consistent with these reports.

Proposed Alternative to Minimize Bycatch in the Groundfish Fishery

The proposed alternative is a modification of Alternative 4 in the Bycatch EIS. This proposed alternative would combine sector caps with continued use of spatial management to minimize bycatch. The groundfish fishery will initially be subdivided into the sectors defined by gear type (limited entry trawl, fixed gear, etc), as used in the bycatch scorecard (attached). These sectors may be further subdivided by the Cape Mendocino line (40-10) into North and South components and by the RCA, into fishing zones seaward and landward of the RCA. Vessel operators who want to fish both seaward and landward of the RCA must provide proof of past fishing in both of these areas using catch history for that vessel over the past three years. Upon further analysis, these sectors may be further subdivided into geographical areas to fit area-based management initiatives.

Caps on total mortality of each overfished species will be established for each sector, and a sector will be closed to fishing upon attainment of any of these caps. Additional management measures will be employed to ensure that the total mortality of every managed species stays within its OY.

Boats from within a sector can opt out of the sector cap, thereby preserving the opportunity to continue fishing if their sector is shut down, by meeting some established criteria such as funding 100% observer coverage for one's vessel. Upon opting out, a commercial vessel would get individual bycatch caps and incentives such as higher trip limits from a reserved portion of target species OY. This cap would be deducted from that of the vessel's sector. Vessels that opt out of sector allocations can form collectives to pool bycatch quotas amongst collective members. The entire collective is prohibited from further fishing once a collective bycatch cap is met.

Furthermore, vessels are permitted to switch to another sector by changing gear type. Similar to those vessels that opt for individual bycatch caps, bycatch cap amounts will transfer with the vessel to the new sector.

The initial bycatch caps will be for those species identified on the bycatch scorecard (bocaccio, canary rockfish, etc.), and the most current bycatch scorecard will be used to apportion the OY of each species among the sectors. The Council will review bycatch rates for other managed species not contained on the bycatch scorecard. If bycatch rates for these species are higher than an established threshold, a bycatch cap will be set for those species, and gradually reduced over time. As OY levels increase for the capped species, the increase beyond what may be needed as a buffer will be allocated to operators with the lowest bycatch rates among those with individual caps, and through other means that provide incentives for bycatch reduction individually, by sector and within collectives.

For species without set OYs (for example, unassessed species), information will be collected through a standardized reporting methodology for bycatch. After a to-be-determined time period of data collection, a bycatch cap will be established for individual species or species groups if bycatch of any unmanaged species is found to increase or decrease by 10% or more relative to the previous year. After a set number of years (e.g. five) after establishment of a bycatch cap, bycatch would be reduced by some set percentage (10%, for example) per time period through reductions in the caps, while providing incentives for those most successful at avoiding bycatch. In the interim, bycatch of unassessed and other species will be minimized by use of the RCA and additional spatial management measures as needed (for example, on the slope).

Establishing a Standardized Reporting Methodology for Bycatch

A bycatch reporting methodology will be established consistent with the criteria in the Powers and Pikitch reports. Groundfish fishing sectors will be analyzed consistent with these reports within the following categories: status of current reporting methodologies and bycatch interaction (fish, endangered animals and marine mammals). The sectors will then be ranked within the two categories. After consultation with appropriate NMFS and PSMFC staff, decisions will be made as to which sectors should be considered priorities for an enhanced reporting methodology. A timeline will be developed for establishment of this reporting methodology for each sector.

Reference Documents:

Powers report: http://www.nmfs.noaa.gov/by_catch/EvalBycatch.pdf

Bycatch EIS: <http://www.pcouncil.org/groundfish/gfbdpeis.html>

Pikitch report: <http://www.oceana.org/uploads/BabcockPikitchGray2003FinalReport.pdf>

PACIFIC FISHERY MANAGEMENT COUNCIL

7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

CHAIRMAN
Donald K. Hansen

EXECUTIVE DIRECTOR
Donald O. McIsaac

Telephone: 503-820-2280
Toll Free: 866-806-7204
Fax: 503-820-2299
www.pcouncil.org

April 27, 2004

Mr. Robert Lohn, Regional Administrator
National Marine Fisheries Service, Northwest Region
Building 1, BIN C15700
7600 Sand Point Way NE
Seattle, WA 98115-0070

RE: The Pacific Coast Fishery Management Plan Bycatch Mitigation Draft Programmatic
Environmental Impact Statement

Dear Mr. Lohn:

At its April 5-9, 2004, meeting in Sacramento, California, the Pacific Fishery Management Council (Council) reviewed the Pacific Coast Fishery Management Plan (FMP) Bycatch Mitigation Draft Programmatic Environmental Impact Statement (DPEIS) released on February 20, 2004, and identified its preferred alternative for NMFS to incorporate into the EIS. This would be identified as Alternative 7 in the Final Programmatic EIS (FPEIS) and would contain elements of several alternatives described in the DPEIS. The Council approved the following motion describing the recommended preferred alternative:

Create a new Alternative 7 that includes elements of Alternatives 1, 4, and 5. Elements from Alternative 1 that would be included in Alternative 7 would be all current programs for bycatch minimization and management, including but not limited to: setting optimum yield specifications, gear restrictions, area closures, variable trip and bag limits, season closures, establishing landings limits for target species based on co-occurrence ratios with overfished stocks, etc. The FMP would be amended to more fully describe our standardized reporting methodology program and to require the use of bycatch management measures indicated under Alternative 1 for the protection of overfished and depleted groundfish stocks and to reduce bycatch and bycatch mortality to the extent practicable. These would be used until replaced by better tools as they are developed.

Elements from Alternative 4 that would be included in Alternative 7 would be the development and adoption of sector-specific caps for overfished and depleted groundfish species where practicable. We anticipate phasing in sector bycatch caps that would include: monitoring standards, full retention programs, and individual vessel incentives for exemption from caps.

Mr. Robert Lohn
April 27, 2004
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Elements of Alternative 5 that would be included in Alternative 7 would be the support of future use of Individual Fishing Quota programs for appropriate sectors of the fishery. The FMP would incorporate the Strategic Plan's goal of reducing overcapacity in all commercial fisheries.

Additionally, baseline accounting of bycatch by sector shall be established for the purpose of establishing future bycatch program goals.

Consistent with our recommendation, we ask the EIS project team to further describe Alternative 7 as necessary for the purpose of making it consonant with the descriptions of the other alternatives and to support sufficient analysis of its impacts on the human environment, but to not change matters of intent substance.

After this action is finalized, the Council will consider undertaking preparation of a new groundfish FMP amendment consistent with the findings in the FPEIS. We look forward to working with NMFS after the release of the FPEIS to implement the policies and program direction described by the preferred alternative.

Sincerely,



D. O. McIsaac, Ph.D.
Executive Director

KRD:rdd

Subject: Scoping Comments - I.D. 051004B
From: "Peter Huhtala" <peter@pmcc.org>
Date: Mon, 2 Aug 2004 14:21:28 -0700
To: <TrawlAccessEIS.nwr@noaa.gov>
CC: <Jim.Seger@noaa.gov>, <steve.freese@noaa.gov>

Comments on Notice of Intent to Prepare an Environmental Impact Statement, ID # 051004B

August 2, 2004

Pacific Marine Conservation Council (PMCC) offers a few additional comments.

Sunsets: In the scoping document under A.11.0, the TIQC rejects the inclusion of automatic sunsets. We recommend analyzing a range of sunset provisions from one to ten years. In addition, the concept of conducting a review of the performance of an IFQ system prior to the sunset date should be examined (For example, setting a review at five years and a sunset at seven years, so that continuation or expiration of the IFQ system could be anticipated as a result of the review.)

Short-term sunsets, say two years, might make for flexibility, especially in a system focused exclusively on the overfished species.

Sunsets put teeth in performance standards designed to ensure that IFQ programs achieve the goal for which they are designed. We recommend that any program be required to achieve measurable conservation gains, such as reduction of bycatch or significant habitat protection, or they not be allowed to continue. This helps to return some value to the public, the owner of the resource, for granting a valuable privilege.

Setting the duration of quota shares for a fixed period not only can clarify any confusion about property rights, as recommended by the US Commission on Ocean Policy, but can obviate possible equity and biological problems. Short-term arrangements allow management to avoid long-term proportional allocations between gear groups. As overfished populations rebuild, the structure of the available resource will change, as will the basis for inter-sector allocations. Sunsets avoid a possible conundrum.

Referendums: A range of referendum scenarios should be offered, including a double referendum where two-thirds of those involved in the fishery would be allowed to vote first whether to develop an IFQ system, and finally whether to implement the system. Consideration should be given to allowing anyone earning more than three-quarters of their income (permit holders, skippers, deckhands) from groundfish harvest to participate in the referendum.

Spatial analysis: In order to project some of the biological and economic changes that various IFQ management systems may bring, it would be useful to describe the current situations spatially, and model some scenarios. First, we could look at catch by fishing block and landings by port in as fine a scale as possible. In addition, we could look at estimates of biomass by area (NMFS survey & ?).

Then we could look at how catch and landings might occur if all stocks were at MSY (a goal of the council). Again, we could draw on the historical data-set from the NMFS surveys. Another run might forecast the state of the ecosystem in, say, 2020 based on the rebuilding plans now in place.

These sort of projections might inform decisions about whether and how proportional allocation between sectors might be set. But this is not just an allocation issue; it speaks directly to the design of any dedicated access system, and, I believe will make obvious the need to limit share distribution to short periods.

One concern that we've raised about possible IFQ plans is that they might encourage localized depletions of some populations. This would be especially problematic if it turns out that a stock managed on a coastwide basis is actually genetically-distinct in certain areas. The spatial analysis described here could be used to consider whether any localized depletions due to fishing have already occurred.

Community quota: You've received requests to consider forms of community quota, CDQs and the like. This is certainly reasonable, as the GAO recently suggested that such arrangements might be one of the best means to mitigate the adverse impacts of IFQ systems. However, in a multi-state fishery certain constitutional problems might arise in relation to the Port Preference Clause. Would you please describe the range of legally possible solutions for community quota and/or requiring landings in a particular port. What does it take to get around the constitutional and inter-state commerce issues; what are the realistic possibilities in regard to community quota systems? Even if harvest quota is assigned to a community, could the community distribute the quota to fishermen and stipulate that they land their catch in the community?

Thank you for considering these comments, and our previous testimony and submissions.

Peter Huhtala
Senior Policy Director
Pacific Marine Conservation Council
399 31st Street
PO Box 59
Astoria, Oregon 97103
phone (503) 325-8188
fax (503) 325-9681
cell (503) 440-3211
www.pmcc.org

Subject: public comment on federal register of 5/24/04 vol 69 no 100 pg 29482
From: Bk1492@aol.com
Date: Wed, 26 May 2004 18:42:51 EDT
To: TrawlAccessEIS.nwr@noaa.gov, rodney.frelinghuysen@mail.house.gov
CC: steve.freese@noaa.gov, jim.seger@noaa.gov

us doc noaa 50 cfr part 660 id 051004B - pacific fish

how is the public protected from fishermen who will keep lying to the council and pressuring as long as you let them to take out every fish in the ocean for their own financial profit? Meanwhile, they'll be making illegal catch all they want.

The general public says that in the face of pressure by fish profiteers the council has to stand up for the interests of the general public. Turn away special segments who beg for the whole pie, when the whole pie belongs to the whole american public. That is the job of the council. Tell that to the fishermen.

I do not want a large quota in a short season, because then the fish profiteers will go to another area and overfish in that area, which is not a good idea. Let's reduce the number of fishermen - that is a good beginning.

cut quotas 50% this year and by 10% every year thereafter. Establish marine sanctuaries.

comment on page 4 - I thoroughly oppose providing for capacity rationalization through market forces - that is completely inappropriate.

I do not think "community" quotas are a good idea. The fish are not a "community" resource - they belong to the entire american public. Letting community quotas be established would mean rich powerful would get the whole quota.

comment on page 5 - We have to set up limits for these financial profiteers so that there is fish left in the ocean. It is quite clear that fish profiteers will take every single fish in the ocean for their own profit, and forget about any obligations to the general american good.

comment on page 6 - the largest issue here is putting the commercial fish profiteers in their place, since compared with american population which needs protection of fish stocks, the profiteers will take everything for their own financial wealth.

As if fully set forth herein at length, I hereby make the Pew foundation report on overfishing part of this comment, as well as the well known Pew Foundation report on councils and how they have been commandeered by the commercial fish industry to stop protecting the general american public.

b. sachau
15 elm street
florham park nj 07932

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