

GROUND FISH ADVISORY SUBPANEL REPORT ON LEGISLATIVE MATTERS

The Groundfish Advisory Subpanel (GAP) received a copy of SB 1549 the “Cooperative Hake Improvement and Conservation Act,” as introduced by Senator Smith, and Mr. Jim Seger of the Council staff gave the panel a verbal summary of the bill. The panel members and public attending the meeting discussed the bill at great length. During this discussion, everyone that wished to express their opinion was given the opportunity to do so. Two strongly conflicting views were expressed: characterized here as those in opposition to SB 1549 (Opponent’s View) and those in support of SB 1549 (Proponent’s View).

Proponents’ View

The proponents of SB1549 on the GAP were disappointed that the group was unable to provide substantive comments on SB1549 as requested by the Council and Senator Smith. Unfortunately, due to philosophical opposition to processor recognition in an individual quota (IQ) program, several GAP members refused to even discuss the plan outlined in the legislation. Hence, no substantive comments were provided.

The proponents on the GAP and the majority of shoreside whiting fishermen and processors support the passage of some form of SB1549 that implements a program which recognizes harvesters and processors. We continue to believe that the partnerships between fishermen and processors should be recognized and protected. We support the bill because:

- it represents a cooperative agreement between the majority of trawl fishermen and processors involved in the shoreside whiting industry;
- it recognizes and includes historic participants of both the harvesting and processing sectors;
- it allows for the development of a market based management program that provides fishery participants with long term economic stability;
- it allows for fisheries participants to better conserve and manage bycatch allocations as specified by the Council;
- it does not alter how the Council manages groundfish in terms of established seasons, species managed, legal gear, sector allocations, rollover of unused allocation, and setting of bycatch levels; and
- it allows the Council, with a minimum of burden, to progressively address the conservation and management of whiting using an allocation system that cannot be legally recommended by the Council at this time.

This legislation is not an “end-run” attempt to circumvent the Council process. A majority of the rationalization plans currently in place around the country were implemented through Congress, not councils. In fact, the Council is currently prohibited from even considering the type of plan proposed in the legislation. In an effort to make the program more palatable, the proponents on the GAP would have been interested in hearing suggestions that could improve the proposed legislation and make the program more accessible. These comments could have made their way through the Council process and ultimately have been provided to Senator Smith as originally

requested. This is an opportunity for direct Council involvement in the evolution of the legislation. The refusal of some GAP members to even consider the possible benefits of the proposal has prevented the GAP and perhaps even the Council from providing direct input into the legislation. Instead of providing constructive comments to influence the legislation, some GAP members have clouded the issue and tried to force the Council's hand on taking a stand against processor recognition within individual quota programs.

The proponents on the GAP remind the Council that one sector of the whiting fishery – the catcher-processors – have already rationalized, which occurred after the Council formally allocated the whiting optimum yield. The voluntary catcher-processor cooperative formed outside the Council process has benefited through improved production and decreased bycatch. By working with the Council and the Congress, the shorebased sector is also trying to rationalize to achieve similar benefits.

Processors make up less than 16% of the GAP membership. Due to a vacancy and an absence, only one processor was present during the discussion. The GAP Chair made sure to include comments from processors and fishermen present in the audience. Remember, the shore-based whiting industry, both harvesters and processors, are supporting the passage of this legislation. The proponents on the GAP encourage the Council to consider providing substantive comments on the draft legislation as requested by Senator Smith, not simply echoing the mantra of “no processor recognition” being espoused by opponents on the GAP who aren't even part of the whiting industry!

Opponent's View

The opposition on the GAP, in concert with other participants in the audience, expressed great concern and opposition to SB 1549, the “Cooperative Hake Improvement and Conservation Act”. The first issue that troubled the panel was that this legislation would disregard the authority of the Council to develop a fishery management plan for a quota share system that includes Pacific whiting. This type of “end-run” would implement a management system without the normal analysis and review that the industry has come to expect and within which they wish to participate.

The second issue for these panel members, and perhaps the greatest, was the great deal of opposition to the establishment of a “two-pie” quota system. Fishermen would only be allowed to sell their catch of whiting to companies that had matching shares. Currently, this type of system is illegal. According to the Justice Department these types of systems are anti-competitive and restrain trade.

Thirdly, were these panel members oppose any legislative or management action which would grant resource shares of any kind to the processor sector. They are the fishermen's customer. A free market outcome which facilitates competition and development of markets and products is most beneficial to all. There are a great deal of conservation and fishery management benefits that come from a properly designed quota share system; however, a restriction on to whom a fisherman may sell his catch does nothing to advance conservation or fisheries management.

The panel touched on a few of the issues that opponents viewed as short comings in the legislation, in addition to the fatal issue of processor shares. But, opponents to SB 1549 were

hesitant in discussing these at any length, out of concern that such dialog would be viewed as giving credence to an ill conceived approach to a quota share system. The opposition believes that this bill would be precedent setting and fear that actions such as this would undermine the prerogative of the Council in developing a trawl individual fishing quota (IFQ) program. Proponents of the bill state that this bill will not be precedent setting and cite the American Fisheries Act (AFA) and North Pacific crab rationalization as examples. The opponent view holds that both of those programs were precedent setting, as evidenced in this bill with creation of cooperatives and processor shares.

Those with the opposition view on the GAP, not wishing to be labeled “obstructionist” or viewed as not being responsive to Senator Smith’s request for substantive comments on his bill that would improve the legislation and make it more acceptable to the West Coast commercial fishing industry, including those whiting fishermen that oppose the legislation, suggested that the bill would be acceptable if the bill were to simply establish an IFQ system for whiting fishermen. This change would include the removal of all references to processor shares, cooperatives, matching quota, etc. The amount of “set asides” for non-directed whiting would need to be addressed. This program would need to be structured to mesh well with the Pacific Council’s IFQ program for trawl groundfish, currently under development, so that bycatch, inter-whiting sector allocations, accumulation caps, and all other provisions of the Groundfish trawl IFQ program would appear seamless.

This constructive comment should not detract from the opposition’s preferred approach of developing the IFQ program through the Council.

PFMC
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