

FISHING VESSEL OWNERS' ASSOCIATION

Agenda Item B.1

INCORPORATED

Supplemental Open Comment Period 2

September 2008

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SINCE 1914

August 19, 2008

Mr. Donald Hansen, Chairman
Pacific Fishery Management Council
7700 N.E. Ambassador Place, Suite 101
Portland, OR 97220-1384

Dear Chairman Hansen:

The Fishing Vessel Owners' Association ("FVOA") represents 95 independent fishing families and the vessels they operate. All of our members are fixed-gear harvesters. The members fish approximately 45 fixed-gear limited-entry permits off the lower coast and have about 10 trawl limited-entry permits. Our interest is representing the concerns of our members who have purchased these trawl permits. We support the development of a market-based IFQ format for the future of the West Coast trawl fisheries. We support the current sector splits and other regulatory requirements found in the preliminary preferred action taken by the Pacific Council at its June 2008 meeting.

We oppose the allocation of 20% of the earned Trawl Individual Transferable Quota (TITQ) by a vessel owner to the shorebased processors. The rationale for this allocation was stated in June as to offset alleged new marketing "power" realized by the harvesters once TITQs are issued. However, it has been noted by the Council that, currently, under the status quo management, the marketing power favors the shorebased processors. We believe the 20% proposed allocation is solely an economic allocation and is, therefore, prohibited by National Standard 5. We also believe that, because it is the fishermen's earned fishing history that serves as the basis for quotas, and the proposed 20% allocation to processors would arbitrarily transfer quota earned by fishermen and not by processors, the allocation is prohibited by National Standard 4. The impact on communities, described below, runs afoul of National Standard 8.

National Standard 4 states: "...If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (a) fair and equitable to all such fishermen; (b) reasonably calculated to promote

conservation; and (c) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.”

National Standard 5 states: “Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose.”

The current status of the trawl fishery is the result of several major decisions of the Council taken over three decades. There was an overarching goal by the Council to have a fishery that supplies markets year-round. This goal has failed because the Council has never been able to match the goal of 12-months’ availability of fish with harvesting capacity and the ever-changing catch limits (TACs). The Council is now ready to adopt a market-based program that will allow the fleet to match harvest capacity with the availability of resources and market demand for these resources.

For the first time in three decades, this will allow harvesters to enjoy an “open market,” a market where the “goods” (fish) produced are not encumbered by bi-monthly trip limits which, relative to market demand, funnel too much fish in too short a period of time to a few processors. The current bi-monthly trip limit structure for harvesting and landing fish results in a form of a “closed market” to harvesters. The time to set up fish deliveries based on negotiated prices, and the ability to hold product until the market becomes more competitive, is the new power we believe the Council identified in June but did not articulate fully.

The bi-monthly deliveries, because of the collapse of the TACs and still too many vessels, has resulted in the fleet fishing the last days of one bi-monthly timeframe and harvesting the next bi-monthly trip limit in the beginning of that time-frame. This structure causes most of the available fish for a four-month period to be delivered in 2-to-3 weeks. The harvesters have been forced to adopt this harvesting strategy in order to catch enough volume to operate economically. To harvest the bi-monthly limits in some other timeframe would result in an insufficient income to operate and attract a crew.

The status quo has created a bi-monthly pulse fishery forcing the harvesters into the position of flooding the market three times a year. Phil Anderson mentioned the current situation puts the processors in a position of power over the harvesters. We agree. None of the above operational actions by the harvesters would be logical, if the harvester operated in an “open market,” where one could reasonably negotiate each delivery such as is done through the Homer Auction, FVOA’s Seattle Fish Exchange, Holland’s reverse auction, and the Japanese Segui Market Auction System. When using these forms of competitive bidding, the harvesters have never before been required to allocate 20% of their fish to the buyers as a prepayment for competing in an open market. It is instructive that never before has there been any justification identified that supported implementation of such an allocation.

The Council's 8-to-4 vote would imply most Council members believe there truly is a new economic power provided to the harvester with the TITQ program. We maintain that the so-called new power of harvesters is nothing more than a restoration of the open market position they enjoyed, before the resources declined and fleet capacity became too large relative to the available harvests. That power is simply the ability to ask two or more buyers to provide competitive bids for the goods produced by the harvester. The processors have received the fish under a closed market situation from the harvesters, as noted by Phil Anderson, and in turn, have sold their finished product to various North American, Asian, and European markets (i.e., open markets).

The ability to enjoy an open market where there are two or more suppliers and two or more buyers is fundamental to the optimal operation of Capitalism. Without the ability to negotiate freely, market distortions are unavoidable. The so-called new power provided to the harvester is a marketing opportunity harvesters should enjoy in accordance with the principles of our economic system. The power of the open market to the harvesters under a TITQ program is matched by power that the processors have always exercised, the ability to negotiate with their buyers at the 1st, 2nd, and 3rd wholesale levels. Seafood Business shows the following for gross sales by processors:

North America's Top Seafood Markets

#2 Trident Seafoods	\$1,000 Million
#3 Pacific Seafoods	\$875 Million
#6 Unisea	\$750 Million
#7 American Seafoods	\$550 Million
#12 Ocean Beauty	\$420 Million
#11 Aqua Star	\$430 Million
#14 Icicle Seafoods	\$350 Million
#22 Peter Pan Seafoods	\$240 Million
#22 Golden Alaska Seafoods	\$240 Million

....Seafood Business, May 2008

With TITQs, the harvesters will no longer be held hostage to a market distorted by bi-monthly delivery requirements.

The open market that the processors have enjoyed over the last three decades has benefited them greatly. However, the Pacific coastal harvesting vessels, that do not have some Alaskan opportunities, are currently near bankruptcy, are poorly maintained, often do not have insurance, are frequently tied up, and generally produce poverty-level wages. This contrasts with the tremendous wealth reflected in gross sales of the processors, as reported by NMFS. The Council's proposal to have fishermen pay a 20% premium to the processors for being granted an open market is entirely unfair and arbitrary.

There is no economic theory that justifies the kind of transfer proposed by the Council which is placed on the back of harvester labor and small family vessels owners. Not surprisingly, there is no justification provided in the EIS. The proposal is for nothing more or less than solely an economic allocation proscribed by Magnuson-Stevens Act National Standard 5.

The Pacific Council must recognize that processor leverage and marketing power are not just limited regionally to the area of responsibility to the Pacific Council. The processor assets through the American Fisheries Act ("AFA") legislation and Bering Sea/Aleutian Islands crab rationalization program in Alaska provide marketing leverages on the Pacific Council area. The Japanese fish company of Maruha and Nichiro recently merged, making Maruha now a \$9 billion in sales company. The merged operation has many marketing agreements with the at-sea processors, motherships, and shorebased operators in the Pacific Council area of authority, as well as in Alaska. Through these marketing agreements control over IFQs and processor shares is being exerted both in Alaska and off the lower Pacific Coast.

The Washington State's and Alaska's Attorney General's offices have been looking into these market relations recently due to the merger of Nichiro and Maruha, each was a global seafood buyer. Together they are now the largest seafood buyer in the world. The U.S. Government allocated crab processor quota share privileges to the Bering Sea processors. These processor quotas guarantee each processor their historical share of processed Bering Sea crab. The shares are published by National Marine Fisheries Service (NMFS) and are as follows:

Trident Seafoods Corporation	26%
Unisea, Inc. & Royal Aleutian	21%
Peter Pan Seafoods, Inc.	15%
Westward Seafoods, Inc.	13%
Icicle Seafoods, Inc.	10%
Alyeska Seafoods, Inc.	5%
Snopac Products, Inc.	4%
Yardarm Knot, Inc.	4%
Others	2%

Unisea, Inc., Peter Pan Seafoods, and Westward Seafoods are each 100% owned by Japanese interests. Alyeska Seafoods is owned with about 50% Japanese interests. The total processing shares controlled by Japanese investors of U.S. crab processing rights is over 50%. In addition to this, Maruha now owns 100% of Peter Pan Seafoods, 100% of Westward Seafoods and 50% of Alyeska Seafoods with the recent merger in Japan. Maruha alone controls nearly 38% of all processed U.S. crab. Prices to fishermen are now controlled through government imposed arbitrations to help make sure the harvesters get a fair price. Japanese-controlled companies control over 50% of the wholesale markets for Bering Sea crab. This

marketing power has an impact on the lower coast Dungeness processing and their competitive position as processors.

Trident Seafood representatives have testified before the NPFMC stating the overall crab asset rights maybe worth \$1.1 to \$1.2 billion and crab processors shares worth \$89,684,941. Pollock, if valued at \$2500 to \$3000/ton, has an asset value of \$2.5 to \$3 billion, and non-pollock species in the Bering Sea has an asset value of \$1.0 billion.

In the AFA, pollock was similarly allocated to certain groups. The Act allocated pollock 50% to catcher vessels harvesting pollock for processing by the inshore component, 40% to catcher/processors and catcher vessels that catch and deliver to a catcher processor and 10% to catcher vessels delivering to mother ships.

The percent of processor control of the shore based allocations by the Japanese investors for pollock is: Peter Pan Seafoods (Maruha) – 2.876%; Unalaska Co-op (Alyeska) (50% owned by Maruha) – 12.181%; Unisea Fleet Cooperative – 25.324% and Westward Seafoods – 18.906% (Maruha). The Japanese investors control 53% of the shorebased processing of pollock, with Maruha controlling 27.7%.

Trident Seafoods, through Akutan Catcher Vessel Association, controls 31.145% of the shorebased pollock plus pollock harvested by their catcher processor fleet such as the *America Enterprise*, *Kodiak Enterprise*, and *Seattle Enterprise*. Trident, at a minimum, controls 25% of all crab processing rights in addition to significant Pollock co-op rights and at-sea processor pollock rights. Seafood.com recently reported the pollock company of Alaska Ocean, Inc., sold to Glacier Fish for \$185 million. It was reported they controlled 40,000 tons of pollock. Trident's control of pollock is more than this and that asset value enables them to be very competitive off the lower Pacific Coast, relative to any new competitive power that might be provided to the harvesters or new processors. The request by the processors for 20% of the fishermen's TITQs is a grab-for-asset value. It utterly fails to address the Pacific Council's problem statement of bycatch and race for fish.

The Pacific Council needs to recognize the tremendous asset value many of the processors off the Pacific Coast have already received through their Alaskan operations and marketing arrangements. The Pacific Council must recognize that allocating 20% of the harvesters TITQs to the processors will put the harvesters in a dramatically and unfairly weaker condition to negotiate than Phil Anderson described. The EIS suggests the harvesters will need to consolidate by 40%. This will require harvesters to buy each other out. If the processors have 20% of the quota, consolidation will likely be more like 60%, putting an even greater economic burden on the harvesters. Allocating 20% of the fishermen's quota will only exacerbate this economic power the processors already have over the harvesters. Unfortunately the Council has not put any design features into the TITQ program with respect to the shorebased sector that would differentiate between harvester quota and processor owned TITQs. Based on the current design, the fishery will

likely be vertically integrated in a short period of time with the harvester in an increasingly weakened negotiating position.

The Council heard from a number of economists from the "Panel of Experts" that the Council put together. The resulting input, including that below, shows that the proposed allocation to processors runs afoul of National Standard 8, which provides: "Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities."

The Council was informed, as follows:

To meet the second objective of preventing the location of landings from shifting radically from the current communities, an analysis would have to demonstrate why the processing sector would be any less likely to shift locations than fishing vessels, once issued IFQs.

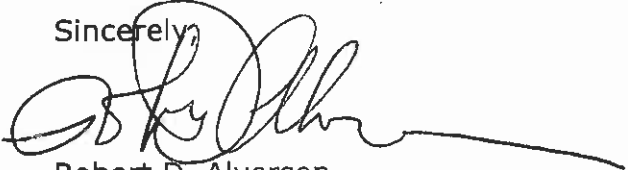
Currently, siting of processing plants responds at least partly to the location of fishing fleets. With control of IFQs, processors could exploit economies of scale in processing by consolidating into fewer plants and requiring that the fishing vessels who lease their IFQs land at those sites. Thus, there are potential community instabilities exacerbated under the processors quota options. These are issues requiring analytical attention.

Issuing IFQs to processors introduces some additional possible complications that are not discussed in the presentation of alternatives. Suppose that one or a few processors have a dominant position in the processing industry and that they also deliver a large enough fraction of the fresh groundfish in local markets to affect price. Does the Processor Quota alternative then give them additional market power (monopoly power to restrict supply to achieve a higher market price for groundfish in product markets, or monopsony power to restrict purchases of fish from the fishing fleet to reduce price of landed fish)?

The members of FVOA believe that the 20% allocation of fishing history is economic corporate welfare and tribute to the processors in order to enjoy an open market by the harvesters. We believe this allocation fails under National Standards 4, 5, and 8. Phil Anderson, at the June Council meeting, mentioned the current regulations give processors the superior negotiating position, and we agree. The processors have far more than adequate marketing power with their leverage in Alaska and the lower coast without further strengthening their position by taking 20% of the quota and income base away from the harvesters, harming those who

earned the quotas and adversely affecting fishery dependent communities. We urge rejection of the 20% allocation of TITQs to the processors.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Alverson', with a long horizontal flourish extending to the right.

Robert D. Alverson
Manager

RDA:cmb