



ENVIRONMENTAL DEFENSE FUND

finding the ways that work

June 10, 2009

Mr. Donald K. Hansen
Chair, Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, OR 97220

Dear Mr. Chairman and members of the Council:

We are entering the home stretch. Your dedication to both developing the west coast trawl catch share program in a timely manner and to making sure it gets done right throughout this long process will pay valuable dividends once the program is implemented.

While only a small handful of trailing actions remain, some of those actions are core to ensuring that the program meets all of its goals. With that in mind we wish to comment on the adaptive management program, divestiture, and the carryover provision. And in addition to the trailing actions the Council has on its plate, there are several related items that will affect the success of the program. These items include implementation funding, data that should be collected to provide meaningful information at the five year review, and the structure and design of the tracking and monitoring system. While these items are not formally before the Council at this time, we wish to offer our services in any way we are able in order to help shepherd this program through this final phase.

Adaptive management

While we firmly believe that the IFQ will produce significant economic and conservation benefits, we recognize that some ports may lose some boats or landings if quota is leased or sold to fishermen working in different areas of the coast. We believe the Adaptive Management Program could help ease the transition for fishing communities from current management to the new regime by creating incentives for fishermen to continue to land in their historic ports.

We are concerned however, that waiting until the third year of the program to use the pounds might be too long for some plants dependent on landing in their communities and other fishing-related infrastructure to weather. One of the rationales for waiting until the third year is to develop additional data to determine where quota should be directed. However, due to the administrative timeline there will be very little data to make a meaningful decision in order to utilize the quota by year 3. Therefore, we recommend beginning the program in the first year with a simple formula that would allocate pounds to fishermen who agree to land at the plant where they have predominately landed, based on a 3 year rolling average of the pounds they have brought into that community. While implementation in year one would be desirable given transition concerns, we do not want to have the entire IFQ program held up while the formula is completed. Therefore, if the Council cannot agree on a formula at this meeting, then we recommend that the Council commit to initiating a formulaic distribution of AMP starting in year 2 with the principal objectives plant and community stability. In either case, this use for the

AMP should be revisited by the Council at the five year review at which time the Council could change the objectives in the formula or move towards an EFP type application process.

Carryover provision

We understand there is concern regarding whether a carryover provision would comply with ACLs and whether it might lead to overfishing. That said, a carryover is actually likely to diminish the total removals in any given year. In the absence of a carryover fishermen would have the incentive to fish right up until their cap. Experience suggests that with a carryover in place fishermen may leave that fish in the water. In the face of decreasing TACs, the carryover could be reduced proportionally to ensure that overfishing or exceeding ACLs would not occur.

Divestiture

We recommend allowing a three year divestiture period in which those entities that are over the accumulation caps could sell or otherwise dispose of their excess quota. The GAC options currently on the table largely prohibit sales as well as use during the first two years. We would suggest that use of the excess quota pounds be allowed during the first two years, but not in the third year. That would provide the incentive for those entities to get rid of their excess before the end of the divestiture period. Conversely, we could support an option that allowed sale but not use during the first two years. Prohibiting both sale and use during that period is unduly constraining and doesn't help solve the problem of some entities remaining over the cap.

Data Collection Associated with the Five Year Review

We recommend that the Council think carefully about what will be necessary in order to conduct a meaningful five year review. We recommend that the Council identify at this meeting the priority issues to be examined at the five year review and request that NMFS report back in September with a data collection plan that will identify what information will be collected in the first five years of the program so that a meaningful assessment of these issues can take place. In addition to the broad question of how well the program is meeting program objectives, we suggest that the five year review include an assessment of changes in net economic value of the fishery, community impacts, ownership and leasing patterns, crew and skipper impacts, and other related ownership and use patterns.

It is critical that the appropriate data is collected so that the Council can determine what modifications to the program may be necessary to address documented impacts and better address the overall program goals. EDF and other stakeholders have expressed concern that the broad definition of eligibility to own could result in "armchair fishing" by quota share owners interested solely in holding and leasing quota as an investment. It is in the best interest of the fishery to have the ability to determine if ownership is moving away from the fishery; and if this is having an impact. Therefore, it will be important to have the data to objectively assess whether this has become a problem requiring an adjustment in the definition of eligibility or some other modification of the program.

Monitoring Halibut Bycatch Mortality

Finally, we would like to support the comments of the International Pacific Halibut Commission regarding estimating halibut mortality at sea. We ask that the Council urge the NWFSC to modify their observer protocol to allow estimation of halibut bycatch mortality on an individual vessel basis. This is necessary to maximize the individual incentives to reduce bycatch mortality.

We thank you again for your commitment to this process and stand ready to work with you through implementation and beyond.