

WEST COAST SEAFOOD PROCESSORS ASSOCIATION

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March 30, 2015*

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

Dear Dorothy:

Please find enclosed some thoughts from the West Coast Seafood Processors Association (WCSPA) regarding widow reallocation and divestiture. We appreciate having our comments included in the public record on this issue.

Widow reallocation

We support reallocation Alternative #2 as being the fairest and most straight-forward of the allocation options. Regarding the sub-options, we believe that sub-option (b) makes the most sense given that the ACL should be set equal to the ABC based on the management formula that should be applied to a fishery with a biomass greater than B_{40%}.

Divestiture

When enacting the law that provided for limited access privilege programs (LAPPs), the Congress was deliberately vague on how strict a Council should be in limiting quota ownership. The Congress simply forbade anyone from having an “excessive” share.

The Council, in trying to turn Congress’ approach into a practical limit, came up with a two-tiered rule governing quota share ownership: a limit on quota share ownership *by species*, and an *aggregate limit* across all species lines that would ensure nobody owned more than 2.7%. Leaving aside the rationale for the individual species limits, the aggregate limit can – and evidently will – cause a double penalty to be imposed on quota holders who will already have to divest shares to stay within the individual species limits. Further, it undercuts the efficiencies that can be gained by allowing fishermen to maximize their holdings of individual species so that they can “specialize” in a certain strategy while divesting their holdings of other species that do not play into that strategy.

Other IQ fisheries have recognized that individual species quotas need to be brought up to date and have changed their management systems to accommodate the changes that occur in a fishery after it is converted to an IQ program. In British Columbia, for example, species caps were made large enough to

cover landings. In the Alaska pollock fishery, language is currently pending before Congress that will set the individual percentage cap at 24%. These are examples in which the proper review over a period of time dictates that changes should be made.

This Council too has a self-imposed mandate to review the IQ program in five years (which is coming up soon), see where it is functioning as intended, and make changes where it is not. We suggest that the double penalty imposed by an aggregate limit on top of an individual limit is one area that requires serious examination. There is no indication that we have reached the individual species limit in any part of the groundfish fishery or that anyone would be harmed if the aggregate limit were not in place. Any entity who exceeds the individual species limits – including whatever limit the Council decides to set for widow – will still need to comply with divestiture rules on a species by species basis. What is being called into question is the need for an additional penalty that is not needed.

We believe the Council should act at this meeting to delay the rule on divestiture of aggregate quota shares and make a decision on whether to keep it, change it, or get rid of it after fully examining its effect during the IQ program review.

Sincerely,

A handwritten signature in dark ink, appearing to read "Rod Moore". The signature is fluid and cursive, with the first name "Rod" and last name "Moore" clearly distinguishable.

Rod Moore
Executive Director

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Agenda Item E.6.b
Supplemental Public Comment
April 2015

April 2, 2015

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

**RE: COMMENT 1 OF 2; WIDOW REALLOCATION AND DIVESTITURE
ISSUES**

Dear Ms. Lowman and Members of the Council,

Thank you for the opportunity to provide input regarding widow rockfish reallocation and divestiture issues. We recommend the Council proceeds with widow reallocation in order to provide more fishing opportunities to those who developed and are looking to participate in the directed widow fishery. We believe this to be in the interest of achieving the goals and objectives of the trawl rationalization program and is more fair and equitable when compared to the status quo alternative. We also recommend the Council delay the aggregate non-whiting control limit divestiture deadline until the upcoming five-year IFQ program review when *the purpose and need* for an aggregate limit can be thoroughly reevaluated.

We have spent considerable time analyzing the long-term economic viability of the West Coast IFQ program, and along the way we have discovered several problems arising from the aggregate non-whiting control limit that directly undercut Amendment 20 objectives. We raised these issues at the Council meetings in September and November 2014 as part of widow reallocation considerations,¹ and in this document we provide a summary of concerns as well as responses to some recent comments indicating the aggregate limit divestiture should proceed as scheduled.

1. The Aggregate Limit Will Cause Regulatory Problems Every Time a Species is Considered for Quota Share Reallocation Due to a Change in Overfished Status

The effect of widow reallocation on stakeholders' aggregate quota share holdings is only one example of the problems caused by the aggregate limit when a species is rebuilt. In fact, any future reallocation or change in the species complex composition (adding in or pulling species out of complexes) will have a similar effect on stakeholders' aggregate holdings and related business decisions which can be very costly in terms of time and money. NMFS would need to

¹ Pacific Seafood public comment, PFMC meeting, Agenda Item J.1.d, September 2014.
Pacific Seafood public comment, PFMC meeting, Agenda Item J.2, November 2014.

set a new aggregate limit divestiture deadline every time another species is reallocated since some stakeholders could be pushed over the 2.7% aggregate limit, causing more delay and burden on the rulemaking process.

2. The Aggregate Limit is Far More Restrictive than the Sum of Individual Species Limits

Many stakeholders are under the false impression that they can maximize their individual species quota holdings. No quota share holder can maximize all individual species holdings without going over the aggregate limit. The aggregate limit is far more restrictive than the sum of individual species limits. In fact, it is lower by 54% than the sum of individual species limits. This will have a large, detrimental impact on those stakeholders who might want to specialize in DTS complex, petrale sole and some other valuable species with high 2010 OYs for example.

3. 2010 OYs are Used to Calculate Quota Share Holders' Aggregate Holdings

The aggregate limit necessitates the use of a single base year in order to eliminate readjusting an individual's aggregate holdings every year as ACLs are changed. For the purpose of calculating an individual's aggregate holdings, 2010 OYs have been selected as the base. This means the individual species' contribution to aggregate holdings is *fixed* to reflect the state of the fishery in 2010 (note that this is not the case with individual species limits). Arrowtooth flounder will be weighted more heavily in the aggregate holdings calculation than many might think since its 2010 OY was much higher than its 2015 ACL for example.

4. The Aggregate Limit Causes Undue Burden and Confusion to Stakeholders

Widow reallocation and the trading moratorium, as well as potential blackgill rockfish reallocation, present significant challenges for stakeholders to comply with the aggregate limit divestiture deadline. It has been suggested that widow reallocation should not be a problem in order to comply with the aggregate limit deadline *if* the stakeholders know their expected widow quota share reallocations well in advance of divestiture deadline. However, it is very difficult to estimate widow quota share holdings, *and thus* the aggregate holdings, without knowing which alternative will be chosen to reallocate widow, whether or not 2010 or some other year ACL will be used as a baseline year for widow for the aggregate holdings calculation, who exactly will be eligible for widow reallocation (according to NMFS, "QS will not be reallocated to the current owners of the LE trawl permits except to the extent that the current QS account owners still own the permits originally used to establish the QS accounts"²), and without knowing the catch history of every permit in the IFQ fishery.

In order to comply with the aggregate limit, stakeholders need to know well in advance of the divestiture deadline *what exactly* and *how much* of it to divest to make the optimal business decision for *all* parties involved. In addition, if stakeholders are not able to trade widow quota

² Magnuson Stevens Act Analysis and Draft Environmental Assessment, Agenda Item E.6, Attachment 1, April 2015. This is relevant since LE trawl permits have indeed been traded, along with the quota shares attached to them, since the implementation of the IFQ program (regardless of three year quota share trading moratorium and the continuing widow trading moratorium).

share *before* the divestiture deadline, they will be forced to *suboptimally divest* other species to get within the aggregate limit which is not in the best long-term interest of their businesses.

We note that other quota share holders that have been divesting to comply with individual *and* aggregate limits, as well as the parties entering into agreements with said stakeholders, have in fact requested for the aggregate limit divestiture deadline to be delayed in case the Council chooses to proceed with widow reallocation.³ We also note that banks which hold quota share as collateral might be affected by widow reallocation.

While true that the aggregate limit may continue to be exceeded by those currently over it if the Council chooses to delay the aggregate limit divestiture, it is not the case the aggregate limit could be further exceeded by acquiring more quota.⁴

5. The Aggregate Limit is Based on Pre-IFQ Fleet Behavior and Outdated Revenue and Cost Data

It has been suggested that the 2.7% aggregate limit was already analyzed and decided on in 2007 and therefore the Council should not revisit the issue. However, the assumptions upon which that limit were based and projections about fleet profitability and economic efficiency did not pan out. For example, the analysis submitted to the Council by Lian et al. in 2009⁵ suggests that the average vessel will need to generate approximately \$700,000 annually to achieve profitability and expected economic efficiencies under the IFQ program (this number should be higher given the increasing costs of fishery participation). But the reality is very different. In 2013, non-whiting revenue for the bottom trawl fleet was \$24.8 million, with about 70 vessels participating in this fishery--revenue of approximately \$355,000 per vessel, *nearly 50% less than the 2007 forecasts*.⁶ At the same time, vessel operating costs have almost doubled since pre-IFQ days because of increased tracking and monitoring costs of the IFQ program.⁷ To say that we ought not revisit the aggregate limit because it was already vetted is to ignore the reality that things did not turn out as expected, and to forego the opportunity to take action to correct the course of our IFQ program.

Conclusion

For all these reasons stated in this comment and our prior comments, we recommend the Council reallocate widow and delay the aggregate limit divestiture deadline until the upcoming five-year IFQ program review when *the purpose and need* of an aggregate limit can be thoroughly reevaluated. We cannot stress enough the importance of *reevaluating* the aggregate limit, as well as individual limits, during the five-year review to contrast the present state of the IFQ fishery (using data from the first five years of the IFQ program) with old projections (using

³ The Nature Conservancy and Morro Bay Community Quota Fund public testimony at November 2014 PFMC meeting. Morro Bay Community Quota Fund public comment, Agenda Item E.6.b, April 2015.

⁴ Frank Lockhart's response to this question during the Council discussion at November 2014 meeting.

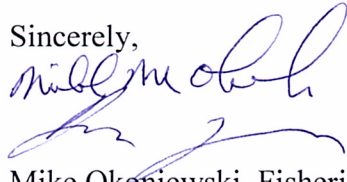
⁵ GMT/Council Staff analysis on Accumulation Limits, Agenda Item G.4.a, March 2009.

⁶ West Coast Groundfish, Shorebased IFQ Program September 2014 Catch Report, Sean E. Matson, Agenda Item J.4.b.

⁷ Todd Lee presentation to the PFMC, June 2013.

1994-2003 revenue and cost data) about profitability and economic efficiency of this fishery once the catch-share program is implemented.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mike Okoniewski', with a stylized flourish underneath.

Mike Okoniewski, Fisheries Policy & Management Advisor
Ana Kujundzic, Head Economist
Pacific Seafood Group



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April 2015

April 2, 2015

Ms. Dorothy M. Lowman, Chair
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7700 NE Ambassador Place, Suite 101
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**RE: COMMENT 2 OF 2; CANADIAN SYSTEM FLEXIBILITY SUGGESTS
AGGREGATE LIMIT DEADLINE SHOULD BE POSTPONED PENDING
ECONOMIC REVIEW**

Dear Ms. Lowman and Members of the Council,

We respectfully submit this supplemental comment to share additional information we learned about the British Columbia IFQ program that the Council might consider as part of its five-year review, and that further supports postponing the aggregate non-whiting quota limit divestiture deadline pending that review.

A corner stone goal of our West Coast IFQ program is *flexibility*. As stated in the FMP guidelines, “*management must be flexible enough to meet changing social and economic needs of the fishery as well as to address fluctuations in the marine resources supporting the fishery.*”¹

Recently we asked fishermen and members of management in British Columbia what they thought is contributing to the dismal attainment rates and economic performance of the West Coast program. We asked, “What is the main feature that Canada does differently?” The answer was focused on flexibility.

The BC program, through co-management between DFO and industry, has prioritized harvesting target species (within TACs) as a primary objective. They do this through an innovative technique using “soft caps” that are elastic, in conjunction with in-season cooperative management. DFO and industry meet up to five times annually, in part to lower or raise vessel caps as warranted to stay under the TAC or allow the fleet greater opportunity to harvest up to the TAC. This allows fishermen that specialize in several species to concentrate on those species and for the BC program to reach higher attainment levels.

¹ April 2015 PFMC, Agenda Item E.6 Att. 2, FMP Goals, Objectives and Guidance on Allocations, Section 2.1 Paragraph 1 (pp. 8-9)

Interestingly, although the BC program was used as a model for our West Coast program, the flexible caps and in-season cooperative management did not make it into the final West Coast program. Under the previous bi-monthly limit management plan in the west coast, the PFMC and staff made in-season management adjustments that allowed fishermen a better opportunity to harvest when they were not going to achieve OY. This no longer exists.

Likewise, where the Canadian program allows DFO managers to meet directly with the IFQ trawl fishery stakeholders to discuss and implement management measures to address issues in real time, the West Coast model is quite different. We process all issues through the GAP, the GMT, the Council and NMFS in order to reach a deliberated solution. This can take years.

In a rationalized fishery, a preferable model is to allow industry and NMFS to work collaboratively in real time. The AFA Alaskan Pollock fishery is one example of a very successful cooperative management partnership that has helped produce huge economic benefits to its stakeholders while reducing the overall management workload for NMFS.

In recent Council meetings, prominent US trawl fishermen have delivered public comments strongly stating that the West Coast fishery is failing to meet its intended economic objectives. More of the same management procedures will produce more of the same results. It is our sincere hope that during the upcoming five-year review, the West Coast program can find some usable mechanisms from the Canadian fishery or some other rationalized fishery that would allow the non-whiting IFQ trawl fishery to function more efficiently for everyone's benefit: fishermen, processors, and markets.

The current debate about the aggregate cap divestiture deadline is just one small piece of this larger puzzle. But it is important to see that the aggregate cap is directly in conflict with the soft cap and flexible management style used successfully in Canada.

The prudent thing to do is to postpone imposing the aggregate cap divestiture deadline so that the aggregate cap, and other management regulations, and the process itself, can be fully analyzed during the upcoming five-year review.

Sincerely,



Mike Okonjewski, Fisheries Policy & Management Advisor
Ana Kujundzic, Head Economist
Pacific Seafood Group