



Agenda Item B.1.b  
Public Comment 1  
March 2016

PO Box 2352, Newport, Oregon • 97365 • 541.272.4544

Ms. Dorothy Lowman, Chair  
Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, Or 97221

RE: B.1.b. Open Public Comment

February 8, 2016

Dear Chair Lowman & Council Members

Please accept these comments on behalf of the Midwater Trawlers Cooperative (MTC). MTC represents 23 trawl catcher-vessels. MTC members participate in the at-sea and shoreside whiting fisheries as well as non-whiting groundfish fisheries on the west coast.

As someone who was at the table for the entire development of Amendment 20 & 21 of the Pacific Groundfish Fishery Management Plan, I do not believe that we ultimately planned accordingly for the situation that the owners of the F/V Seeker currently find themselves in and which other vessels could easily find themselves in. While the F/V Seeker is an MTC member, I'm hopeful that working together we can find a solution not only for the Seeker but for any other vessel that may find itself in a similar situation in the coming years.

As stocks rebuild much quicker than anticipated (and it appears that some, like widow, may have never even been overfished) this type of situation is bound to occur as a result of the rebuilding paradox. We need to ensure there is a safety valve that provides relief in limited circumstances such as this one, but disincentives any abuse of the system. Unfortunately, policy is not keeping up with science and science has not kept up with reality on the fishing grounds. But the F/V Seeker finds itself in a very real situation that can have dire consequences on its business. In addition to being unable to cover the current deficit due to the individual vessel cap, there is substantial uncertainty as to what happens next. There is no straightforward solution described in the regulations that address this situation. Time is also of the essence, this situation occurred towards the end of the 2015, and canary rockfish pounds that would have been available for acquisition and transfer to cover the deficit are no longer available as we begin 2016. Further, business planning decisions for 2016 (and beyond) must be made now, not months from now. Trading Quota and making processor obligations between fisheries, regions, seasons, and sectors get very complicated and most deals are made before the start of the fishing year.

With this public comment I would like to cover several issues:

1. What actually occurred with the F/V Seeker
2. The canary conundrum

- 3. Element 6 under Alternative Compliance Options, which was considered but rejected under Am 20
- 4. Possible solutions

Seeker Canary Tow November 22, 2015

On November 22nd the F/V Seeker was targeting yellowtail rockfish in the shore based ITQ program. The Seeker was fishing in a 10-mile square area that at least seven other vessels had operated in during 2015 successfully targeting yellowtail rockfish. The F/V Seeker was utilizing an electronic monitoring system as authorized under an Exempted Fishing Permit. As evidenced by the video, the trip included three tows. The skipper, Jim Kasper, has over 30 years experience fishing groundfish off the west coast. Captain Kasper estimated that about 60% of the yellowtail that was harvested was caught during the first two tows and all of the 47,000 pounds of canary was actually caught on the 3rd tow. The f/v Excalibur was operating about 1/2 mile East of the F/V Seeker and they were successful harvesting their target of yellowtail rockfish with no canary bycatch. The Captain immediately ceased fishing once he realized that the species caught was not the intended target and he returned to port.

Status of Canary Rockfish

Canary rockfish is rebuilt and estimated to be at 56% of unfished biomass based on the most recent stock assessment. Throughout the period of rebuilding the Council and NMFS have utilized precaution when setting the annual allowable catches. Additionally, since implementation of the trawl ITQ program, large amounts of canary pounds have remained unharvested on an annual basis:

Year	2011	2012	2013	2014
Shoreside QPs	57,100	57,761	87,964	90,610
QP's unharvested	48,975	47,386	70,724	76,017
% unharvested	86%	82%	80%	84%

There is no mechanism currently available to managers that would allow an increase in the canary ACL prior to 2017 and the 2016 shoreside allocation will be similar to 2015. The industry and other stakeholders have long contended that there is more canary rockfish on the west coast fishing grounds than science had indicated. And just to contrast with Canada's IVQ program catch just across the invisible line in the ocean, in 2012 alone they caught 1,627,852 pounds of canary, and they left 555,959 quota pounds in the water that year; meaning Canada catches almost 50 times more canary rockfish per year than the United States does under catch shares, and Canada leaves 16 times more canary in the water every year than the U.S. catches. All this while the U.S. canary stock has been rebuilt since 2006, and the one canary school that the Seeker encountered was estimated to be several hundred thousands of pounds in size (weight) by itself.

Alternative Compliance Options

In turns out that the Council, NMFS and stakeholders actually envisioned something similar to the F/V Seeker situation might occur while we were developing Amendment 20. The analysis around the IFQ

holding requirements considered whether some components of the program could be overly restrictive, exceedingly punitive and subsequently cause equity concerns. Unfortunately, this concept described as Element 6, Alternative Compliance Options, on page 2 describes the current situation accurately.

*Element 6 was intended to provide some alternative avenues for compliance with the program to ensure that the program does not become overly restrictive. Vessels may face a fishery situation in which overfished species are sometimes encountered at very high incidental catch rates on a very random and infrequent basis (“disaster tows”) and that the amount of QP available to the fishery may be very limited. Under such circumstances, there is a concern that it may take several years for a vessel to acquire the QP needed to cover an overage. If a vessel is in deficit, even after if it is cited for going beyond the maximum length of time allowed for resolving the deficit (see Element 2), it still must cover the deficit before it resumes participation in the program. Some perceive this as potentially victimizing the fisherman; therefore, these alternative compliance options were developed. Element 6 was not included as part of the final preferred alternative because there was concern it might invite abuse. Fishermen might assess the length of time they would be required to be off the water and time overages to coincide with planned major repairs or transitions to other fisheries.*

Fishermen should be held accountable, even for accidents that are truly mistakes, and requiring a vessel to stand down from fishing until a quota pound deficit is covered is reasonable. However, requiring a vessel to stand down for multiple years because the deficit is higher than the vessel cap so the overage could not be covered even if fish is available is not only unreasonable it is exceedingly punitive and does raise equity issues.

### Solutions

As of December 15th there was 41,752 pounds of canary quota pounds in shoreside accounts (aside from the 38,310 pound deficit in the Seeker’s account). There was also canary rockfish left in the mothership and catcher-processor sectors. The owners of the Seeker would have likely been able to cover a good portion or all of their canary deficit with 2015 quota pounds but the system does not allow that transfer because it is over the individual vessel cap.

We had suggested a short-term solution to National Marine Fisheries Service (NMFS) which would have allowed the F/V Seeker to cover the deficit by utilizing 2015 quota pounds that they were able to acquire through market channels. We had suggested allowing this “gathering” activity to occur through January 30, 2016 using only 2015 pounds that were not intended to be rolled over and for which other permit holders were willing to transfer. Because the canary shoreside allocation continues to be low in 2016, and because the canary hit which the Seeker experienced could be had by any vessel targeting whiting or rockfish, participants will likely be unwilling to transfer 2016 quota pounds for canary until the end of the year when they are sure they are not going to need them. I expect the canary market will be very tight in 2016. This short-term solution would have required allowing the Seeker an exemption to collect canary pounds above their vessel cap. After an exhaustive review of the regulations, NMFS surmised that without Council action it was not possible for NMFS to take any action similar to that described here.

A longer-term solution is to begin a 3-meeting process in March to amend Amendment 20 to implement a safety valve for this type of situation which will likely occur again as fisheries continue to be rebuilt ahead of schedule and during the time when policy has not caught up with reality. Using the thinking developed around Alternative Compliance Options would be a good starting point. This situation will happen again and having a well-vetted process in place that provides a safety valve without encouraging abuse is critical to success of this program.

#### Conclusion

The Seeker is a long-time participant in west coast fisheries. The vessel has not had prior compliance problems and had a true lightning strike of canary rockfish on November 22nd. This situation could easily occur again during 2016 with other vessels participating in this fishery. It turns out that this situation was envisioned as something that could happen when Amendment 20 was being developed, but unfortunately no processes to address this situation were actually incorporated into the program. As it was, the F/V Seeker could have covered some, or even all, of its deficit in 2015 but was prevented from doing so because of the individual vessel cap. As the regulations are currently written any vessel that experiences the same situation would likely have to sit out of the shoreside trawl program for several years under the current circumstances. This seems overly punitive and raises equity concerns. While a short-term fix seems unlikely, a longer-term fix must be pursued to prevent other vessels from falling into the same overly punitive situation.

We recommend that the Council consider beginning the 3-meeting process to implement a plan amendment that addresses this situation.

Thank you for your consideration.



Heather Mann  
Midwater Trawlers Cooperative