



# Oregon Coast Bank

To: Mr. Dan Wolford  
Chairman  
Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, OR 97220-1384

Re: Trawl Rationalization: Lenders

Dear Chairman Wolford,

It is my intention to provide a view from the lenders perspective of the commercial fishing industry. Oregon Coast Bank (OCB) is a small state chartered community bank founded 10 years ago in Newport, Oregon. Since that time OCB has financed vessels in salmon trolling from Oregon to Hawaii, crabbers along the Pacific coast to the Bering Sea, and trawl fisheries from Oregon to the Gulf of Alaska. We have sponsored and lengthened boats, helped our fishermen buy boats coming out of the Gulf of Mexico and financed nets, pots, electronics, freezing/cooling systems and other equipment necessary to fish in the waters of the Pacific Ocean. Besides vessel purchases and modifications we supply operating lines of credit, finance insurance premiums, fishing permits and quota shares. We usually have about \$10 million and between 50 and 60 vessels in our loan portfolio. In the ten years of Oregon Coast Bank's existence we have repossessed exactly one vessel.

During much of these past ten years we have been in a kind of 'sweet spot' with an abundance of collateral for most of these loans. Many of our fishermen are older with significant equity in their vessels and their quota shares and permits and, even if we were unsure if it were possible to secure a perfected lien, only serve to add to an already significant pile of collateral.

In years past we would see a fisherman with a boat survey showing a 'replacement value' of \$1 million and a 'market value' of \$500,000 plus \$200,000 in trawl quota. For many of our fishermen the quota was awarded without cost based on their years of fishing history. If that fisherman were asking for anything less than \$400,000 we were in the game. That

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is so because banks evaluate lending opportunities based on investment risk of the bank's capital; the greater the risk, the tighter the loan underwriting requirements, and the larger the required owner's capital contribution.

Below is an actual vessel collateralized at OCB. Current loan size is based at 70% loan to Value (LTV) of collateral. Inability to effectively collateralize would lead to loans in the 50% LTV range or lower. The chart shows both a 70% LTV minimum owner investment and a 50% LTV owner investment.

|                          | Before, IFQ | After, IFQ   |
|--------------------------|-------------|--------------|
| Survey dates             | Nov-05      | Jun-11       |
| Vessel replacement value | \$ 925,000  | \$ 1,500,000 |
| Vessel market value      | \$ 525,000  | \$ 780,000   |
| trawl quota value        | \$ 50,000   | \$ 500,000   |
| Acceptable loan size 70% | \$ 402,500  | \$ 896,000   |
| Owner investment 30%     | \$ 172,500  | \$ 384,000   |
| Acceptable loan size 50% | \$ 287,500  | \$ 640,000   |
| Owner investment 50%     | \$ 287,500  | \$ 640,000   |

\*note: Farm Credit is already at 50% LTV

One of our principal concerns, which the above chart shows, is that the current crop of fishermen will be replaced by younger fishermen with fewer of the advantages enjoyed by the earlier group. In that future a typical fisherman may be buying that same boat now with a market value that has increased from \$525K to \$780K (the last several years have had higher landings and better pricing) and will need to purchase a quota now costing \$500,000 (because of the IFQ program) or more. His capital investment will have doubled and he will be carrying close to 7 figures in debt to service. Loan risk has nearly tripled and the permit/quota collateral is now extremely important. (Note: Even the vessel's value is based on the assumption that it has access to permits and, if that is not the case, the survey value of the vessel will be diminished.)

In many ways the rules of bank financing are simple -- The liquidation value of the assets has to be able to cover all the debt and related repo and sales expenses. If there is no ability to absolutely count on obtaining all of a vessel's permits and quotas the smaller family fishing families are going to feel the squeeze. The strength of the lien is the deciding factor. Please see Addendum 1.

Another of the tenets of banking says that multiple sources of income are better than a single source of income. So, in a bank's eyes, a fisherman participating in multiple fisheries is superior to one dependent on a single fishery and a fishing family (or corporation) with multiple boats and permits will have less risk to an investing bank. For the small fishing families to stay in the business, they cannot afford to be short changed in the measurement of collateral and the resultant access to capital.

Banks already take on significant amounts of risk lending on these permits when they attempt to determine the market value of the collateral. That market value can ebb and flow depending on the quantity and quality of the product and the current market value of the catch. Still, banks are used to doing this with nearly every type of loan collateral in their portfolio. However, it adds unacceptable levels of risk if the bank has to also wonder if they have a legally perfected lien and, in the event of borrower default, will be granted access to their collateral and be able to use it (rent or lease) in the short term before eventual sale of the vessel and permit (IFQ). **Eliminating lien perfection doubts is a necessary step in assuring that lenders can accurately value all of the collateral as supporting their loans and will, ultimately, result in cheaper more accessible credit for a wider range of fishermen.**

If it is a concern that banks may try to own and hold a large share of the quota you can be assured that banks are legally unable to do this. (See; Comptroller of the Currency circular on "Activities Permissible for a National Bank") State and Federal chartered banks have regulations that dictate what type of business they can operate. The current list consists mostly of financially based businesses (i.e. insurance, title & escrow, credit card processing).

To follow that thread a little further we can compare commercial fishing with commercial real estate. Outright ownership of either is not permitted in bank law or regulation. (Bank occupied real estate, such as a branch, is an exception). Banks are allowed to own real estate through foreclosure or a deed-in-lieu-of negotiation but there is an unspecified timeline in which a bank has to sell the foreclosed properties. In that period a bank may let it sit, rent it, or lease the asset to help offset its holding expense. The bank is required to show that it is actively marketing the property or explain to bank examiners the lack of progress in disposing of the property. **Having time to dispose of the properties in an orderly manner lowers the risk of loss to the bank and the unspecified timeline prevents the bank from being forced to sell the assets at a deeply discounted rate and thus harming the market.**

Additionally, these options make it possible for the bank to perhaps design a loan where the permit is leased to a young borrower for a period allowing him/her to save up funds or work off the down payment. In a case like this, a term loan could then be made finalizing the purchase and introducing the next generation of fishermen into the market.

If your desire is to have an industry that can flourish because it has multiple lending options then please give the financial institutions the tools and latitude to make it possible.

Sincerely,



Fred Postlewait  
CEO/President



Jake Postlewait  
AVP

**Addendum 1  
Lien Descriptions**

Below is a list of types of liens. The first is a Real Estate Deed of Trust, although not applicable for fishing vessel loans, it is the strongest of liens and is a good example of a strong collateral lien.

Liens #2 and #3 are vessel liens, #2 is the Preferred Ship Mortgage, the most common of FV liens. #3 is for non-documented vessels that do not go through the Coast Guard. The vessel is titled, and the financial institution (FI) has possession of the title.

Lien #4 (Uniform Commercial Code or UCC) is the weakest of the liens. UCC's are used on both FV loans and permit loans. FV loans and permit loans will have a PSM which is the FI's primary lien. The UCC although flawed, strengthens the lien overall using the standard rule of 2 is better than 1.

IFQ or Fishing Permit loans, because there is no lien registry or entity that is willing to take responsibility guaranteeing lien position, often have both a PSM and a UCC with the only goal of drawing an inquiry from another lender wanting to know about the lien. OCB has been fortunate to work with ODFW for the past 10 years where the bank provided a list of liens involving Oregon shrimp, crab, and salmon permits. Although there is no formal agreement ODFW checks the OCB lien list before transferring permits. ODFW, on a few occasions, has stopped has permit transfer.

1. Real Estate Deeds of Trust (not applicable to FV loans)
  - a. The strongest of liens
    - i. The entire deal can be escrowed with an additional title policy (insurance) covering both the buyer & lender.
    - ii. You can pull a preliminary title report (research liens)
      1. Shows taxes owed, IRS liens, or other potential liens
      2. Title policies insure your lien position doesn't change.
        - a. Excluding tax liens that take priority
2. Coast Guard Preferred Ships Mortgages (PSM)
  - a. Can order a prelim by way of an Abstract in Title
  - b. No insurance that your lien is in 1<sup>st</sup> place throughout the loan
  - c. Liens can go in front of the PSM
    - i. This can eat away at the liquidation value's ability to cover debt and related expenses.
      1. Maritime lien priority list;
        - a. Liens for seamen's wages, maintenance and cure. (lien expires after 6 months)
        - b. Salvage and general average liens(ship wreck salvage or tow; 2 year statute of limitations)

- c. Tort (personal injury, death, and property damage from collision: 3 year statute of limitations)
  - d. Trade (before PSM in time; someone who performs a craftsmen trade on the boat, ie; electrician or marine carpenter)
  - e. PSM
  - f. Trade (after PSM in time)
  - g. State-created liens of a maritime nature
  - h. Liens for penalties and forfeitures under federal law
  - i. Preferred non-maritime liens including tax liens
  - j. Attachment liens (garnishment)
  - k. Maritime liens in bankruptcy
3. Oregon Marine Board: Titled Vessel
- a. Vessels come with a title much like automobile
    - i. Designed for smaller vessels or built outside the USA
  - b. FI possess the title
4. Uniform Commercial Code (UCC's)
- a. Meant for non-titled equipment
  - b. Filed with the state
    - i. Flawed research system.
    - ii. There is nothing that stops a transaction (sale).
    - iii. You have to go to court to get the collateral back, causing additional expense requiring a larger margin in LTV.

9/18/2012

To Whom It May Concern;

For the second time in the last three weeks I have been forced to miss valuable fish days, during calm weather as a result of “glitches” in the IFQ vessel catch accounting system. At this very moment that I compose this letter I am rolling my guts out in the trough as I head off shore to fish in an up to 25 knot forecast of winds out of the northwest. Yesterday was flat calm, however I could not take advantage of the better weather because my vessel account was in deficit over a few pounds of overfished species. This being fish I had not even caught. Unfortunately I didn’t discover this until 1:30 am and my deck hand and observer had already driven long distances to be there ready to go. Of course there is no one available to speak with regarding any problems during my business hours. As a result I lost out on a market opportunity for an order of sand dabs, an underutilized species I target with our Scottish seine gear. The lone Scottish seiner participating in west coast IFQ, not to mention the only boat with this gear type in the country. The reason that this is relevant to the issue at hand is that now I have to wrestle stronger winds and current as I fish near the RCA. In my area the fish I target, primarily sand dabs, chilipepper, petrale, and English sole prefer to be right on the edge of the shelf between 80 and 100 fathoms or deeper. Due to nature of how my gear works, when it is blowing northwest I am driven to a point near the line upon completion of my set. Once the process of my haul back begins I am at the mercy of Mother Nature and if she had her way I would be blown into the RCA every time during the period of transferring the net/fish from the ocean surface to the boat. In order to counter this phenomenon I am forced to take action through dangerous steering maneuvers that put me, my crew and my observer at risk but I have no choice. I am not allowed to be on the wrong side of that line. There have been occasions where I was simply overwhelmed by the elements that resulted in me finishing my side haul well into the RCA. Sure enough I received calls from the OLE. This is the source of an intense nightmare for me and the bottom line is that yesterday would have been a better day. I will note that to this point in my own personal experience OLE has treated me fairly by keeping an open mind allowing me my explanations. I would also say that all other personnel involved in helping implement IFQ that I have developed phone relationships with over the last two years have been as helpful as possible when available.

Please allow me to try to explain the two incidents that have resulted in missed fish days, both for being in deficit over fish I did not catch.

In the first incident I noticed that I was in the red over 21 pounds of cow cod. “What the ....?” So I immediately called my observer for an explanation. Right away he agreed that there must be an error and that he would look into it and call me back. This was on a Saturday and I wanted to fish on Monday ( again no one for me to talk to during non business hours). After a half hour my observer called me back with an explanation that he incorrectly put a code number on his work sheet that caused the computer to extrapolate the .5 lb. cowcod I did catch and spit it out that I had caught 21 lbs. This wound up being reported as observed discard. He said that he did talk to his de-briefer and the way that it was

relayed to me by my observer was that it would be taken care of and it was ok to go fishing. So I went fishing. During my second set I got a call from our regional enforcement agent and he informed me that it appeared as though I was out fishing while my vessel account was in deficit. I explained to him what I knew at that point about the situation. He said that there would be an investigation and if what I was saying was true that it would get taken care of and that there shouldn't be a problem. He did make it very clear to me that by no means does anyone leave port with an account in deficit unless there is direct clearance from OLE. As I said before I thought it was taken care of. Though the conversation was not threatening in any way, inevitably words like fishing in deficit, non compliant, and fines were words that were spoken in that conversation. It left me pretty rattled. We spoke again on Tuesday and he assured me that my story had been verified but it would take until Friday morning for the computer to upload the correction so I would have to stay put until then. I sincerely believe he felt my pain. Ultimately he contacted me on Wednesday to let me know he had made some calls and gotten me cleared to go fishing. I appreciated that but by this time the damage had been done. I had lost a fish day and valuable sleep over the whole thing. Later that evening I had a phone conversation with Pete Leipzig, Director of the Fisherman's Marketing Association about the incident. He assured me that he could cite many examples of other fisherman who had experienced a similar situation. I have to say that at that point I felt disgusted to realize that there are no overriding provisions in place to immediately correct these problems when they arise. Personally I feel it is urgent that fisherman have the ability to speak to someone with authority outside of government business hours.

The next incident involved submitting a delivery when the computer system was experiencing a seven hour down period. As result of this my trip, unbeknownst to me, was not properly submitted in a timely fashion. I confirmed its export date through the e-tix program at the time of submission and assumed that it would go through my account at midnight as per usual. Then I went fishing for two days. When I returned and checked my vessel account Monday morning I noticed that my previous trip was not showing up. Instantly frantic assuming I had made another bad move I called various NOAA personnel wondering what had happened. They all said "we'll look into it and get back to you." By late that afternoon I had received multiple calls from NOAA personnel explaining the error and I was assured it had been taken care of. So I told my deck hand and observer (at my expense) to be ready to go at 1:30 in the morning. Right before I left the house I decided it would be prudent to make sure everything was kosher in my vessel account. The red numbers popped out at me like missiles. It turns out that in the course of correcting the error my account had been double debited. I am not the only fisherman that this happened to. This caused a deficit because of a few pounds of OFS I had caught during the trip in question. I had to call the guys and tell them to go home while I could only roll over in bed and stew about the situation. Had I not checked my account and gone fishing in deficit maybe I would have been slapped with a fine for my negligence being a two time offender in the last three weeks. I don't know. I realize there are always going to be bugs when implementing a new system. Obviously these are issues that need to be addressed. I can only speak for our operation but given the 20 column spread sheet, each column representing another hand in the till and the crazy cost of doing business there is not a whole lot if any left over at the end of the day. We cannot afford to miss days over computer errors when the time and weather is right to go fishing. I find it ironic that as fisherman we are held accountable to the highest possible standards but after five and half months of fishing this year not one

pound of observer discard had shown up in my vessel account. As my irritation over this increased and I started badgering personnel for an explanation all I got was a “sorry, troubles with the system, we’re working on it.”

While numerous components of IFQ have clearly been beneficial, many stifling requirements exist that negatively affect our fishing business, to the point of exhaustion every day. Every move we make from the time we throw the lines until we land our last pound of fish is accounted for. But in the name of sustainability and the common goal of creating a better system for the present and future generations I am all in favor of, whatever it takes. I remember a time, not long ago, when in the morning if we decided the weather was good enough we would simply throw the lines and go fishing whenever and wherever we thought it would be best. Under those circumstances it was difficult enough to achieve success given the challenges we face on the ocean. I don’t care who you are. If you have never depended on fishing for a living then you simply have no idea how hard, stressful and dangerous it can be. Heap on layers upon layers of often time’s complicated and confusing rules and regulations and it will often push the limit of what one can take. As a result of these experiences I now operate under a paranoia that I may be out fishing, out of compliance over problems that I did not even create and hear about it with disastrous consequences afterwards. I don’t feel that this is a fair place for me to be and chances are there are others out there who have similar concerns. It is my opinion that nobody in their right mind would willfully do something that they know to be against the rules. We fishermen are under a microscope.

On two separate occasions I was invited to sit in on small round table discussions with Dr. Lubchenco regarding the pending IFQ implementation. Knowing that there would be growing pains I looked her in the eye and expressed my support as long as it was done correctly. I was tired of shoveling over beautiful chilipeppers only to watch them float away belly up. After two years and close to one hundred deliveries under the new system I honestly feel that we are on the right track. However, I feel that it is very wrong that as a fisherman I am told to stay tied up for several days to give the computer a chance to upload the correct information.

When I sat down to write in a simple complaint about my recent experiences I never intended to be so long winded. It is only one fisherman’s perspective. No response is necessary, however I am welcome to feedback. If you feel there is anything within this content that could be considered towards improving the system feel free to share these thoughts with others.

Sincerely,

Steven B. Fitz

Captain, F/V Mr. Morgan

Half Moon Bay, CA

p.s. Believe it or not, and by now many of you who are reading this know this to be true, I am once again stranded at home today over yet another (third separate incident) accounting system error causing me to be in deficit. This incident occurred after completion of writing this letter. I have now lost out on three trips. These errors have now resulted in significant losses to our business. It has also created negative feelings between me and my deckhand and my fish buyer and had negative impacts on my personal life as well. How am I and the system suppose to be successful under these circumstances. This is NOT right!! Please fix this.