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Securing a future for fishing communities

December 31, 2013

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Mr. Mitchell and Mr. Peterson,

Thank you for producing a draft report for public review in a timely manner. On behalf of Penobscot East Resource Center and the Northeast Coastal Communities Sector, I have several comments on the content of the report and its utility in the ongoing development of regulatory policy addressing groundfish fleet diversity. I spoke with Mr. Peterson early in your review process, and then offered comments when an earlier draft of this information was presented to the New England Fishery Management Council on November 20th in Newport, RI. Initially, I emphasized the complexity of fleet consolidation, one of the aspects of a decline in fleet diversity, and I highlighted my concern that a strict examination of control of market power, by itself, was insufficient to address the Council's stated goals and intent of Amendment 18 to the northeast multispecies (groundfish) fishery management plan.

On June 23, 2010, the Council passed the following motion:

Maintain inshore and offshore fleets; To the extent possible, maintain a diverse groundfish fishery, including different gear types, vessel sizes, geographic locations, and levels of participation; Maintain a balance in the geographic distribution of landings to protect fishing communities and the infrastructure they provide; and Prohibit any person from acquiring excessive access to the resource, through in order to prevent extraction of disproportionate economic rents from other permits holders.

More recently on June 19th in Portland, Maine, the Council refined the goals of Amendment 18 so that they now read as follows:

Recommend the Council replace existing Amendment 18 goals with the following from the GAP (*groundfish advisory panel*) motion from June 10, 2013:

1. promote a diverse groundfish fishery, including different gear types, vessel sizes, ownership patterns, geographic locations, and levels of participation through sectors and permit banks;
2. enhance sector management to effectively engage industry to achieve management goals and improve data quality;
3. promote resilience and stability of fishing businesses by encouraging diversification, quota utilization and capital investment.
4. to prevent any individual(s), corporation(s), or other entity(ies) from acquiring or controlling excessive shares of the fishery access privileges.

The earlier language regarding the “extraction of disproportionate economic rents from other permit holders” was removed after an explicit discussion about how this narrowly defined economic term was not what Council members were concerned about in this fishery. Instead, controlling “excessive shares” was envisioned as one potential mechanism to promote diversity in the fishery across gear types, size classes, ownership patterns, etc.

Similarly, the numerous comments provided by fishermen, advocates, and other members of fishing communities from Maine to New Jersey during the Amendment 18 scoping process focused primarily on the tangible problems facing fishermen today, including the disproportionate access to fish by those with the greatest access to capital, which are often the same individual and corporate owners who received the highest initial allocations under Amendment 16. At the Amendment 18 scoping hearings, fishermen asked for protections – both on the water and off – against disproportionate control of this fishery. They asked for support primarily for the diverse array of small scale fishermen along New England’s coast. The problem as fishermen defined it was not solely confined to the ability to access annual catch entitlement (ACE), or to get their product to market, but rather it was and continues to be the combination of numerous problems for which the sum of the parts is greater than the whole. Problems include: an inequitable initial allocation of potential sector contribution (PSC), high cost of leasing ACE – particularly if one’s typical target stocks are now viewed as choke stocks, the inability to compete in the same space and time on the water with highly mobile vessels that have a much higher catch efficiency, and the fact that large sections of New England’s coast are experiencing localized depletion, placing fishermen from communities in the depleted regions at a disadvantage in this fishery.

Unfortunately, some of the problems that fishermen explicitly articulated over the past several years were marginalized or altogether dismissed in Compass Lexecon’s narrowly defined scope of work. This is unfortunate and due in part to the failure of the NEFMC to explicitly request this of your firm in their terms of reference (TOR). However, your firm was invited to weigh in on a broader range of solutions in TOR 5, which states, “Alternate approaches to achieving the Amendment 18 goals (other than accumulation caps) may be proposed.” It would be helpful to see a more thorough response to this

TOR, given the broad-based concern among New England fishermen regarding the loss of fleet diversity, and given your firm's finding that catch caps lower than 15 percent are not currently needed in this fishery.

I think that it should be acknowledged that the New England groundfish fleet is experiencing a rapid loss of fleet diversity, a process that began prior to the implementation of catch shares, as judged from catch reports and fishermen's testimonies, and that many, perhaps most, people would agree that there are business entities in this fleet that *already* control "excessive shares" of the resource. Your firm's analysis based on the Herfindahl-Hirshman Index (HHI) shows that this fishery is still sufficiently competitive from a purely economic standpoint, but it is critical to note that regional values should also be used to judge whether excessive shares exist in this fishery.

Sector-affiliated ACE

Your final report stated that you do not see a need at this time for a cap on sector-affiliated ACE. However, Table 4 on page 31 shows that both white hake and redfish are highly concentrated as shown by their HHI value. It should be noted that the lease price for white hake during a large portion of the 2012 fishing year was roughly \$.80 per pound, while the per pound lease price for pollock, a species that had a nearly equivalent percent of stock caught to date during the time of year of the high hake lease price, was at most \$.01. At that time, it was hard to imagine that the high concentration of this stock in a select few sectors did not in some way influence the lease price.

Public outreach

The Council staff and Compass Lexecon staff appropriately connected with all sector managers and several fishermen, held a public webinar to discuss the TOR's and presented preliminary findings to the NEFMC in November. However, public outreach could have been improved. The survey tool used several months ago would have benefited from improved wording and delivery. One of the questions read:

6. Can vessel operators line up the necessary permits to cover their using permits for individual species or have problems occurred due to multi-species permits, and mostly from what source or sources (for example: from other vessels with the same owner, from other owners in the same sector, from other owners in other sectors)?

After reading this question several times, it was unclear to me, and I'm sure that it would be unclear to most fishermen, what this question was trying to ask. An improved survey instrument, and improved outreach may have yielded a stronger response.

The outreach surrounding the webinar was frustrating and confusing. At first, it was clearly stated that participants who joined on the phone would be able to participate only in listen-only mode. Thankfully, this was later changed, but the transition was late and poorly announced. Only approximately four people actually participated in this webinar – in terms of any substantial dialogue with Compass Lexecon staff. Again, perhaps improved outreach would have yielded a stronger response.

In sum, your final report is the result of careful economic analysis as requested by a narrowly-defined scope of work and terms of reference. The fishermen and community

members represented by Penobscot East and the Northeast Coastal Communities Sector had hoped to see policy analysis that included and incorporated the statements and values shared by fishermen in the numerous scoping hearings held two years ago, and also hoped to see potential pathways articulated that could achieve the goals for Amendment 18. However, your report thoroughly addresses the question of market power and the utility of accumulation caps in controlling market power. This report is one more analytical tool available to NEFMC staff and appointed fishery managers, and will undoubtedly be considered alongside the additional data sources cited above. Thank you for your contribution.

Sincerely,

A handwritten signature in cursive script that reads "Aaron Dority". The signature is written in black ink on a white background.

Aaron Dority
Director, Downeast Groundfish Initiative, Penobscot East Resource Center
Manager, Northeast Coastal Communities Sector