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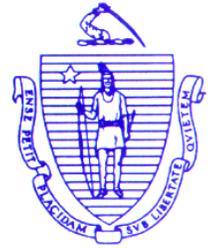
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MEMORANDUM

TO: John Pappalardo, NEFMC Chairman
FROM: David Pierce, Scallop Committee Chairman
DATE: June 10, 2011
RE: Mr. Riddick Baker Request

John, at your request the Scallop Committee provided Mr. Riddick Baker with an opportunity to present his case. He wishes to acquire a limited access scallop permit. I include below your recent letter to him.

Mr. Baker's correspondence with you, Congressmen and others was provided to the Committee for its review with the issue being Mr. Baker, due to glaucoma, sold his vessel in the late-1990s. Consequently, he did not own a vessel and permit with landings history during qualification periods for a limited access permit or limited access general category ITQ permit.

Although still seriously visually impaired, he now feels able to resume fishing, only serving as a shore captain for his scalloping business. But, first, he needs a permit and then to re-establish himself about 15 years later. When asked if he could buy an existing permit, he indicated a permit costs \$1-2 million, well beyond his means. We did not ask him if he would sell his permit once re-acquired through a hardship provision (assuming one was to be developed and adopted).

He also clarified a misunderstanding, i.e., he is not seeking a general category permit. He wants a full-time limited access permit. I had thought from previous correspondence that he was seeking a general category ITQ permit. In an earlier conversation with him I described the great difficulty he would have acquiring a hardship general category permit because it is an ITQ fishery and there is no hardship provision for acquiring that permit, or any other for that matter. Deirdre also has made many of the same points in her numerous communications with him.

Sympathetic to Mr. Baker's blindness and appreciating the lengths to which Mr. Baker has gone in pursuing a permit through the Council process, the Committee heard him, but could give him no encouragement. Mr. Baker knows there is no hardship provision. I indicated such a provision would have to be developed as a concept applicable to all limited access permits across all plans, and that would be a very large and difficult task requiring years to accomplish assuming the Council wants to consider hardship provisions.

The Committee recognized that hardship provisions are troublesome and motivate fishermen to claim hardship caused by a wide variety of reasons, not just blindness. Complicating matters for Mr. Baker is he never possessed a full time limited access permit, yet now he requests one worth well over \$1 million. Permits with this type of value attract attention, and availability due to hardship allowances will lead to many applicants for hardships of all sorts.

The Committee and I told Mr. Baker that his only avenue would be to have the Council develop a new Omnibus Amendment with medical hardship justifications and provisions for issuing new permits in all our limited access permits. I suspect the Council will not pursue this idea anytime soon, if at all. Nevertheless, the Committee did note for Mr. Baker that the Council sets work priorities every November for the following year, and it was possible the Council might identify this as a future work priority at that meeting. We did emphasize this hardship concept would compete with many other issues before the Council.

We did not give Mr. Baker any reason to be optimistic. No Committee member made a motion to initiate any action. The question of “hardship” permits is generic and must be brought before the Council at your discretion.

If the Council eventually decides omnibus hardship provisions warrant consideration and that work be added to the list of possible tasks for consideration in November during priority setting, I suggest you direct staff dealing with sea scallops, groundfish, monkfish, and sea herring (even red crab) to assemble and offer a list of considerations related to “hardship” permits. That thoughtful perspective should enable the Council to decide how to move forward and then give Mr. Baker the guidance he needs and deserves, although that guidance still would be preliminary and not provided until later this year.

On a final note, Mr. Baker wants to know if he should attend our June meeting to answer questions and perhaps to speak. He should be contacted and given advice, i.e., his attendance is welcome but he should not expect an outcome meeting his expectations. Mr. Baker appears to be a fine gentleman who deserves a frank and honest Council response.

Letter from John Pappalardo to Mr. Riddick Baker, March 23, 2011

Based on our recent conversations, it appears that the best option you have to potentially be considered for a limited access scallop permit would be to request in writing that the Scallop Oversight Committee for the New England Fishery Management Council (Council) review your case, Under current regulations you do not qualify for a limited access scallop or limited access general category scallop permit.

You did not apply for either permit during the required timeframes, you do not own a vessel that harvested scallops during the qualification periods for either permit, and you have not demonstrated required landings history, Therefore, as I understand it, NMFS cannot issue you a permit unless a special exception included in our Scallop Fishery Management Plan (FMP) is developed by the Council and approved by NMFS to grant you a permit.

My understanding from our conversations is that you believe that your medical hardship (glaucoma) caused you to stop scallop fishing in the mid-1990s and is the reason you later sold your vessel. As a result, you were not fishing during the qualification period and therefore unable to potentially qualify for a limited access general category permit during the qualifying years (2000-2004). If that is indeed the situation, you would need to convince the Scallop Committee that an action is warranted to consider an exception for your case and any similar cases which may come up in the future.

In summary, if your intent is to request that an action be initiated similar to what I have described above, I recommend that you draft a letter to the Council office, which will be forwarded to the Scallop Committee for their consideration at their next meeting on May 25, 2011 in New Bedford,

MA. The Scallop Committee is made up of Council members and they are the body responsible for making specific recommendations to the full Council related to scallop fishery actions and issues. If you send a letter to the Council office at least 72 hours before the Scallop Committee meeting it can be distributed to all members, and it can be included on the agenda and discussed at that meeting. All Council related meetings are open to the public, so you are of course welcome to attend that meeting in person to further explain your request.

If the Scallop Oversight Committee supports your request, a motion to consider initiating an action would be forwarded to the full Council at a future meeting. If you have any further questions please contact Deirdre Boelke a member of the Council staff.

cc
Deirdre Boelke