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New England Fisheries Management Council  
50 Water St.  
Newburyport MA 01950  
Attn: Mr. Pierce:

September 13, 2010

Dear Mr. Pierce:

I would like to comment on several topics regarding the de-stacking of permits that was raised at the last scallop committee meeting in Warwick RI on September 7, 2010. Due to time constraints I was unable to present these issues during the meeting.

Let me reiterate the fact that I am still opposed to the permit stacking and leasing proposals as are many people in the industry based on the surveys I sent out to the permit holders which I supplied to the Council and the public comments hearings. I believe these motions are being rushed through the Council with many important details left unanswered which may lead to many unintended consequences in the future should the Council vote in favor of the proposals without having all of the information necessary to make an informed decision. To vote on such a proposal that will affect the livelihood of thousands of people without having all of the information available would in my opinion be completely irresponsible. When the Scallop Plan Development Team and the Scallop Committee finally have fully complete permit stacking and leasing proposals then they should re-submit the plan to the Council for further public hearings and a vote and until that happens the Council should reject the permit stacking and leasing proposal as it stands now.

That being said I believe that every proposed regulation that the Committee has put forth under the stacking and leasing proposals is for the benefit of the large fleet owners. NMFS desire to emulate the "ground fishermen's rule" of having the catch history of a stacked or leased permit be applied to the vessel that harvested the catch while the DAS remain with the permit, as evidenced in Ms. Kurkil's letter to the Council dated August 23, 2010 on page 4, will harm the one boat and small fleet owners while benefiting the large fleet owners. A large fleet owner will be able to stack, de-stack and lease within his own organization without losing any DAS or catch history. That option would not be available to the individual boat owner who for whatever reason chose to stack or lease out his permit. Whenever a small fleet owner or an individual boat

owner is forced to transfer his permit to an outsider he will lose more of his catch history to the person who receives and fishes the stacked or leased permit.

Theoretically the way the regulations are currently proposed a large fleet owner has the ability to stack or lease a permit from a less efficient boat which I'll call Boat B onto the more efficient Boat A for five years. Each year Boat A will receive the catch history for permits A and B. Let us say after five years the large fleet owner decides to de-stack the permits he would then be allowed to stack or lease the permit of Boat C onto Boat A for another indeterminate amount of time further increasing Boat A's catch history. The large fleet owner has this ability to do this within any combination of his vessels. A small fleet owner would have more limited options available to him while an individual boat owner has no option.

During Dr. Lubchenco's brief tenure as head of NOAA she has presented an overwhelming desire to convert all fisheries to a catch share system of management by using what many consider to be questionable practices to achieve her goals. The Council's headlong rush to pass this flawed proposal can be cited as example of these questionable practices, but I digress. If in the future, and against the industry's support, the NMFS imposes a catch share system and each vessel was issued an individual quota based on their catch history the large fleet owners who stacked, de-stacked and leased within their organization will have their most efficient vessels with a disproportionate amount of quota as compared to a vessel in a small fleet or a single boat. The Council need only to look at the devastation that is happening in the groundfish industry to see the consequences of having the catch history follow the vessel that landed the fish instead of retaining history within the original permit. Following Dr. Lubchenco's desire to eliminate as many fishing boats and jobs as possible, Ms. Kurkil's proposal to allow the catch history follow the vessel is just another way to force consolidation in a lucrative and sustainable fishery.

One of the reasons given for the leasing proposal was to allow an individual boat owner to lease out some DAS or access area trips he would not be able to fish for some reason such as major engine failure or loss of vessel. However, that individual would be caught in a "Catch 22" dilemma whereas by leasing out his permit for immediate short term gain he will suffer a greater loss of future revenue if any catch share program were to be implemented such as what happened to the groundfish fleet. Again, the only beneficiary would be the large fleet owner who has the resources to be able find a solution to the dilemma without putting his catch history at risk; meanwhile he would constantly be looking for an opportunity to take advantage of a person who finds himself in such a dilemma.

With all that being said if the Council were to move forward on the stacking and leasing proposals I would suggest the permits be allowed to de-stack in a manner that does not penalize a small fleet or individual boat owner. Instead of proposing the "groundfish catch history" proposal whereas the catch history follows the vessel that land the fish I propose the Council should implement a system similar to what the LAGC scallop boat owners are using such as:

1. When permits are stacked or leased the stacked or leased permit/quota is used first. The primary or original vessel permit is used after all other stacked/leased permits or quotas have been consumed.


2. Any stacked or leased catch history, DAS, baseline, quota or any other characteristic of a permit remain with the original permit and not be transferred to a vessel that has received said stacked or leased permit.
3. Any permit that is to be stacked or leased must be transferred prior to the start of the fishing year or before the vessel that is receiving the stacked or leased permit begins its first trip that way the stacked or leased permit or quota can be used before the receiving boat's primary permit/quota is used.
4. If any fishing violation were to occur any violations, fines, sanctions or other punitive measures shall be carried out against the permit of the vessel that committed such violation regardless of whether the vessel was fishing under a stacked or leased permit or quota or not.

I do not believe the Committee's assertion that "Catch histories from dealer reports are obtained at the vessel level, not the permit level, so tracking catch histories and then apportioning them fairly after de-stacking would be challenging." Why would that be so difficult? Don't the dealers report the landings of the vessel and the permit? If the NMFS is able to determine the landings of a vessel why are they unable to determine the landings of a permit? How is it that an organization that requires fishing permit owners, captains, and dealers know, understand and follow a Byzantine and Kafkaesque system of rules and regulations under threat of heavy fines and possible loss of livelihood is unable to track catch history through a permit instead of through a vessel? One is left to wonder if the reason why NMFS is unwilling to track landings via permits is because it can't be bothered or it would interfere with their scheme to consolidate the scallop fishery.

I would urge the Council to reject the permit stacking and leasing options because they are unwanted by the industry, unneeded to protect the biomass, may be in violation of the Magnuson-Stevens Act and are incomplete and need further refinement before the Council has all the information it needs to make an informed decision. Short of that if the Council continues to press for the passage of the stacking and leasing proposals I would recommend the catch history of a stacked or leased permit remain with the permit, thereby allowing an individual boat owner the ability to take advantage of the proposal without suffering long term consequences.

Sincerely,

Paul Weckesser



cc: John Pappalardo