

**In Search of Transition, Community, and a New Federalism:  
6 Questions to Confront on the Road Towards a  
National Policy on Dedicated Access Privileges.**

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**Introduction**

The founding premise for this paper is the same as that underlying our national fishery management system under the Magnuson-Stevens Act: fishery resources in the EEZ are national, public assets. Ironically, consistency with this premise requires challenging much of the prevailing wisdom in contemporary fisheries policy. For example, the concept of national resources implies national interests; it is inconsistent with these interests to permit the regional Councils to effectively negate or to throw into doubt the founding premise by virtue of the design of dedicated access programs. I reject the notion that we should leave *all* important decisions regarding dedicated access privileges up to the regional Councils. In the rush to embrace user self-regulation masquerading under the names of co-management and community-based management, there is a forgotten federalism to fisheries policy these days.<sup>1</sup> National standards for dedicated access programs are necessary to reinforce and preserve the national interest in our fishery resources. Federalism *is* the balancing of local and national interests. Striking this balance well is itself a mutual (i.e., federal and local) interest. Thus there is also a national interest in vibrant, adaptive coastal communities. We need greater focus on the possible roles of communities in dedicated access programs. However, the current emphasis on "protecting" communities is misguided. Let's enable communities, not protect them. In large part, the damage done to the national interest and communities arises from the prevailing approach to the initial allocation of dedicated access privileges. This approach is characterized by the awarding of permanent allocations to individuals in response to what are transitional impacts. Ironically, this approach substitutes the initial allocation for a transitional strategy. We need to recover the idea of a meaningful, planned transition between policy regimes. The current approach to the initial allocation and the attendant denial of a transition period retards adoption, and thus realization of the promise, of management systems based on assigned catches.

I offer the following recommendations for national standards for dedicated access programs:

- 1) Prohibit permanent allocations. Mandate fixed, limited terms for dedicated access privileges. Congress should set the upper bound at 15 years and require the Councils to explain why their management goals cannot be met with shorter terms.
- 2) Authorize use of auctions and Community Fishing Trusts. The use of Community Fishing Trusts as a means of administering auction systems should be encouraged.

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<sup>1</sup> Curiously, we do not talk about other national assets in the same manner. We do not, for example, suggest that all decisions regarding Yellowstone (including possible disposition) should be made by the local board of county commissioners.

- 3) Mandate identification of a specific transition period and specific transitional features, as opposed to permanent features, for all dedicated access programs.
- 4) Establish a minimum threshold for revenue sharing with the federal government.

These recommendations result from consideration of six key questions that challenge conventional wisdom:

- 1) What is the Purpose of the Initial Allocation?
- 2) Whatever Happened to the Idea of a Transition?
- 3) Why Does Anyone Warrant a Permanent Allocation?
- 4) Who Should Be the Lessor?
- 5) Who's Afraid of Markets?
- 6) What About Communities?

These questions are sequentially interrelated in a knee-bone-connected-to-the-thigh-bone fashion. As a result, I devote proportionally more attention to the early questions.

### **1) What is the Purpose of the Initial Allocation?**

I do not think we have confronted this question in any serious manner up until now. In very broad terms, it seems that there are essentially two ways to answer this question and these answers shape our policy options. The first answer is that the purpose of the initial allocation is to make a select group of individuals in the present generation rich. The second answer is that the purpose of the initial allocation is to assist in the transition between the current management regime and a new, presumably preferred regime in the future. But making people rich is different than a transitional strategy and I caution strongly against conflating the two concepts. I suggest that, although no one openly admits it, the first interpretation of the initial allocation is in fact our current default position.

Through our specific policy choices, we are inducing opposition to dedicated access privileges and imposing losses in terms of foregone opportunities. These unfortunate outcomes are self-inflicted wounds and arise from two aspects surrounding the initial allocation. First, there is the design of the initial allocation. Second, there is the matter of how we talk about heartfelt concerns associated with those design decisions. Ultimately, our current approach to the initial allocation is unsustainable as an approach to fisheries policy. Because we are effectively treating the initial allocation as an event whose purpose is to make people rich (and because lots of parties would like to be rich), we are building increasingly complex, some might say bizarre, allocation schemes that threaten to collapse under their own weight.

#### a) Picking Winners (and killing Transition in the process)

Most of the opposition to assigned catch programs can be traced to a particular combination of key design choices that determine the initial allocation scheme. The prevailing approach to the initial allocation features assigned catches that are: i) fully transferable; ii) awarded free of charge to initial recipients; iii) effectively permanent; and iv) awarded to a subset of vessel owners chosen through an inherently political process. At bottom, this approach to the initial allocation amounts to a profound exercise in the government "picking winners." While not

exhaustive, a listing of the concerns engendered by this approach to the initial allocation that give rise to opposition to future programs includes the following:

- Rampant speculative "fishing for catch history"—a new kind of race in which the cure promotes the disease.
- Inter-generational equity concerns, particularly those associated with the so-called transitional gains trap (c.f., Copes, 1986). All subsequent generations face significantly heightened entry costs precisely because the original assignments are into perpetuity while at the same time the future wealth of the fishery is transferred into the hands of the recipients of the original allocation.
- Intra-generational equity concerns (i.e., distributional equity concerns among the present generation) associated with the same transfer of wealth.
- Concerns for the social and economic impacts on coastal fishing communities arising from permutations of all three of the above concerns coupled with concerns over "permit drain" (and permit dearth) in such communities. In particular, there is a profound fear that the form of the initial allocation will inevitably promote absentee ownership thus redefining both what it means to be a fisherman and the distinctive "way of life" in fishing communities by radically altering cherished relations of production.
- The unleashing and encouragement of massive rent-seeking in the political arena (as well as on the water, see 1 above).
- National patrimony concerns. The indefinite nature of the assignments plus the relentless accompanying emphasis on "property rights," "rights-based fishing," and/or "privatization" inherently sows confusion regarding the status of fishery resources as national, publicly owned assets.<sup>2</sup>

If not allayed, these concerns give rise to, and inflame, opposition to assigned catch programs. At the same time, these concerns represent costs in the overall net benefit calculation. Not addressing them results in a loss of potential benefits (both in terms of fewer programs being adopted and higher-than-necessary losses associated with those few programs that are adopted). But these are consequences of specific design decisions not preordained outcomes generically associated with dedicated access privileges. All of these concerns are associated with the form of initial allocation that currently prevails, particularly our penchant for permanent allocations. Permanent allocations can attain extraordinarily high values precisely because they are permanent (and transferable) and thus embody the entire future benefit stream from the fishery. High values make for high entry costs (and all kinds of subsequent concerns) and large windfalls (another source of many subsequent concerns). These properties of permanent allocations compel consideration of the initial allocation from a functional perspective; what is the function of the initial allocation? *If* (and this qualification will be examined further below) permanent allocations are not necessary to achieve the on-the-water behavior we seek to promote and if permanent allocations are a critical contributor to concerns over (and opposition to) dedicated access

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<sup>2</sup> The U.S. Commission on Ocean Policy (USCOP) recommended that dedicated access programs "assign quota shares for a limited period of time to reduce confusion concerning public ownership of living marine resources, allow managers flexibility to manage fisheries adaptively, and provide stability to fishermen for investment decisions [USCOP 2004:290]."

programs, then what is their positive role? The positive function of permanent allocations is simply that they make some initial recipients rich off the initial allocation alone.

But permanent allocations make still more mischief. Significantly, when the initial allocation involves the conveyance of permanent endowments to individuals, the very idea of a transition is eliminated. There is no real transition, there is simply the initial allocation and thus everything rests on the initial allocation (see below for further discussion of the problem of the missing transition). Under these conditions, a lot of attention is rightly focused on the initial allocation and on the implications the particular form of the initial allocation holds for things people care deeply about. However, the responses of managers, theoreticians, and analysts to these expressions of concern often compound the controversy surrounding the initial allocation and adoption of dedicated access programs.

#### b) The Opportunity Cost of Defending the Indefensible, Or, The Marie Antoinette School of Public Policy (I, II, and III)

Expressions of concern along the lines itemized above have frequently been met with brazen dismissals by those urging us to simply get on with the inevitable business of privatizing public assets and to suffer through the design of the initial allocation with good graces, humor, and some measure of compassion. Of course, this nostrum represents nothing less than an ends-justifies-the-means invocation and such invocations are frequently upsetting to people of good conscience.<sup>3</sup> Further, this brazenness carries its own opportunity cost in the policy arena. Below, I present three quotations culled from the annals of fisheries policy debates involving dedicated access privileges that demonstrate the kind of inflammatory brazenness to which I refer.

##### *i) Let Them Work Elsewhere*

One implication of this [theoretical] insight is that reducing the number of fishermen and gear will usually increase the income of those enterprises that remain by more than it will reduce the incomes of those that are excluded. In principle, at least, a system that transferred part of the gains from the first group to the second could leave both of them better off than they had been, while the rest of society would benefit from the labor and capital freed for other useful activity [Tussing, 1972:8].

This quote demonstrates both just how long we have been employing this sort of brazen dismissal and how such brazenness applies generically to consideration of dedicated access privileges. Indeed, this quote represents a timeless example of how we explain to ourselves removing people from the fishery under any form of limited entry or "rationalization" program. Sometimes, people form funny ideas about being greeted as liberators; for example, it has always struck me as a bit delusional to expect people to be grateful for having been removed from their current employment (for both their own and society's benefit). On the other hand, there is nothing

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<sup>3</sup> The damage done springs largely from the insistence (mostly by fisheries economists) that *allocation* is the paramount policy concern while *distribution* (think distributional equity) is a decidedly secondary (if not tertiary or lower) concern. A variant on the same dichotomy is the frequent pitting of "efficiency" concerns in inevitable opposition to equity concerns. If those schooled in the discipline do not acknowledge that true economic efficiency (in the sense of the Pareto criterion) admits, rather than opposes, equity concerns (see Saraydar 1989; Bromley 1990), what is a mere "lay" participant in fisheries debates to do? But of course, real people involved in real initial allocation debates know that distribution is everything, indeed the only thing (especially when the allocations are permanent).

like the prospect of being so liberated (by the prevailing qualification scheme) to turn even the most ardent supporter of dedicated access privileges into a dedicated opponent.

ii) *Let Them Find Another Community*

I wonder what the effect the share quota systems . . . [would have on] Alaska's coastal communities or industries.

Well, I suppose I don't know. To some extent, I'd like those questions to be on the other side of the ledger. What I'm interested in and what I think we need to focus our attention on is the aggregate effect over the entire U.S. economy, initially ignoring the question of how particular groups, and particular individuals and particular regions come out.

. . .

. . . You know the political system as well as I do. There's no shortage of opportunity for you to raise the issue of how is this and how is that community going to come out.<sup>4</sup>

I am not sure much more needs to be said about this exchange over the fate of communities under "rationalization" programs. People are and will continue to be concerned about impacts on fishing communities. Simply telling them that these concerns are wrong (e.g., lecturing them to focus on "allocation" not "distribution"), is not terribly productive. Community concerns are discussed further below under Question 6.

iii) *Let Them Cease Processing*

The flow of product over a much longer period would mean that processors would either have to adapt schedules to allow processing to occur throughout the season, arrange for deliveries only during specified periods, or cease processing sablefish. [NPFMC, 1989:117].

This little-known quote from the official analysis of what became the halibut/sablefish IFQ program in Alaska provides perhaps the most instructive lesson on the dangers of treating distributional issues in the transition period with callous disregard. Processors could simply cease processing? And thus did the world (eventually) come to know the terms "two-pie" and "processor quotas." Seriously, telling people you are doing them a favor by, as the British would say, making them redundant; telling people that there is always another community; and telling processors they can simply stop processing are all examples of how *not* to handle the initial allocation if you indeed want to make progress towards wider application of dedicated access privileges.

The debate over the initial allocation often seems like it is interminable precisely because we have fashioned the initial allocation into a high stakes game of chance (or political opportunism). The debate is interminable because the stakes are so high, and the stakes are so high largely because the initial allocation involves permanent allocations. Permanent allocations mean everything rests on the initial allocation. Exhorting people to disregard the only moment that counts (because we have designed it to be the only moment that counts) is illogical, if not irresponsible.

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<sup>4</sup> This exchange (between a Kodiak fisherman and a fisheries economist) is taken from the panel discussion section in Frady (1985:145-146).

## **2) Whatever Happened to the Idea of a Transition?**

Transition. The word implies a certain temporal dimension, a *period* of change. But our approach to the initial allocation effectively negates any transition period. There is simply the instantaneous switch to the new regime effected the moment permanent allocations are awarded to the lucky sweepstakes winners. To argue that this switch involves a transition is akin to arguing that being shot by firing squad at dawn involves a transition. I argue that permanent allocations eliminate the possibility of planned transition periods and that this result severely limits our policy options. In an interesting twist, the specter of transitional impacts produces demands for permanent allocations that in turn remove the option of transitional policies. A particularly striking example of this process was presented at this conference last year.

In his presentation last year, Mr. Joseph T. Plesha (General Counsel for Trident Seafoods Corporation)<sup>5</sup> asked us to imagine that a valuable fishery resource was discovered off a remote U.S.-owned island in the Pacific ocean and fishery managers wanted the ensuing fishery to operate in a rational fashion from the beginning. Given this hypothetical, Mr. Plesha's recommendation for what would/should follow next was startlingly concise and candid: The government should conduct an auction. After all, Mr. Plesha reasoned, "[o]ur Nation's fishery resources are owned by the general public. . . and not a group of fishing vessel owners [Plesha, 2004; see Appendix A]" nor, as he made clear in another portion of his statement, a group of processors. Further, Mr. Plesha argued for an auction on the grounds that "the general public should receive the full economic benefit from the resources they own [Plesha, 2004; see Appendix A]."

But of course, we are not starting from scratch. In real world applications, Mr. Plesha argued for a far different solution—an allocation of permanent "rights" to both vessel owners and processors. The reason for Mr. Plesha's abandonment of the auction idea is highly instructive. When not presented with the luxury of Mr. Plesha's hypothetical "new" fishery, we face fisheries with existing interests in place. In view of these existing interests, Mr. Plesha reasoned "[b]oth fishing vessel owners and processing plant owners should, therefore, receive rights in a rationalized fishery as compensation for having the value of their existing investments expropriated by the new management system [Plesha, 2004; see Appendix A]."

Notice what has happened: a much-warranted focus on the issue of transitional impacts has been transformed into a claim for a permanent allocation. But transitional impacts do not require permanent therapy. Investments by a select few members of the present generation (whether processors or vessel owners) cannot logically be the basis for conveying public assets into private hands on a *perpetual* basis. The very idea of attention to the transition, which by definition is a limited period, is obliterated by the leap involved in laying claim to a permanent allocation. We need to consider the transitional impacts on all parties more than we have done in the past, but we must insist that treatment of transitional impacts be consistent with, not undermine, our founding premise.

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<sup>5</sup> For those not familiar with the industry in the North Pacific, Trident Seafoods is a major, if not the major, processor and a principle advocate for as well as beneficiary of the various forms of processor considerations (including processor quota shares) that have graced the North Pacific arena in recent years. Mr. Plesha's presentation at this conference was echoed in his testimony before a subsequent Congressional hearing into processor shares and it is that testimony that is relied upon here. An excerpt of Mr. Plesha's Congressional testimony is attached as Appendix A to this paper.

### **3) Why Does Anyone Warrant a Permanent Allocation?**

The question that we need to confront in this context is why does *anyone* warrant a permanent allocation? The argument against permanent allocations is perhaps easiest to grasp in the case of the processors. As noted in the quotation presented earlier, processors may indeed suffer regulatory-induced impacts during the transition to an elongated season. But these are, by definition, transitional impacts and may warrant temporary, not permanent redress. The same conclusion applies to the harvesting side of the industry. Existing interests (investments) in vessels may suffer in the transition but these are transitional impacts and call for at most temporary mediating measures.

At this point, the objection is usually raised that the race for fish is perpetual and therefore permanent allocations *are* warranted on the harvesting side of the equation. But we *know* this reasoning is specious. Permanent allocations are not necessary to alleviate the race for fish. We know this to be empirically true because we already have programs that feature limited duration assignments and these programs are widely hailed for their ability to end the race for fish. I am referring to the widespread presence of leasing. Leasing demonstrates that what is important, in terms of ending the race for fish, is that each and every operation on the water is in pursuit of an assigned catch. The term of that assignment is irrelevant. Leasing by definition involves limited fixed-term assignments and those that lease do not race more than those in possession of permanent assignments. So we know that permanent allocations are not necessary to produce the on-the-water results we covet. Both harvesters' and processors' demands for permanent allocations rest on a profound conflation of interests with rights<sup>6</sup> and the subsequent transformation of potential transitional impacts into claims of entitlement to a permanent benefit stream. Those who object to processors holding the policy process hostage over transitional impacts yet insist that harvesters warrant permanent allocations practice hypocrisy.

Close inspection reveals that the function of permanent allocations is not to end the race for fish but to deliver a reward to those chosen to receive the initial allocation. But, as outlined earlier, these rewards carry a high opportunity cost. Finally, there is another dimension to the hypocrisy involved in our current approach to dedicated access programs. Permanent allocations have the curious effect of shielding a select few vessel owners (and perhaps processors) in the current generation from the market forces we believe are so salubrious for all others. If we actually believe in the market, we ought to use it across all generations of participants. This will require, in some form, a system in which all participants operate under lease arrangements.

To counter the problems induced by permanent allocations, the maximum term of any allocation/lease should be established by Congress as a matter of national policy for a national resource.<sup>7</sup> I would suggest that 15 years is sufficient for any fishery both in terms of a reasonable

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<sup>6</sup> On the endemic confusion of interests with rights in the fisheries literature, see Macinko and Bromley (2002). For a more damning account of the failure to recognize established legal scholarship on "rights" within the economics literature generally, see Cole and Grossman (2002). Despite these contributions, the tendency towards cavalier usage of the term "rights" continues unabated in the field of fisheries. Whatever the "rights" contents of specific dedicated access programs, it is clear that these programs are not rights-based. To say that they are rights-based is to assert a causal analysis declaring that the programs work *because* of the putative rights involved. See Macinko and Bromley (2004) for discussion of why this causal analysis is fatally flawed.

<sup>7</sup> Note that limited term allocations/leases are fundamentally different than "sunset provisions" for dedicated access programs. Sunset provisions are plagued by the fact that no one is likely to vote (when the sunset date comes due) to terminate (or conversely to fail to renew) a system (any system) that has

planning horizon and scale of investment involved. The Councils should then set specific lease terms within this broad overall guidance from Congress in accordance with local circumstances. I would further suggest that there is a direct relationship between the term of the lease and the scale of industry that will prevail. That is, the more industrial the fleet desired, the longer the lease term should be. The smaller scale desired, the shorter the lease term should be (shorter terms result in lower entry costs and more opportunity for entry and more dynamism within the fleet due to more frequent turnover of leases). And this brings us to the next critical question.

#### **4) Who Should Be the Lessor?**

Once we have liberated ourselves from the option-constricting belief that allocations have to be permanent to work, we are presented with the interesting question of who should be the lessor. Currently, we have programs in which many, or in some cases most, actual participants are lessees and a group of vessel owners are the lessors (although they may not actually own a vessel anymore). But there is no basis for believing that a system in which some level of government acted as the lessor (rather than individual vessel owners) would not offer exactly the same relief from the race for fish. Yet such a system would offer considerable additional benefits in terms of addressing the intra and intergenerational equity issues outlined earlier and would clearly reinforce our founding premise.

Publicly administering limited duration allocations via leases raises the question of how to distribute and redistribute the allocations when lease terms expire. Three broad options exist for distributing/redistributing limited term allocations: (1) the government can engage in an on-going cycle of picking winners; (2) distribution could occur by lottery; or (3) we could employ the market—i.e., via periodic lease auctions. I am simply assuming a preference for the market approach.

#### **5) Who's Afraid of Markets?**

Limited duration allocations could eliminate many, if not most, of the problems associated with our current approach to dedicated access programs. And auctions are intuitively appealing as a means of administering programs based on limited duration allocations. But, auctions are scary, to lots of people. Perhaps the first thing to say regarding auctions is to note that we already have lease auction systems in place. This is most notably true in the case of the Community Development Quota (CDQ) program in Alaska but I would argue that the existing market in privately contracted leases under dedicated access programs already in place is, in effect, an auction system. Recognition of these existing auction systems returns us to the question of who should be the lessor (examined above), while mediating any tendency to regard auctions as a radical departure from current practice.

Rather than fear mongering, I think we need to have an honest national conversation about 'auctions without fear.' If we wanted to make sure that public auctions never saw the light of day, I would suggest that we instantly switch to a 100% auction system (i.e., overnight we auction off all of the available catch) and deposit all the proceeds into the general treasury of the nation. Such an approach takes us back to Mr. Plesha's thought experiment and the apparent conflict between existing interests and a policy shift to auction systems. The conflict is artificial

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vanquished the race for fish. In contrast, a system of constantly renewing limited term allocations provides the kind of periodicity that motivates interests in sunset provisions in the first place.



and rests entirely on the negation of a transition. That is, does anyone seriously believe we can *never* transition to auction systems? The key issue of course is *how* to transition to auction systems.

I suggest that if we really wanted to use auction systems to improve our fisheries, we would fashion a planned transition period, devise auction systems that partitioned the TAC into segments and stagger the lease periods for these segments so that they did not come up for auction at the same time (i.e., it is desirable both to have frequent opportunities to enter the fishery and to not have one's entire portfolio of leases possibly expire at once), directly involve our local fishing communities in the administration of auctions and as recipients of the proceeds from auction systems (see below under Question 6), and we would fashion many of the same kinds of provisions we attach to dedicated access programs generally to meet important goals.<sup>8</sup> I do not know which of the various claims for consideration during the transition period we should honor—that is for the Councils to decide—but I do know that we should keep treatment of such claims as short as possible. That is, some temporary shielding from the very market forces we are trying to introduce may be warranted as a matter of transitional policy but we cannot exempt any participants on a permanent basis. Moreover, it is not clear that shielding from market forces is the obvious choice for addressing transitional impacts.

Notably, auctions offer extreme flexibility in crafting transitional strategies. For example, in commenting on the crab plan developed by the North Pacific Council, the Department of Justice (DOJ 2003) noted that auctions:

[C]ould improve efficiency. In addition, an auction would capture for the public some of the value from the scarce resource, which could be used for public purposes. The proceeds could, for example, be reinvested in the fisheries, used to fund conservation programs or used to partially compensate harvesters and/or processors for overcapitalization.

Here we see the fusion of two important ideas. First, the transition *is* important and claims of transitional impacts deserve careful consideration. Second, there are ways to use the market to assist in the transition (that do not involve bestowing permanent awards in response to transitional claims). Of course, auctions systems present other options for fashioning a transition. The transition to an auction system could be phased in (say, e.g., 10% of the TAC per year could be devoted to the auction pool, thus offering a 10 year phase-in period). If impacts on present participants are judged especially severe, an initial allocation could be given to selected participants (say 50% of the TAC,<sup>9</sup> the remaining 50% going straight into the auction pool) for a fixed period (say 5 years, to then revert into the auction pool). These are just examples, the possible permutations are many.

Finally, auctions should not be thought of as a way to pump up the federal coffers while pushing beleaguered fishermen into penury. In fact, I argue that we need to see, and to fashion, auctions as a critical component of fleet and community revitalization—not deprivation.

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<sup>8</sup> The point here is that the kinds of social, political, and economic goals the Councils may wish to attain are really not a function of whether or not auctions are employed. All (or none) of the various "bells and whistles" used to reach these goals may be used in conjunction with auction systems.

<sup>9</sup> The choice of the 50% figure is not completely arbitrary. In the Alaska halibut fishery, ex-vessel prices approximately doubled following introduction of the IFQ program. A similar increase is projected by Weninger and Waters (2003) for the red snapper fishery in the Gulf of Mexico.

## **6) What About Communities?**

There is a forgotten federalism in fisheries policy these days. We need national standards on dedicated access programs to reinforce the national interest in our fishery resources (c.f., Scheiber 2002). But federal and local interests need not be regarded as mutually exclusive. Local communities are obviously associated with local interests, yet there *is* a national interest in vibrant, adaptive coastal communities. We need to place greater attention on the possibilities for direct engagement of communities in dedicated access programs. However, the current emphasis on "protecting" communities is misguided. Protectionism often has the unfortunate effect of eventually killing that which we wish to protect. This ironic outcome results from the fact that protectionism promotes ossification which is the very opposite of what is needed in a dynamic, vibrant, competitive world. We should focus on enabling communities, not protecting them. For example, instead of protection, let's just stop systematically disadvantaging communities via our obsessive focus on individual, permanent, portable allocations. Communities are not portable.

McCay (2004) has argued persuasively that if future programs featuring individually assigned catches are to be sustainable, they will require much greater integration of community perspectives and treatment of community concerns. While I agree, I think we need to fundamentally rethink what I would call the sequencing of this integration. We need to consider endowing communities (or regions) first and then letting the magic of individual initiative flourish underneath these community endowments rather than trying to tack "community protection" measures onto programs focused on permanent individual allocations. Elsewhere, I have likened this reversed sequencing to thinking about fisheries as "community gardens" (Macinko, 2004). The benefits of thinking of fisheries as resource endowments for places and regions are manifest (see Cunningham, 1994) and yet curiously relatively unexplored in any serious operational context.<sup>10</sup> The concept of fisheries as resource trusts (or conservation trusts, see Fairfax and Guenzler 2001) deserves much more consideration. I suggest that a system of lease auctions locally administered through Community Fishing Trusts has much promise. As noted, federalism cuts both ways. Congress should establish a minimum level of revenue sharing with the federal government but the Councils should be given broad discretion to enable, not protect, our coastal fishing communities.

## **Conclusion**

National standards are appropriate and necessary for dedicated access programs. In devising such standards, we need to challenge much of the conventional wisdom that lies behind our current approach to dedicated access programs. We must wean ourselves off of the belief that permanent allocations are necessary or even beneficial. All dedicated access privileges should be of limited duration terms (not sunsets). We must stop telling people to "get over" or "get on with" the initial allocation when we have fashioned the initial allocation to be the only thing that matters. The initial allocation is not a substitute for a transitional strategy. We must use the initial allocation as *part of* a transitional strategy, not as a tool to make some people rich. We must treat the subject of the transition between policy regimes as a period requiring direct management attention. We must consider transitional impacts as a distinct category; but that means resisting the tendency to turn some claims of transitional impacts into a basis for permanent allocations.

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<sup>10</sup> The Community Development Quota (CDQ) program in Alaska (NRC 1998) being the obvious exception.

Finally, we must reinforce the founding notion that fishery resources are national assets but realize that we can do so in ways that endow, not disadvantage, fishing communities.

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## **Appendix A**

Excerpt, first five paragraphs from:

[http://commerce.senate.gov/hearings/testimony.cfm?id=1066&wit\\_id=3008](http://commerce.senate.gov/hearings/testimony.cfm?id=1066&wit_id=3008)

(last visited, 2/27/05)

Given at a Full Committee Hearing:

### **Seafood Processor Quotas Hearing**

Wednesday, February 25 2004 - 9:30 AM - Sr - 253

The Testimony of

**Mr. Joseph T. Plesha**

General Counsel, Trident Seafoods Corporation

Our Nation's fishery resources belong to the general public. Logically then, the general public should receive the full economic benefit from the resources they own—through a simple auction by the Federal government to the highest bidder—when fishery stocks are rationalized. Neither processing plant owners nor fishing vessel owners have an absolute right to be included in the allocation of the public's fishery resources.

If a large stock of cod were discovered off a remote U.S.-owned island in the Pacific ocean and fishery managers wanted to rationalize it, I assume the Federal government would auction the rights to this undeveloped cod resource instead of allocating rights to vessel owners or processors based in Portland, Oregon or Portland, Maine.

Why should any participant in the seafood industry be allocated rights when open access fishery resources are rationalized? Under most circumstances there is a compelling reason to include both fishing vessel owners and primary processing plant owners in the allocation. In an overcapitalized "open access" fishery that is capital intensive, and where that capital invested in fishing vessels and processing plants is relatively non-malleable, the owners of that capital will suffer enormous losses during the transition between the open access and rationalized fishery equilibrium conditions. The capital investments in primary processing and harvesting are transferred to quota owners when an open access fishery is rationalized.

Simply put, you do not need all of the harvesting and processing capacity that exists when an overcapitalized fishery is rationalized. Primary processing plants and fishing vessels with no alternative uses become nearly worthless. Both fishing vessel owners and processing plant owners should, therefore, receive rights in a rationalized fishery as compensation for having the value of their existing investments expropriated by the new management system.

Although including processors in the allocation of rights may be controversial, it should be embraced by fishing vessel owners. The rationale for including primary processing plant owners in the allocation of rights is also the only rationale for including vessel owners. Otherwise, open access fisheries should be rationalized by the Federal government through an auction of the resource to the highest bidder. Our Nation's fishery resources are owned by the general public after all, and not a group of fishing vessel owners.