

NATIONAL MARINE FISHERIES SERVICE, ALASKA REGION  
OFFICE OF ADMINISTRATIVE APPEALS

In re Application of	)	Appeal No. 01-0005
	)	
KEVIN SEABECK,	)	DECISION
Appellant	)	
_____	)	February 3, 2003

STATEMENT OF THE CASE

The Restricted Access Management (RAM) program issued an Initial Administrative Determination (IAD) that approved the application of Mr. Seabeck for a groundfish license under the North Pacific Groundfish and Crab License Limitation Program (LLP), as the owner of an LLP qualifying vessel, the F/V SIERRA MAR.

The IAD endorsed Mr. Seabeck's LLP groundfish license for the Central Gulf of Alaska, but not for the Western Gulf of Alaska and the Southeast Outside District of Alaska groundfish fisheries. The IAD also determined that the F/V SIERRA MAR does not qualify for a designation as a catcher-processor vessel.

Mr. Seabeck filed a timely appeal of the IAD. Mr. Seabeck can appeal the IAD because the IAD directly and adversely affects Mr. Seabeck's interests. [50 C.F.R. § 679.43(b)] At Mr. Seabeck's request, we extended the time period for submitting additional evidence on appeal. An oral hearing is not necessary in this case because the record contains sufficient information on which to reach a final decision. [50 C.F.R. § 679.42(m)(4)]

ISSUES

1. Does Mr. Seabeck qualify for an LLP groundfish license endorsement for the Western Gulf of Alaska and the Southeast Outside District of Alaska?
2. Does Mr. Seabeck's LLP groundfish license qualify for designation as a catcher-processor vessel?

ANALYSIS

**1. Does Mr. Seabeck qualify for an LLP groundfish license endorsement for the Western Gulf of Alaska and the Southeast Outside District of Alaska?**

To qualify for an LLP groundfish license endorsement for the Western Gulf of Alaska and the Southeast Outside District of Alaska, Mr. Seabeck must establish that the F/V SIERRA MAR made, in each endorsement area, at least (1) one documented harvest of groundfish in two separate calendar years between January 1, 1992, and June 17, 1995; or (2) four documented

harvests of groundfish between January 1, 1995, and June 17, 1995.<sup>1</sup>

“LLP groundfish” means target species and the “other species” category, specified annually pursuant to 50 C.F.R. § 679.20(a)(2), except that demersal shelf rockfish east of 140 degrees W. longitude and sablefish managed under the IFQ program are not considered license limitation groundfish.<sup>2</sup>

The “Western Gulf of Alaska” means that portion of the Gulf of Alaska Exclusive Economic Zone that is contained in Statistical Area 610 (see Figure 3 to this part).<sup>4</sup> The “Southeast Outside District of Alaska” means that part of the Eastern regulatory Area contained in Statistical Area 650 (see Figure 3 of this part).<sup>5</sup>

“The Central Gulf of Alaska” means that portion of the Gulf of Alaska Exclusive Economic Zone that is contained in Statistical Areas 620 and 630 (see Figure 3 to this part).<sup>6</sup> “West Yakutat District of the GOA” means that part of the Gulf of Alaska Eastern Regulatory Area contained in Statistical Area 640 (see Figure 3 to this part).<sup>7</sup> The West Yakutat District is included in the Central Gulf of Alaska area for purposes of obtaining an endorsement for an LLP groundfish license.<sup>8</sup>

The official LLP record does not show that the F/V SIERRA MAR made the requisite documented harvests to qualify for endorsements for the Western Gulf of Alaska and the Southeast Outside District of Alaska.

Mr. Seabeck produced 26 state fish tickets (from Alaska and Washington) for this appeal. Fifteen fish tickets<sup>9</sup> show the F/V SIERRA harvested groundfish during 1989, 1990, 1991, and 1996, which are not years within the endorsement qualifying period for an LLP groundfish endorsement for the Western Gulf of Alaska or the Southeast Outside District of Alaska. Four

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<sup>1</sup>50 C.F.R. § 679.4(k)(4)(ii).

<sup>2</sup>See 50 C.F.R. § 679.2.

<sup>4</sup>Id.

<sup>5</sup>Id.

<sup>6</sup>Id.

<sup>7</sup>Id.

<sup>8</sup>See 50 C.F.R. § 679.4(k)(4)(ii)(D).

<sup>9</sup>Exhibit A.

state fish tickets<sup>10</sup> show the vessel harvested halibut and sablefish in the Western Gulf of Alaska and the Southeast Outside District of Alaska, but halibut and sablefish are not considered "groundfish" under the LLP.<sup>11</sup> The remaining seven fish tickets<sup>12</sup> show the F/V SIERRA harvested groundfish in the Central Gulf of Alaska, but not in the Western Gulf of Alaska or the Southeast Outside District of Alaska.<sup>13</sup> Therefore, none of the fish tickets produced by Mr. Seabeck show the F/V SIERRA MAR made the requisite documented harvests to qualify him for a Western Gulf of Alaska and a Southeast Outside District of Alaska groundfish endorsement.

Pursuant to our request, the State of Alaska Commercial Fisheries Entry Commission (CFEC) produce a list of the groundfish harvests recorded on Mr. Seabeck's CFEC fishing permits during the years of 1992, 1993, 1994, and 1995.<sup>14</sup> The document shows that the only LLP groundfish harvests recorded on Mr. Seabeck's CFEC fishing permits during that period of time were the groundfish harvests made aboard the F/V SIERRA in the Central Gulf of Alaska. The record on appeal does not contain any other document that shows the fishing history of Mr. Seabeck or the F/V SIERRA.

I find that the F/V SIERRA did not make the requisite documented harvests of groundfish for the endorsement of Mr. Seabeck's LLP groundfish license for the Western Gulf of Alaska and the Southeast Outside District of Alaska. Therefore, Mr. Seabeck does not qualify for LLP groundfish license endorsements for the Western Gulf of Alaska and the Southeast Outside District of Alaska.

## **2. Does Mr. Seabeck's LLP groundfish license qualify for designation as a catcher-processor vessel?**

The LLP regulations require RAM to designate an LLP groundfish license as a catcher-processor vessel if the vessel that qualified the LLP license holder for an LLP groundfish license processed LLP groundfish aboard the vessel between January 1, 1994, and June 17, 1995, or in the most recent calendar year of participation during the area Endorsement Qualification Period specified

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<sup>10</sup>Exhibit B.

<sup>11</sup>Exhibit D.

<sup>12</sup>Exhibit C.

<sup>13</sup>The state fish tickets show the groundfish was harvested in Alaska Department of Fish and Game statistical areas 415900, 425931, 485800, 445931, 485901, 555532, which correspond to Federal reporting areas 620, 630, or 640 of the Central Gulf of Alaska. The harvests would have had to have been made in reporting area 610 for a Western Gulf of Alaska endorsement or reporting area 650 for a Southeast Outside District of Alaska endorsement. [See Exhibit E]

<sup>14</sup>Exhibit F.

in paragraph (k)(4)(ii) of this section (between January 1, 1992, and June 17, 1995).<sup>15</sup> Processing must be demonstrated by a Weekly Production Report or other valid documentation that demonstrates that the processing occurred during the relevant period.<sup>16</sup>

Mr. Seabeck did not specify on his LLP application whether the F/V SIERRA MAR is a catcher-vessel or a catcher-processor vessel. The official LLP record does not show that the vessel is a catcher-processor vessel. Mr. Seabeck did not produce for the record on appeal a Weekly Production Report or any other documentation to show that the vessel ever processed groundfish. I find, by a preponderance of the evidence in the record, that the F/V SIERRA MAR did not process groundfish during the relevant period (between January 1, 1994, and June 17, 1995, or between January 1, 1992, and June 17, 1995). As a result, the F/V SIERRA MAR does not qualify for designation as a catcher-processor vessel under the LLP program.

#### FINDINGS OF FACT

1. The F/V SIERRA did not make the requisite documented harvests of groundfish for the endorsement of Mr. Seabeck's LLP groundfish license for the Western Gulf of Alaska and the Southeast Outside District of Alaska.
2. The F/V SIERRA MAR did not process groundfish between January 1, 1994, and June 17, 1995, or between January 1, 1992, and June 17, 1995.

#### CONCLUSIONS OF LAW

1. Mr. Seabeck's LLP groundfish license does not qualify for endorsements for the Western Gulf of Alaska or the Southeast Outside District of Alaska.
2. The F/V SIERRA MAR does not qualify for designation as a catcher-processor vessel under the LLP program.

#### DISPOSITION

The IAD that is the subject of this appeal is **AFFIRMED**. This Decision takes effect March 5, 2003, unless by that date the Regional Administrator orders review of the Decision.

The Appellant or RAM, may submit a Motion for Reconsideration, but it must be received by this Office not later than 4:30 p.m., Alaska time, on the tenth day after this Decision, February 13, 2002. A Motion for Reconsideration must be in writing, must specify one or more material matters of fact or law that were overlooked or misunderstood by the Appeals Officer, and must be accompanied by a written statement in support of the motion.

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<sup>15</sup>See 50 C.F.R. § 679.4(k)(3)(ii)(A)(1).

<sup>16</sup>See 50 C.F.R. § 679.4(k)(3)(ii)(A)(3).

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Randall J. Moen  
Appeals Officer