

NATIONAL MARINE FISHERIES SERVICE, ALASKA REGION
OFFICE OF ADMINISTRATIVE APPEALS

In re Application of)	Appeal No. 96-0058
)	
PAUL REUTOV,)	
F/V TIGER)	DECISION
ADF&G # 56366)	
Appellant)	
_____)	November 29, 1999

STATEMENT OF THE CASE

In an Initial Administrative Determination (IAD) issued on May 10, 1996, the Restricted Access Management (RAM) Program¹ denied Mr. Reutov's application for a Vessel Moratorium Permit for the F/V TIGER as an "original qualifying vessel" under the Vessel Moratorium Program. RAM denied the application because the evidence in the record did not show that the vessel made groundfish landings during the moratorium qualifying period of January 1, 1988, through February 9, 1992. RAM issued an interim Vessel Moratorium Permit to Mr. Reutov for the F/V TIGER to fish moratorium groundfish, pending a request for reconsideration or an appeal by Mr. Reutov.

Mr. Reutov requested reconsideration of the IAD, but RAM reaffirmed the IAD on Reconsideration. RAM concluded that the state of Alaska fish ticket produced by Mr. Reutov, which showed a landing of Pacific cod from the F/V TIGER on May 30, 1992, was insufficient evidence because the landing was made outside the moratorium qualifying period of January 1, 1988, through February 9, 1992.

RAM referred this case to this Office for filing as an appeal. Because the record contains sufficient information on which to reach a final decision, and because there is no genuine and substantial issue of adjudicative fact for resolution, no hearing was ordered. 50 C.F.R. § 679.43.

ISSUE

Is the F/V TIGER entitled to a Vessel Moratorium Permit as an "original qualifying vessel" to fish moratorium groundfish?

PRINCIPLES OF LAW

1. To obtain a Vessel Moratorium Permit to fish for "moratorium crab" or "moratorium groundfish" as

¹The Restricted Access Management Division was renamed Restricted Access Management Program, effective September 28, 1997. [NOAA Circular 97-09, 10 Sep 97].

an “original qualifying vessel,” the vessel must have made at least one legal landing of moratorium crab or moratorium groundfish, between January 1, 1988, and February 9, 1992. 50 C.F.R. § 679.4(c)(7)(i).

2. “Moratorium crab” means king or Tanner crab harvested in the Bering Strait/Aleutian Islands [while commercial fishing under federal regulations]. 50 C.F.R. § 679.2.

3. “Moratorium groundfish” means species of groundfish, except sablefish caught with fixed gear, harvested in the Gulf of Alaska or the Bering Sea/Aleutian Islands [while commercial fishing under federal regulations]. 50 C.F.R. § 679.2.

4. An “original qualifying vessel” means a vessel that made a legal landing during the moratorium qualifying period. 50 C.F.R. § 679.2.

DISCUSSION

Mr. Reutov’s evidence, and RAM’s records, do not show that the F/V TIGER made moratorium groundfish landings between January 1, 1988, and February 9, 1992. Mr. Reutov’s fish ticket shows only that groundfish was landed from the vessel in May 1992.

In light of all of this, I find that the F/V TIGER did not make groundfish landings during the moratorium qualifying period. Therefore, I conclude that the vessel is not entitled to a Vessel Moratorium Permit as an “original qualifying vessel” to fish moratorium groundfish.

FINDING OF FACT

The F/V TIGER did not land groundfish during the moratorium qualifying period of January 1, 1988, through February 9, 1992.

CONCLUSION OF LAW

The F/V TIGER is not entitled to a Vessel Moratorium Permit as an “original qualifying vessel” to fish moratorium groundfish.

DISPOSITION

The IAD on Reconsideration that is the subject of this appeal is AFFIRMED. This Decision takes effect on December 29, 1999, unless by that date the Regional Administrator orders the review of the decision.

Any party, including 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 December 9, 1999, the tenth day after the date of this Decision. 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 or points and authorities in support of the motion. A timely Motion for Reconsideration will result in a stay of the effective date of the decision, pending a ruling on the motion or the issuance of a Decision on Reconsideration.

Randall J. Moen
Appeals Officer