

NATIONAL MARINE FISHERIES SERVICE, ALASKA REGION
OFFICE OF ADMINISTRATIVE APPEALS

In re Application of) Appeal No. 96-0077
)
MEREK MURA)
F/V BOBOLINK) DECISION ON RECONSIDERATION
ADF&G # 57316)
Appellant)
_____) December 28, 1999

On October 10, 1999, this Office issued a Decision, which affirmed RAM's determination that Mr. Mura was not entitled to a vessel moratorium qualification and permit for the F/V BOBOLINK, with a length overall (LOA) of 48 feet. We affirmed RAM because Mr. Mura had not produced sufficient information to support his claim.

On November 18, 1999, we granted Mr. Mura's Motion for Reconsideration, and we ordered the stay of the Decision's effective date.

On December 27, 1999, we received a letter, dated December 2, 1999, from Mr. Michael Kamprich, the harbormaster of the city of Craig, Alaska, which states that the length of F/V BOBOLINK's length is 48 feet "from stem to bow," and 54 feet, if the bow sprit is included. Mr. Kamprich also stated that the vessel had not been altered since he had become familiar with the vessel in the early 1990's.

ISSUE

Is the F/V BOBOLINK entitled to a vessel qualification and permit with an LOA of 48 feet?

PRINCIPLES OF LAW

1. To obtain a vessel moratorium qualification and permit under the regulations of the vessel moratorium program, an applicant is required (if requested by RAM) to produce reliable documentation of a vessel's "original qualifying LOA," dated June 24, 1992, such as a vessel survey, builder's plan, a state or Federal registration certificate, fishing permit records, etc. 50 C.F.R. § 679.4(c)(6).
2. The "LOA" of a vessel is the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments, ..." 50 C.F.R. § 679.2.

DISCUSSION

The harbormaster's letter states in essence that the LOA of the F/V BOBOLINK was 48 feet on or about June 24, 1992. The only evidence in the record showing a different LOA for the vessel is the information in RAM's records, which shows an LOA of 42 feet. The LOA for the vessel in RAM's records is based on self-reported vessel license information obtained from the State of Alaska Department of Fish & Game. It is unlikely that Mr. Mura would have been willing to pay moorage fees throughout the 1990's based on a vessel of 48 feet, if the vessel in fact was only 42 feet. Also, there is no evidence in the record to doubt that the letter is not reliable documentation of the vessel's LOA on June 24, 1992. In light of all of this, I find that the greater weight of the evidence is that the F/V BOBOLINK was 48 feet on June 24, 1992. I conclude that the F/V BOBOLINK is entitled to a vessel moratorium qualification and permit with an LOA of 48 feet.

FINDING OF FACT

The LOA of the F/V BOBOLINK was 48 feet as of June 24, 1992.

CONCLUSION OF LAW

The F/V BOBOLINK is entitled to a vessel moratorium qualification and permit with an LOA of 48 feet.

DISPOSITION

The IAD on Reconsideration that is the subject of this appeal is VACATED. This Decision takes effect on December 31, 1999, unless by that date the Regional Administrator orders the review of the Decision. This Decision supersedes the original Decision, issued October 10, 1999.

Randall J. Moen
Appeals Officer