

NATIONAL MARINE FISHERIES SERVICE, ALASKA REGION
OFFICE OF ADMINISTRATIVE APPEALS

In re Application of)
)
HIGHLAND LIGHT SEAFOODS, L.L.C.,¹)
Appellant)
_____)
Appeal No. 01-0008
DECISION
April 4, 2008

STATEMENT OF THE CASE

The Restricted Access Management (RAM) program issued an Initial Administrative Determination (IAD) on May 23, 2001, which approved the issuance of groundfish license #LLG2833 to Appellant under the North Pacific Groundfish and Crab License Limitation Program (LLP).² The IAD endorsed the groundfish license for Aleutian Islands groundfish, but not for Bering Sea groundfish.

The IAD also approved the issuance of LLP crab license #LLC2834 to Appellant. The IAD endorsed the crab license for Bering Sea/Aleutian Islands *C. opilio* and *C. bairdi* (Tanner) crab, St. Matthew blue king crab, and Bristol Bay red king crab, but not for Aleutian Islands brown king crab and Aleutian Islands red king crab.

RAM denied Appellant's request for a catcher/processor designation on both the LLP groundfish license and the LLP crab license. RAM issued the licenses and endorsements based on the qualifying fishing history of Appellant's vessel, the F/V AMERICAN VIKING (ADFG No. 00067; USCG No. 550276).

The Appellant timely appealed RAM's denial of the Bering Sea groundfish endorsement, the Aleutian Islands brown king crab endorsement, and the catcher/processor vessel designations. Appellant can appeal the IAD because it directly and adversely affects Appellant's interest.³

The Appellant requests an oral hearing, but the request is denied because his appeal does not meet the requirements of 50 C.F.R. §679.43(g)(3)(i),(ii), (iii), or (iv).⁴ The record contains

¹ Highland Light Seafoods, LLC, became the Appellant in this case on November 15, 2002, after we learned that it acquired the appeal rights with the bankruptcy of Buholm Fisheries, Inc.

² See 50 C.F.R. § 679.20 - 50 C.F.R. § 679.28.

³ 50 C.F.R § 679.43(b).

⁴ (g) The appellate officer will review the applicant's appeal and request for hearing, and has discretion to proceed as follows: * * *

(3) Order that a hearing be conducted. The appellate officer may so order only if the appeal

(continued...)

sufficient information to decide this appeal and so the record is now closed.⁵

ISSUES

1. Does the Appellant qualify for a Bering Sea LLP groundfish license endorsement and an Aleutian Islands LLP brown king crab license endorsement based on the unavoidable circumstance provision in 50 C.F.R § 679.4(k)(8)(iv) of the LLP regulations?
2. Does the Appellant's LLP groundfish license qualify for a catcher/processor vessel designation?
3. Does the Appellant's LLP crab license qualify for a catcher/processor vessel designation?

SUMMARY

The IAD is AFFIRMED. The Appellant does not qualify for a Bering Sea LLP groundfish license endorsement, an Aleutian Islands LLP brown king crab license endorsement, or a catcher/processor vessel designation to its LLP groundfish and crab licenses.

The F/V AMERICAN VIKING did not make the requisite documented harvests of LLP groundfish or LLP crab to qualify Appellant for a Bering Sea LLP groundfish license endorsement and an Aleutian Islands LLP brown king crab license endorsement. The vessel did not make the requisite documented harvests of Bering Sea groundfish or Aleutian Islands brown king crab after the alleged unavoidable circumstances in this case but before June 17, 1995, to qualify Appellant for those endorsements under the unavoidable circumstance provision in 50 C.F.R § 679.4(k)(8)(iv) of the LLP regulations.

The F/V AMERICAN VIKING did not produce a Weekly Production Report (WPR) or "other valid documentation" that demonstrates the vessel processed LLP groundfish or LLP crab. Therefore, Appellant's LLP groundfish and crab licenses do not qualify for a catcher/processor

⁴(...continued)

demonstrates the following: (i) There is a genuine and substantial issue of adjudicative fact for resolution at a hearing. A hearing will not be ordered on issues of policy or law. (ii) The factual issue can be resolved by available and specifically identified reliable evidence. A hearing will not be ordered on the basis of mere allegations or denials or general descriptions of positions and contentions. (iii) The evidence described in the request for hearing, if established at hearing, would be adequate to justify resolution of the factual issue in the way sought by the applicant. A hearing will not be ordered if the evidence described is insufficient to justify the factual determination sought, even if accurate. (iv) Resolution of the factual issue in the way sought by the applicant is adequate to justify the action requested. A hearing will not be ordered on factual issues that are not determinative with respect to the action requested.

⁵ 50 C.F.R. §679.43(g)(2).

designation.

ANALYSIS

1. Does Appellant qualify for a Bering Sea LLP groundfish license endorsement and an Aleutian Islands LLP brown king crab license endorsement under the unavoidable circumstance provision in 50 C.F.R § 679.4(k)(8)(iv) of the LLP regulations?

To qualify for a Bering Sea LLP groundfish license endorsement, Appellant must establish that the F/V AMERICAN VIKING made at least one documented harvest of Bering Sea groundfish between January 1, 1992, and June 17, 1995.⁶

To qualify for an Aleutian Islands LLP brown king crab license endorsement, Appellant must establish that the F/V AMERICAN VIKING made at least three documented harvests of Aleutian Islands brown king crab between January 1, 1992, and December 31, 1994.⁷

The Appellant and RAM agree that the F/V AMERICAN VIKING did not make the requisite documented harvests to qualify for these endorsements. Nevertheless, Appellant can qualify for the endorsements if it can satisfy all of the requirements under the unavoidable circumstance provision in 50 C.F.R § 679.4(k)(8)(iv) of the LLP regulations.⁸

The North Pacific Fishery Management Council adopted the unavoidable circumstance provision to provide relief to those LLP applicants who were unable to make the requisite documented harvests of LLP groundfish or LLP crab because of an unavoidable circumstance.⁹ One of the requirements to qualify for groundfish and crab license endorsements under the unavoidable circumstance provision is that, *after* the unavoidable circumstance occurred but *before* June 17, 1995, the applicant's qualifying vessel must have made at least one documented harvest of LLP groundfish in the appropriate endorsement area, and at least one documented harvest of LLP crab in the appropriate species/endorsement area.¹⁰

In several decisions, this Office has ruled that the requirement of a documented harvest after an

⁶ 50 C.F.R § 679.4(k)(4)(ii)(B).

⁷ 50 C.F.R § 679.4(k)(5)(ii)(E).

⁸ 50 C.F.R § 679.4(k)(8)(iv).

⁹ The North Pacific Fishery Management Council (Council) adopted the unavoidable circumstances provision at its June 15-18, 1995, meeting. The transcript of the meeting is available on the Administrative Appeals section of the NMFS Alaska region website under "Other Documents," <http://www.fakr.noaa.gov/appeals/default.htm>. The Council's discussion of the unavoidable circumstances provision is located on pages 68-71 and 150-151 of the transcript.

¹⁰ 50 C.F.R. § 679.4(k)(8)(iv)(E).

unavoidable circumstance but before June 17, 1995, must be satisfied.¹¹ Therefore, to qualify for the requested endorsements in this case, the Appellant must prove that the F/V AMERICAN VIKING made at least one documented harvest of Bering Sea groundfish, and at least one documented harvest of Aleutian Islands brown king crab, *after* an unavoidable circumstance but *before* June 17, 1995.

Appellant claims that a May 1994 grounding at Point Estes, Alaska, and a July 1994 collision with the F/V ALASKA TRADER, prevented the F/V AMERICAN VIKING from making the requisite documented harvests during 1994 and 1995 to qualify the Appellant for a Bering Sea LLP groundfish license endorsement and an Aleutian Islands LLP brown king crab license endorsement.¹²

Even if the grounding and collision occurred, neither the NMFS official LLP record nor the evidence produced on appeal show that the F/V AMERICAN VIKING made any documented harvests of Bering Sea groundfish after the grounding but before June 17, 1995, or Aleutian Islands brown king crab after the collision but before June 17, 1995. Therefore, based on the preponderance of evidence, I find that the F/V AMERICAN VIKING did not make at least one documented harvest of Bering Sea groundfish or Aleutian Islands brown king crab *after* the alleged unavoidable circumstances in this case but before June 17, 1995.

Appellant argues that the requirement of a documented harvest after an unavoidable circumstance but before June 17, 1995, conflicts with the Magnuson-Stevens Act (which provides the Federal authority for the LLP regulations).¹³ This Office has ruled in several decisions that it does not have the authority to repeal, change, or modify the language of a duly promulgated Federal regulation.¹⁴ The unavoidable circumstance provision here in question was duly promulgated in accordance with the rule-making requirements of the Federal Administrative Procedures Act.¹⁵ Therefore, I do not decide whether the requirement of a documented harvest after an unavoidable circumstance conflicts with the Magnuson-Stevens Act.

¹¹ See, e.g., *Notorious Partnership*, Appeal No. 03-0015, August 9, 2004; *Bowlden, Inc.*, Appeal No. 02-0037, July 7, 2004; *Paula J. Brogdon*, Appeal No. 00-0011, February 26, 2002; *Ronald J. Tennison*, Appeal No. 00-0012, April 5, 2002; *Little Ann, Inc.*, Appeal No. 01-0022, July 10, 2002.

¹² Affidavit of Gary A. Buholm, December 16, 1999, and letter to RAM from Gary, A. Buholm, may 20, 2000.

¹³ Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801, *et seq.*

¹⁴ See, e.g., *Alaska Trojan Partnership*, Appeal No. 01-0001, October 20, 2003, at 35; *George Ramos*, Appeal No. 94-0008, March 21, 1995, Regional Director's Decision on Review, April 21, 1995, at 4; *Little Ann, Inc.*, Appeal No. 01-0022, July 10, 2002, at 3.

¹⁵ Proposed Rule, 62 Fed. Reg. 43,866 - 43,898 (Aug. 15, 1997); and Final Rule, 63 Fed. Reg. 52,642 - 52,657 (Oct. 1, 1998).

I conclude that the Appellant does not qualify for a Bering Sea LLP groundfish license endorsement, or an Aleutian Islands LLP brown king crab license endorsement, under the unavoidable circumstance provision in 50 C.F.R § 679.4(k)(8)(iv) of the LLP regulations.

2. Does the Appellant’s LLP groundfish license qualify for a catcher/processor vessel designation?

To qualify for a catcher/processor designation on Appellant's LLP groundfish license, the Appellant must establish that the F/V AMERICAN VIKING processed LLP groundfish aboard the vessel between January 1, 1994, and June 17, 1995, or during the last year that was used to qualify the Appellant for an LLP groundfish license endorsement.¹⁶ The language of the LLP regulation for a catcher/processor designation to an LLP groundfish license reads:

(ii) Vessel designations.

(A) Catcher/processor vessel. A license will be assigned a catcher/processor designation if:

(1) For license limitation groundfish, license limitation groundfish were processed on the vessel that qualified for the groundfish license under paragraph (k)(4) of this section during the period January 1, 1994, through June 17, 1995, or in the most recent calendar year of participation during the area endorsement qualifying period specified in paragraph (k)(4)(ii) of this section.

Appellant claims that the F/V AMERICAN VIKING processed LLP groundfish aboard the vessel in 1993, which was the last year the vessel participated in the Aleutian Islands LLP groundfish fishery between January 1, 1992, and June 17, 1995.¹⁷ Appellant’s claim is based on the delivery of two species of “frozen product” of LLP groundfish (dusky rockfish and Atka mackerel) to the M/V OMNISEA on April 18, 1993. “Frozen product” constitutes processed fish under the LLP.¹⁸

The LLP regulations limit evidence of processing of LLP groundfish to Weekly Production Reports or other valid documentation of processing. The language of the evidentiary requirement provides:

¹⁶ 50 C.F.R § 679.4(k)(3)(ii)(A)(1).

¹⁷ See the NMFS official LLP record for the F/V AMERICAN VIKING.

¹⁸ The LLP regulations define “processing” as the preparation of fish or crab to render it suitable for human consumption, industrial purposes, or long-term storage, including but not limited to cooking, canning, smoking, salting, drying, freezing, or rendering into meal or oil, but does not mean icing, bleeding, heading, or gutting.” 50 C.F.R. § 679.2.

(3) For purposes of paragraphs (k)(3)(ii)(A)(1) and (k)(3)(ii)(A)(2) of this section, evidence of processing must be demonstrated by Weekly Production Reports or other valid documentation demonstrating that processing occurred on the vessel during the relevant period.¹⁹

The Federal commercial fishing regulations required the F/V AMERICAN VIKING to submit a Weekly Production Report (WPR) to NMFS for the processing of groundfish in the Bering Sea and Aleutians Islands in 1993.²⁰ The NMFS official LLP record shows that the vessel did not do this, and the Appellant does not challenge that fact. Nevertheless, the Appellant can still qualify for a catcher/processor designation if it can demonstrate with “other valid documentation” that the F/V AMERICAN VIKING processed LLP groundfish in 1993.

The LLP regulations do not define or explain the meaning of the term “other valid documentation,” but the placement of “*other* valid documentation” after the requirement of a WPR suggests that “other valid documentation” is very similar to a WPR.²¹

A WPR is a document that contains an actual recording of processed fish. It provides the processor’s name, the time period of processing, and the name of the species of fish processed by the vessel.²² It is required to be submitted to NMFS by the Tuesday after the weekly reporting period.²³ A WPR is presumptively reliable evidence of processing because it is prepared by someone who would have witnessed or been responsible for recording the processing (in the normal course of business) by a catcher/processor (or mothership) vessel at or near the time of processing. I conclude that the term “other valid documentation” of processing refers to an actual recording of processed fish by a catcher/processor or mothership vessel, written at or near the time of processing, by persons responsible for the reporting or recording of the condition of the fish.

In lieu of a WPR, the Appellant produced several other documents to show that the F/V AMERICAN VIKING processed groundfish in 1993:

(1) Alaska state fish ticket #G92-29008, with the word “VOID” written across its

¹⁹ 50 C.F.R. § 679.4(k)(3)(ii)(A)(3).

²⁰ 50 C.F.R. § 675.5(c)(2). The current citation is 50 C.F.R. § 679.5(i).

²¹ The courts have ruled that “if the intent or meaning of a statute is not clear, the meaning of doubtful words may be determined by their relationship with other associated words or phrases.” *See* 2A Sutherland On Statutes and Statutory Construction, § 47:16 at 265 (Norman Singer, ed. 6th ed., 2000 rev (footnotes omitted).

²² 50 C.F.R. § 679.5(i).

²³ 50 C.F.R. § 679.5(i)(2).

face, which shows that the F/V AMERICAN VIKING delivered Pacific cod, dusky rockfish, and Atka mackeral to the M/V OMNISEA on April 18, 1993;

(2) a daily summary sheet of the M/V OMNISEA for Alaska state fish ticket #G92-29008, with a handwritten inscription which reads that the dusky rockfish and Atka mackeral of the F/V AMERICAN VIKING were “processed to be used in Galley;”

(3) the December 7, 1999, affidavit of Phil Hanson, the vice-president of UniSea Inc., who was the person in charge of the processing operations of the M/V OMNISEA, which states that fish ticket #G92-29008 was voided and re-issued as fish ticket #G92-29015 and that the dusky rockfish and Atka mackeral on fish ticket #G92-29015 were delivered as “frozen processed” fish to the M/V OMNISEA on April 18, 1993;

(4) Alaska state fish ticket #G92-29015, which shows the F/V AMERICAN VIKING harvested Pacific cod, Atka mackeral, and dusky rockfish with jig gear in the Aleutian Islands area during a fishing trip between April 15-18, 1993, and delivered the fish to the M/V OMNISEA on April 18, 1993.

(5) the December 16, 1999, affidavit of Gary Buholm, the skipper of the F/V AMERICAN VIKING, which states that the vessel froze “product” aboard the vessel while fishing for Pacific cod during the early part of a fishing trip in 1993;

(6) a revised daily summary sheet of the M/V OMNISEA for Alaska state fish ticket #G92-29008 (which was reissued as Alaska state fish ticket #G92-29015) that does *not* show that the F/V AMERICAN VIKING delivered processed fish to the M/V OMNISEA;

(7) architectural designs that show the F/V AMERICAN VIKING had equipment aboard the vessel for the freezing of fish in 1993;

(8) the consolidated settlement sheet of Unisea Group Companies for the F/V AMERICAN VIKING, which shows the vessel paid for refrigeration equipment on April 9, 1993, just prior to departure on its fishing trip between April 15-18, 1993, for LLP groundfish; and

(9) a February 1, 1991, memo from F/V AMERICAN VIKING’s skipper, Gary Buholm, to Phil Hansen, which reads: “The American Viking now has approximately 2400 cu. ft. of freezer space in one of its existing fish holds. ... We now have on board limited freezing access that could greatly enhance the cod fish trip longevity when fishing out in one of the westerly areas of the Aleutians. The whole industry has been looking at this for a long time, and the American Viking without any more equipment, can enter this fishery with very little time or expense.”

The fish tickets, and a consolidated settlement sheet, show that the F/V AMERICAN VIKING made deliveries of Atka mackeral, Pacific cod, and dusky mackeral, but they do not show that the vessel processed any fish.

The affidavits of the skipper of the F/V AMERICAN VIKING and the person in charge of processing for the M/V OMNISEA state that the F/V AMERICAN VIKING processed groundfish aboard the vessel in 1993, but the affidavits are written several years after the fact, and therefore they are inherently untrustworthy.

It is evident that the F/V AMERICAN VIKING had the capability to freeze fish aboard the vessel, but it is unclear whether the vessel actually did so in this case. If the vessel had processed groundfish aboard the vessel, it likely would have submitted a WPR to NMFS, as required by regulation. But it did not do so.

The daily summary sheet for fish ticket #G92-29008 is the only contemporaneous document that shows the F/V AMERICAN VIKING may have processed groundfish aboard the vessel. However, I have my doubts as to whether the summary sheet is reliable evidence of processing.

First, the summary sheet is for a voided fish ticket, and the revised summary sheet for the reissued fish ticket does *not* show that the F/V AMERICAN VIKING processed any groundfish. Second, the statement in the summary sheet, “processed to be used in Galley,” is ambiguous, and it is unclear from that language whether the F/V AMERICAN VIKING or the “mothership” vessel, the M/V OMNISEA, processed the fish.²⁴ Either vessel could have processed the fish as both are processor vessels. Third, the summary sheet does not provide a space for processed fish, and therefore is not *intrinsically* a processing document. The summary sheet is a photocopy. I requested the original (from Appellant’s attorney) to see if it contained the statement, “processed to be used in the Galley,” but the Appellant did not respond to my request.

Based on the evidence before me, I am not persuaded it is more likely than not that the F/V AMERICAN VIKING processed LLP groundfish aboard the vessel in 1993 or during any other year during the qualifying period. While it is quite possible that the vessel may have processed the fish, the Appellant has not presented convincing documentary evidence that it did so. The Appellant’s claim was tenuous at best. The Appellant’s only claim to processing for the whole time period was based on the freezing of thirty-two dollars worth of fish. The Appellant did not submit a WPR to NMFS for the freezing or processing of fish, as required. If its predecessor (Buholm Fisheries, Inc.) had done so, the Appellant would have qualified for a catcher/processor designation. In lieu of that, the documents that the Appellant relied upon in this case are those that would not necessarily show that a vessel processed fish. The Appellant was unable to satisfy the minimum requirement of at least one document that demonstrates by a preponderance

²⁴ See Mr. Buholm’s affidavit and Phil Hanson’s affidavit in which they both state that the M/V OMNISEA is a fish processing vessel.

that the F/V AMERICAN VIKING processed LLP groundfish aboard the vessel.

Based on my analysis and review of the evidence, the Appellant does not have a WPR, or “other valid documentation” that shows the F/V AMERICAN VIKING processed groundfish between January 1, 1994, through June 17, 1995, or in 1993, which was the last year that was used to qualify the Appellant for an LLP groundfish license endorsement. I find, therefore, that the F/V AMERICAN VIKING did not process LLP groundfish during that time period. Thus, I conclude that the Appellant’s LLP groundfish license does not qualify for a catcher/processor vessel designation.

3. Does the Appellant’s LLP crab license qualify for a catcher/processor vessel designation?

To qualify Appellant's LLP crab license for a catcher/processor designation, Appellant must establish that the F/V AMERICAN VIKING processed LLP crab between January 1, 1994, and December 31, 1994, or during the last year that the vessel was used to qualify the Appellant for an LLP crab license endorsement²⁵ (which in this case was 1994).²⁶

The record on appeal does not contain any documentation – a WPR or “other valid documentation” – that demonstrates the processing of LLP crab by the F/V AMERICAN VIKING in 1994. I find that the F/V AMERICAN VIKING did not process LLP crab in 1994. Therefore, I conclude that the Appellant’s LLP crab license does not qualify for a catcher/processor vessel designation.

Appellant argues that the “disastrous events” of 1994 prevented the F/V AMERICAN VIKING from processing LLP groundfish and LLP crab before June 17, 1995, and that to deny an exemption to Appellant on that basis would conflict with the National Standards for Conservation and Management in section 301(a) of the Magnuson-Stevens Act.²⁷ The Appellant also argues that it will do “fatal harm” to Appellant’s fishing business if it does not qualify for the endorsements and designation sought on appeal.

The LLP regulations do not provide for a financial hardship or unavoidable circumstance exception to the processing requirement for a catcher/processor designation. Nor do the LLP regulations provide a financial hardship exemption for an LLP groundfish or crab license endorsement. As an Administrative Judge, I am bound by the language of the LLP regulations, and I do not have authority to repeal, change, or modify duly promulgated Federal regulations, such as these.

²⁵ 50 C.F.R § 679.4(k)(3)(ii)(A)(2) and 50 C.F.R § 679.4(k)(5)(ii)(B), (C), and (F).

²⁶ The NMFS official LLP record shows that the F/V AMERICAN VIKING made documented harvests of Bristol Bay red king crab in 1993, and St. Matthew blue king crab and Bering Sea/Aleutian Islands *C. opilio* and *C. bairdi* crab in 1994.

²⁷ 16 U.S.C. § 1851(a).

I conclude that the Appellant's LLP groundfish license and LLP crab license cannot qualify for an Aleutian Islands brown king crab endorsement, a Bering Sea groundfish license endorsement, or a catcher/processor designation, based on the alleged disastrous events, financial hardship, or regulatory conflicts with Federal statutes.

FINDINGS OF FACT

1. The F/V AMERICAN VIKING did not make at least one documented harvest of Bering Sea groundfish between January 1, 1992, and June 17, 1995, and it did not make at least three documented harvests of Aleutian Islands brown king crab between January 1, 1992, and December 31, 1994.
2. The F/V AMERICAN VIKING did not make at least one documented harvest of Bering Sea groundfish and Aleutian Islands brown king crab *after* the alleged unavoidable circumstances in this case, but *before* June 17, 1995.
3. Appellant did not produce a WPR or "other valid documentation" that shows the F/V AMERICAN VIKING processed groundfish between January 1, 1994, through June 17, 1995, or in 1993 which was the last year that was used to qualify the Appellant for an LLP groundfish license endorsement.
4. Appellant did not produce a WPR or "other valid documentation" that shows the F/V AMERICAN VIKING processed crab between January 1, 1994, through December 31, 1994, or during the last year that was used to qualify the Appellant for an LLP crab license endorsement (which in this case was 1994).
5. The F/V AMERICAN VIKING did not process LLP groundfish in 1993 or between January 1, 1994, and June 17, 1995; nor did it process LLP crab in 1994.
6. The LLP regulations do not provide for an exception to the requirement that the F/V AMERICAN VIKING must have processed LLP crab and LLP groundfish to qualify Appellant's LLP groundfish license and LLP crab license for a catcher/processor designation.

CONCLUSIONS OF LAW

1. The F/V AMERICAN VIKING did not make the requisite documented harvests to qualify Appellant for a Bering Sea groundfish license endorsement and an Aleutian Islands brown king crab license endorsement.
2. Appellant does not qualify for a Bering Sea groundfish license endorsement and an Aleutian Islands brown king crab license endorsement under the unavoidable circumstance provision in 50 C.F.R § 679.4(k)(8)(iv) of the LLP regulations.
3. The term "other valid documentation" of processing refers to documentation of processed

fish, written at or near the time of processing, by persons responsible for the reporting or recording of the condition of the fish.

4. Appellant's LLP groundfish license and LLP crab license do not qualify for an Aleutian Islands brown kind crab endorsement, a Bering Sea groundfish license endorsement, and a catcher/processor designation

DISPOSITION

The IAD that is the subject of this appeal is AFFIRMED. This Decision takes effect on May 5, 2008, unless by that date the Regional Administrator takes further action pursuant to 50 C.F.R. §679.43(o).

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, April 14, 2008. 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 Administrative Judge, and must be accompanied by a written statement in support of the motion.

Randall J. Moen
Administrative Judge