NATIONAL MARINE FISHERIES SERVICE, ALASKA REGION OFFICE OF ADMINISTRATIVE APPEALS

In re Application of)	Appeal No. 02-0013
BLUE ALEUTIAN LLC, Appellant)	DECISION
)	January 7, 2005

STATEMENT OF THE CASE

The Restricted Access Management (RAM) program issued an Initial Administrative Determination (IAD) on May 28, 2002, that denied Appellant's application for a groundfish license under the North Pacific Groundfish and Crab License Limitation Program (LLP), with endorsements for the Aleutian Islands, Bering Sea, Western Gulf of Alaska, Central Gulf of Alaska, and Southeast Outside District of Alaska, based on the catcher vessel, the F/V BLUE ALEUTIAN.

RAM issued another IAD on October 3, 2002, that determined Appellant could not be issued an LLP groundfish license for the fishing of Pacific cod with pot gear in the Bering Sea and Aleutian Islands (BSAI).

Appellant filed a timely appeal of the IADs. Appellant does not appeal the portion of the IAD that denied its request for an LLP groundfish license endorsed for the Southeast Outside District of Alaska; or the IAD that determined Appellant cannot qualify for an LLP groundfish license for the fishing of Pacific cod with pot gear in the BSAI.

Appellant can file an appeal because the IADs directly and adversely affect its interests. [50 C.F.R. § 679.43(b)] An oral hearing is not necessary in this case because the record contains sufficient information on which to render a decision. [50 C.F.R. §679.42(m)(4)]

ISSUE

Does Appellant qualify for an LLP groundfish license, with endorsements for the Aleutian Islands, Bering Sea, Western Gulf of Alaska, and Central Gulf of Alaska, based on the F/V BLUE ALEUTIAN?

ANALYSIS

To qualify for an LLP groundfish license, with endorsements for the Aleutian Islands, Bering Sea, Western Gulf of Alaska, and Central Gulf of Alaska, Appellant must establish that the F/V BLUE ALEUTIAN made the requisite documented harvests of LLP groundfish during the

applicable general qualifying period $(GQP)^1$ and endorsement qualifying period $(EQP)^2$ specified in the LLP regulations for the endorsements sought by Appellant.

The LLP regulations limit evidence of a "documented harvest" of groundfish to a state catch report, federal catch report, or other valid documentation that indicates the amount of LLP groundfish harvested, the groundfish reporting area, the vessel and gear type used to harvest the groundfish, and the date of harvesting, landing, or reporting.³

The official LLP record of the National Marine Fisheries Service (NMFS) does not show that the F/V BLUE ALEUTIAN made the requisite documented harvests to qualify for an LLP groundfish license with the endorsements sought by Appellant.

Appellant claims that it is unable to obtain the fishing history of the F/V BLUE ALEUTIAN from the vessel's former owner and estate, or the vessel's former captains. Neither NMFS, nor this Office, has authority to disclose the fishing history of the vessel without the written consent of the holder of the commercial fishing permit that harvested the fish. However, this Office does have authority to examine NMFS' records to verify the vessel's fishing history. I did so, and found that the F/V BLUE ALEUTIAN does not have the fishing history to qualify Appellant for an LLP groundfish license and the endorsements sought by Appellant.⁴

Neither the NMFS official LLP record, nor the record on appeal, show that the F/V BLUE ALEUTIAN made the requisite documented harvests of groundfish to qualify Appellant for an LLP groundfish license and the endorsements that Appellant seeks on appeal. Therefore, I conclude that Appellant does not qualify for an LLP groundfish license, with endorsements for the Aleutian Islands, Bering Sea, Western Gulf of Alaska, and Central Gulf of Alaska, based on the fishing history of the F/V BLUE ALEUTIAN.

FINDING OF FACT

The F/V BLUE ALEUTIAN did not make the requisite documented harvests of LLP groundfish to qualify for an LLP groundfish license with the endorsements that Appellant seeks.

¹50 C.F.R. § 679.4(k)(4)(i).

²50 C.F.R. § 679.4(k)(4)(ii).

³50 C.F.R. § 679.4(k)(4).

⁴On December 19, 2000, RAM produced for this Office the fish ticket data of NMFS for the fishing history of the F/V BLUE ALEUTIAN between 1988 and 2000. The fish ticket is marked "confidential" in the record on appeal.

CONCLUSION OF LAW

Appellant does not qualify for an LLP groundfish license, with endorsements for the Aleutian Islands, Bering Sea, Western Gulf of Alaska, and Central Gulf of Alaska, based on the fishing history of the F/V BLUE ALEUTIAN.

DISPOSITION

The IAD that is the subject of this appeal is AFFIRMED. This Decision takes effect February 7, 2005, 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, January 18, 2005. 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.

Randall J. Moen Appeals Officer