# NATIONAL MARINE FISHERIES SERVICE, ALASKA REGION OFFICE OF ADMINISTRATIVE APPEALS

In re Application of	)	Appeal No. 02-0033
DICK JACOBSEN, Appellant	)	DECISION
	)	April 24, 2006
	)	

The Restricted Access Management (RAM) program issued an Initial Administrative Determination (IAD) that designated Mr. Jacobsen's groundfish license for trawl gear (but not for trawl and non-trawl gear) under the North Pacific Groundfish and Crab License Limitation Program (LLP), based on the LLP qualifying vessel, the F/V MS INGRID.

Mr. Jacobsen filed a timely appeal of the IAD. He can file an appeal because the IAD directly and adversely affects his interests.<sup>1</sup> An oral hearing is not necessary because the record contains sufficient information on which to reach a final decision.<sup>2</sup>

### **ISSUE**

Does Mr. Jacobsen's LLP groundfish license qualify to be designated for trawl and non-trawl gear, based on the fishing history of the F/V MS INGRID?

## **ANALYSIS**

On September 24, 2001, the National Marine Fisheries Service (NMFS) published a new LLP regulation that requires an applicant's LLP groundfish license to be designated with one of three gear types: trawl gear, trawl and non-trawl gear, or non-trawl gear.<sup>3</sup>

To qualify an LLP groundfish license for a trawl and non-trawl gear designation, the vessel that qualified the applicant for the license (known as the "qualifying vessel") must have harvested LLP groundfish or crab with trawl and non-trawl gear between January 1, 1988, and June 17, 1995. The applicable LLP regulation reads in relevant part:

(B) *Trawl/non-trawl*. A license will be assigned a trawl/non-trawl gear designation if trawl and non-trawl gear were used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988, through June 17,

<sup>&</sup>lt;sup>1</sup>50 C.F.R § 679.43(b).

<sup>&</sup>lt;sup>2</sup>50 C.F.R. § 679.42(m)(4).

<sup>&</sup>lt;sup>3</sup>66 Fed. Reg. 48,813-48,822 (September 24, 2001).

The administrative record shows that the vessel that qualified Mr. Jacobsen for his LLP groundfish license (LLG1427) is the F/V MS INGRID (ADFG 25187; USCG 563238). The record also shows that the vessel harvested LLP groundfish or crab between January 1, 1988, and June 17, 1995, but only with trawl gear.

On appeal, Mr. Jacobsen produced two fish tickets to show that the F/V MS INGRID harvested Pacific cod with non-trawl gear between January 1, 1988, and June 17, 1995. Both fish tickets show that the vessel harvested Pacific cod with non-trawl gear, but the fish tickets do not show that the fish were harvested or landed between January 1, 1988, and June 17, 1995. The first fish ticket (G99016805) does not show the date of the harvest or landing of the fish, but it does show that the buyer received the fish on March 5, 2000. The second fish ticket (G99016597) also does not show the date of the harvest or landing of the fish, but it does show that the F/V MS INGRID began fishing Pacific cod on March 12, 2000, and that the buyer received the fish the following day, March 13, 2000. I find, by a preponderance of the evidence in the record, that neither of the fish tickets shows that the F/V MS INGRID harvested groundfish with non-trawl gear between January 1, 1988, and June 17, 1995.

Mr. Jacobsen did not produce any other proof to show that the F/V MS INGRID harvested LLP groundfish or crab with non-trawl gear between January 1, 1988, and June 17, 1995. As a result, I conclude that Mr. Jacobsen's LLP groundfish license does not qualify to be designated for trawl and non-trawl gear, based on the fishing history of the F/V MS INGRID.

#### FINDING OF FACT

The F/V MS INGRID did not harvest LLP groundfish or crab with non-trawl gear between January 1, 1988, and June 17, 1995.

## CONCLUSION OF LAW

Mr. Jacobsen's LLP groundfish license does not qualify to be designated for trawl and non-trawl gear, based on the fishing history of the F/V MS INGRID.

### DISPOSITION

The IAD that is the subject of this appeal is AFFIRMED. This Decision takes effect May 24, 2006, unless by that date the Regional Administrator takes further action under 50 C.F.R. § 679.43(o).

The Appellant or RAM may submit a Motion for Reconsideration, but it must be received by this

<sup>&</sup>lt;sup>4</sup>50 C.F.R. § 679.4(k)(3)(iv)(B).

Office not later than 4:30 p.m., Alaska time, on the tenth day after this Decision, May 1, 2006.
A Motion for Reconsideration must be in writing, must specify one or more material matters of
fact or law that the Administrative Judge overlooked or misunderstood, and must be
accompanied by a written statement in support of the motion.

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Randall J. Moen
Administrative Judge