

NATIONAL MARINE FISHERIES SERVICE, ALASKA REGION
OFFICE OF ADMINISTRATIVE APPEALS

In re Application of)	Appeal No. 95-0036
)	
JOHN J. ASZMUS,)	DECISION
Appellant)	
_____)	January 23, 1996

STATEMENT OF THE CASE

Appellant John Aszmus filed a timely appeal of an Initial Administrative Determination [IAD] issued by the Restricted Access Management Division [Division] on March 20, 1995. The Division denied his application for Quota Share [QS] on the grounds that he did not own a vessel that made legal landings of halibut or sablefish in a QS qualifying year: 1988, 1989, or 1990. The appeal was timely filed, and adequately shows that Appellant's interests to be directly and adversely affected. No hearing was held concerning the appeal, as the relevant facts are not in dispute.

ISSUE

Did Appellant own a vessel that had legal landings of halibut or sablefish in a QS qualifying year?

BACKGROUND

On May 9, 1994, the Division received a request for an application [RFA] for halibut QS from Appellant, claiming 50 percent ownership with Paul S. Johnson (via a dissolved partnership)¹ of the vessel F/V TU MAC. On October 24, 1994, the Division sent Appellant a QS Data Summary indicating that he was "currently not eligible" for QS. After receiving no further word from Appellant, the Division officially denied his request for QS on March 20, 1995. On May 3, 1995, this office received an appeal from Appellant, claiming that he and his partner, Paul S. Johnson had owned the F/V TU MAC since 1982, and had made legal landings of halibut from that vessel in years 1984 through 1988. With his appeal, Appellant submitted a U.S. Coast Guard abstract of title, dated November 1, 1994, confirming that Appellant and Paul S. Johnson each held a 50 percent ownership of the F/V TU MAC from 1982. The Division's official record shows legal landings were made from the F/V TU MAC during a qualifying year, 1988, and that Paul S. Johnson did not submit an RFA or application for QS.

DISCUSSION

¹Appellant did not give a date of the dissolved partnership in his RFA for QS.

By law, a person who owns a vessel with legal landings in a QS qualifying year may receive QS.² Furthermore, a U.S. Coast Guard abstract of title is considered sufficient proof of vessel ownership.³ The U.S. Coast Guard abstract of title that the Appellant submitted shows that he held a 50 percent ownership interest in the F/V TU MAC from July 22, 1982, until at least November 1, 1994, the date of the abstract. Given that the Division's official record shows that legal landings of halibut were made from the F/V TU MAC in 1988, and that Appellant was an owner of the F/V TU MAC at that time, I find that he therefore qualifies for QS.

FINDING OF FACT

The Appellant held a 50 percent ownership interest in the F/V TU MAC from July 22, 1982, until at least November 1, 1994.

CONCLUSION OF LAW

The Appellant is a "qualified person" under 50 C.F.R. § 676.20(a)(1).

DISPOSITION AND ORDER

The Division's Initial Administrative Determination denying Appellant's application for QS because he did not submit proof of ownership of a vessel with legal landings is VACATED. The Division is ORDERED to process Appellant's application for QS in accordance with this decision. This decision takes effect on February 22, 1996, unless by that date the Regional Director orders review of the decision.

In order to ensure that QS and Individual Fishing Quota [IFQ] is issued to the Appellant for the 1996 season, I recommend that the Regional Director expedite review of this decision and, if there is no substantial disagreement with it, promptly affirm the decision and thereby give it an immediate effective date.

Randall J. Moen
Appeals Officer

²See 50 C.F.R. 676.20(a)(1).

³See 50 C.F.R. 676.20(a)(1)(ii). Under this regulation, a U.S. Coast Guard abstract of title is the best evidence of vessel ownership.