

NATIONAL MARINE FISHERIES SERVICE, ALASKA REGION
OFFICE OF ADMINISTRATIVE APPEALS

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| In re Application of |) | Appeal No. 97-0007 |
| |) | |
| ROBERT EARL TICE & |) | |
| ERIC PETERSON |) | DECISION |
| F/V DONNA J |) | |
| ADF&G # 36126 |) | |
| Appellants |) | December 3, 1999 |
| _____ |) | |

STATEMENT OF THE CASE

Three parties (Brian and Donald Rudolph, Eric and Stephanie Peterson, and Robert and Candace Tice) filed separate applications for a Vessel Moratorium Qualification and Permit, based on the ownership of the F/V DONNA J. The F/V DONNA J is an “original qualifying vessel”¹ under the Vessel Moratorium Program on Groundfish and Crab.

The Restricted Access Management (RAM) Program² determined in an Initial Administrative Determination (IAD), dated July 26, 1996, that the parties did not have sufficient evidence of ownership of the vessel. RAM invited the parties to submit a copy of an abstract of title to determine the current ownership of the F/V DONNA J. RAM issued an interim Vessel Moratorium Permit for the F/V DONNA J to the parties, pending the outcome of a request for reconsideration of the IAD.

The Tices and the Petersons requested RAM to reconsider the IAD. In support of their request, the Tices submitted

- (1) a contract of sale for the F/V DONNA J, dated March 4, 1996, signed by the Petersons, as sellers, and the Tices, as buyers, of the vessel;
 - (2) a U.S. Coast Guard abstract of title for the F/V DONNA J, dated March 15, 1996, that showed the Petersons, as grantors, and the Tices, as grantees, of the vessel;
- and

¹An “original qualifying vessel” is a vessel that made a legal landing of moratorium crab or moratorium groundfish during the moratorium qualifying period of January 1, 1988, through February 9, 1992.

²The Restricted Access Management Division was renamed Restricted Access Management Program, effective September 28, 1997. [NOAA Circular 97-09, 10 Sep 97].

(3) a U.S. Coast Guard Certificate of Documentation for the F/V DONNA J, dated April 9, 1996, that showed the Tices as owners of the vessel.

The Petersons submitted

(1) a U.S. Coast Guard abstract of title for the F/V DONNA J, dated May 28, 1993, that showed the Petersons as the owners of the vessel;

(2) a bill of sale for the F/V DONNA J, dated March 6, 1997, signed by the Tices, as sellers, and the Petersons, as buyers, of the vessel; and

(3) a U.S. Coast Guard Certificate of Documentation for the F/V DONNA J, dated March 20, 1997, that showed Mr. Peterson as the “managing” owner of the vessel.

Although requested to do so by RAM, the Rudolphs did not submit additional evidence of vessel ownership, nor did they request reconsideration of the IAD. The only evidence in the record of their ownership of the F/V DONNA J is a contract of sale, dated October 30, 1995, between the Petersons, as sellers, and the Rudolphs, as buyers, of the vessel.

On May 14, 1997, RAM issued an IAD on Reconsideration that affirmed the IAD, after determining that the evidence produced by Mr. Tice and Mr. Peterson was insufficient evidence of vessel ownership. RAM referred this case to this Office for filing as an appeal.

On appeal, Mr. Peterson acknowledges that he no longer owns the F/V DONNA J, having sold it to Mr. George Larson, approximately three years ago.³ The U.S. Coast Guard abstract of title for the F/V DONNA J, dated December 3, 1999, confirms Mr. Larson’s ownership of the vessel.

Because the record contains sufficient information on which to reach a final decision, and because there is no genuine and substantial issue of adjudicative fact for resolution, no hearing was ordered. 50 C.F.R. § 679.43.

ISSUE

Are any of the parties in this appeal entitled to a Vessel Moratorium Permit as the current owners of the F/V DONNA J?

PRINCIPLES OF LAW

³See, the memo to the file, dated December 1, 1999.

To obtain a moratorium permit for a vessel under the Vessel Moratorium Program, a person must be the current owner of the vessel. 50 C.F.R. § 679.4(c)(6)(ii) and (ix).

DISCUSSION

The documents produced for the record show that the F/V DONNA J was at various times owned by all the parties mentioned in this appeal, and that while the documents show that Mr. Peterson is the most recent owner, he admits that he is no longer the current owner of the vessel, having sold the vessel to Mr. George Larson, who is not a party in this appeal. The U.S. Coast Guard abstract of title confirms that the current owner of the F/V DONNA J is Mr. Larson.

In light of this, I find the weight of evidence shows that none of the parties in this appeal (that filed applications for a Vessel Moratorium Qualification and Permit) are the current owners of the F/V DONNA J. Therefore, I conclude that none of the parties is entitled to a Vessel Moratorium Permit for the vessel.

FINDING OF FACT

None of the parties in this appeal (that filed applications for a Vessel Moratorium Qualification and Permit) is the current owner of the F/V DONNA J.

CONCLUSION OF LAW

None of the parties in this appeal is entitled to a Vessel Moratorium Permit for the F/V DONNA J.

DISPOSITION

The IAD on Reconsideration that is the subject of this appeal is AFFIRMED. This Decision takes effect on January 3, 2000, unless by that date the Regional Administrator orders the review of the decision.

Any party, including 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 December 13, 1999, the tenth day after the date of this Decision. 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 or points and authorities in support of the motion. A timely Motion for Reconsideration will result in a stay of the effective date of the decision, pending a ruling on the

motion or the issuance of a Decision on Reconsideration.

Randall J. Moen
Appeals Officer