

Council Discussion on Motion 3, 4, 5

File: 12/08 AM2

Time: 00:50:12 – 1:37:00

File: 12/08 PM1

Time: 00:00:00-00:23:00

Motion # 3: Move to adopt as the Council's Preliminary Preferred Alternative, the following:

A.2.1 Initial Allocation

Shoreside Whiting: 20% Processors; 80% Harvesters (absent a co-op system)

Definition of Processor: Option 1: attribute history to the receiver reported on the fish ticket

Shoreside Non-whiting: 20% Processors; 80% Harvesters

Definition of Processor: Option 1: attribute history to the receiver reported on the fish ticket

Phil Anderson (12/08 AM2 - 50:12): *Reiterates Motion #3 verbatim*

Seconded by Dale Myer

Phil Anderson (12/08 AM2 – 51:25): *On his thoughts and rationale for proposing this preliminary preferred alternative...*

“Well, this is obviously one of the most difficult ones. I have spent a lot of time thinking about this. I’ve had a lot of people talk to me about it. I’ve talked to some people that know more about the shoreside processor whiting industry than I do. And I am convinced that, absent some portion of quota shares going to processors, we’re going to put processors at a relatively high degree of risk.

“And when I think about how we’re treating processors in the at-sea sector, where we’re closing classes, they’ve been able to work out co-ops with their catcher vessels with a high degree of certainty and stability. And I look to the shore and the processors there with 100% of the quota shares going to harvesters – and leaving companies that have invested significant amounts of money into providing those services to harvesters – I don’t think that represents the type of finding a balance in a manner that there’s no big winners and no big losers.

“I will be the first to admit that trying to decide on the appropriate percentages is a difficult one. We’ve had options that go up to 50% for shoreside processors. I don’t think that would represent a balance of power. So I think 20% would represent an appropriate amount.

“It took me a lot longer to get to that point on the non-whiting part of the equation. But I have to say that the testimony I heard yesterday from smaller processors up and down the coast that testified in front of us – in addition to those associated with large companies – was compelling to me to believe that if all of the quota shares went to harvesters – that what I believe is a disparity in the balance of power now – I believe on the side of the processors would shift it in the opposite direction.

“I’m looking to find a balance of power not so much in the marketplace but in the relationships between those in the processing industry and those in the harvesting sector. This still leaves 80% of the quota shares in the harvesters control, depending on what we do with the adaptive management piece.

“Those are some of my thoughts and rationale for proposing this to the council as a preliminary preferred alternative.”

Frank Lockhart (12/08 AM2 – 55:30): *on his confusion about how Motion #3 relates to Motion #5...*

“Question. I know the way you’ve set this up, and staging it out. And here’s one of the awkward things I’m not quite sure how this relates to Motion # 5, where if you look at the bolded and underlined ‘Shoreside Processors – Whiting: NO bycatch allocation; whiting allocation only,’ I don’t quite understand how that relates to this.”

Phil Anderson (12/08 AM2 – 56:00): *on how Motion #3 relates to Motion #5, in response to Frank’s confusion...*

“Sure. Well, first of all, dependant on the outcome of this decision, if there is a decision not to provide any quota share in the whiting sector to processors then you won’t have to worry about the shaded area in Motion #5.

“And, we were actually just having a fairly lively conversation about this. I think the issue here is, and we’ll have to sort this out in the analysis, what we’re talking about here is a balance of power relative to the whiting resource and the bycatch that is associated with it.

“Depending on whether or not there ends up being a co-op or not, you might have – if there was a co-op that the bycatch amount in which case there would be four sectors – the bycatch that went to that sector could be decided amongst the members of the co-op. In this case, if there isn’t a co-op, the quota shares of the bycatch species would go to the harvesters.

“And we talked about how then the needed bycatch species that would go with the 20%, how is that provided for. And I don’t have a nice clear answer to that yet. I hope that would come out in the analysis.

“Again, whether or not we look at the bycatch quantities by reason – as some of Merick’s analyst suggests – there is verbal difference between what species come out as bycatch in the north versus the south. You’d want to be able to match that up with where that 20% was being taken. I don’t have a nice, clear-cut answer for you. But my intent was for the initial allocation in the shoreside whiting piece, it would pertain to whiting, and through the analysis process, we would figure out how the bycatch amount that would match with that 20% would be dealt with.”

Frank Lockhart (12/08 AM2 – 59:10):

“One of the things that I would be interested in is to have an opportunity to provide input to the analysts to help us understand and provide some insight on this issue. Do we have to provide guidance to the analysts now? Or provide guidance at a later time?”

Donald McIsaac:

“I think the point of the analysis is to be comprehensive as possible for any questions the council would like us to investigate. So if you would like to highlight that now, I think that would be appropriate... If there are other ones, and some on your staff are already on analytical teams that [cover things that have not] come up at the council table, that would be useful for the council to consider... I think that would be useful.”

Frank Lockhart (12/08 AM2 – 1:00:00):

“I would like to wait till the end to provide some comments so that I can talk to my staff during lunch.”

Rod Moore:

“Could you explain why you chose option 1 for the definition of processor.”

Phil Anderson:

“Let me look at what Option 2 is...” <long pause>

Rod Moore:

“Option three is even better.” <sarcastic>

Phil Anderson (12/08 AM2 – 1:02:02):

“The difference between one and three is if there is an agreement to – through an appeals process...” <long pause>

Rod Moore:

“Perhaps if I could explain the reason for my question. We have discussed several times how you define a processor based on how you issue a fish ticket. In any fisheries you will have an individual who will purchase the first landing of fish – essentially be the first receiver – and under state law, [that individual] will be required to issue the fish ticket. But the actual processing, the individual who receives the fish and receives the fish ticket simply acts as a dock and hoist, processing occurs at another location, where the fish ticket isn’t issued, but that is the actual processing that goes on.

“What people had talked about as we went through this was, ‘Well, it was really simple to track the fish ticket as the first receiver but that individual isn’t necessarily the processor so how do you account for the individual who’s actually doing the processing.’ Which as I recall – and Mr. Hansen

may remember better than I because you were at all the TIC committee meeting and I wasn't that – was how option three eventually came about where you have a potentially discrepancy between the person who's running the dock and the person who's actually sorting the fish. You have some way to sort it out. “That's why I was wondering why you chose option 1.”

Phil Anderson (12/08 AM2 – 1:03:54):

“I chose Option 1 because it's the only method that I know of to track with evidence where that product came to shore. I don't have any – I'm not aware of any records that we would have that would help us in attributing the history to another entity that product was trucked to or shipped to, or the actual cutting of the fish. I know a lot of that takes place... <long pause>

“So that's why I chose option 1. I'm looking at Option 3 here, and it looks like if two parties agree, I don't know if I like the agency appeal process part of that – of course that's Frank – I don't know... I guess I wouldn't oppose adding Option 3, but I'm hesitant to replace Option 1 with it.”

Rod Moore:

“I guess Mr. Chairman, I have a motion to amend Mr. Anderson's motion for the definition of processor under shore-side whiting and shore-side non-whiting – that we look at both option 1 and Option 3 as a possible definition to be sorted out in our final action in November.”

***Rod Moore submits amendment.
It's seconded.***

Aileen¹ (12/08 AM2 – 1:05:55):

“Just a couple questions so that I understand this. The goal of this is that it may be initially issued the default is you issue it to whoever has a fish ticket, but then if that person that agrees with the actual processor that it was [processor] then it could be issued to him if there are appropriate documents, or if they don't agree, the actual processor would have to come into the agency with documentation demonstrating that [processor] actually processed those fish so that if this were to happen, we would have to have some sort of standards. And it's not so much about who deserves it but who is the one who actually processes the fish. So we need standards and that would have to be discussed between now and November.”

¹ Johanna, I'm not sure who it was that said this. Don Hansen called out her name and said Aileen. My guess is that it was either an analyst or whoever was in charge of keeping the record.

Rod Moore:

“Just to give you an example... There are several companies in California that purchase fish across the dock in Bodega. And the entity issuing the fish ticket is whoever runs the dock down there. The fish are then trucked to processing plants in San Francisco and several other places. There is actually a California transportation ticket that has to accompany the shipment. There are production records in the processing plant about receipt of the fish – we have in the whole bank of the enforcement stuff some sort of production reports. So we’re going to be having those sorts of things. There is a lot of beta tracking that goes on beyond the fish ticket. A lot of things to flesh out to provide those kind of standards.”

Donald McIsaac:

“You had indicated these to be options to be looked at as a matter of a dual preferred alternative.”

Rod Moore:

“I would like to make Option 3 co-equal with Option 1.”

***Vote to add option three as co-equal preferred alternatives.
Amendment passes.***

Marija Vojkovich:

“I’d like to move for a substitute motion: ‘Simply no allocation of shares to processors.’ While this is an action indicates preferred alternative and will get worked on from now until November, I don’t think that any new data has come out. There have been people’s opinions and personal experiences and I appreciate that.

“I don’t think that the premises that I first made this motion at the GAC have changed nor has any new information come out that makes me see this as a different way for us to go. All the reasons for the GAC report are still valid – there may be some arguing there – the document the alternatives document appendices on competitiveness are still valid.

“And I think that there’s been some buying of permits by processors that we have recorded, and we know there have been some additional permit transactions that have taken place in the past that are not recorded in the recent documents that we have. And I think that processors in general are going to be getting quota shares for the vessel permits they own. And I think that council should, well, I’ll stop there.”

Gordon Williams (12/08 AM2 – 1:13:55):

“I will be brief. I agree with Maria that, in my opinion, the time we talked about this at the GAC, I’ve spent a lot of time thinking about this – spent a lot of time talking to folks. I guess, fundamentally, I don’t think this will cause an imbalance of power. I believe in my own mind – at least in the Oregon case – a great deal of the consolidation is going to take place in the processing side of things has already occurred. So I don’t think it is necessary to utilize this tool to adjust that issue.

“Fundamentally, I believe this is a harvester program so that is why I’m where I’m at.”

Marija Vojkovich:

“I did forget one thing. I do want to mention that I’m concerned about community issues and stability and the need to alleviate as much as we can that kind of shift – although we recognize that it will happen, even as hard as we try to stabilize communities.

“I’m not interested in using that initial allocation to processors to further that community stability. I think that there are other options available in this packaged that will help us do that without this allocation.”

David Ortman (12/08 AM2 – 01:16:33):

“A long time ago this morning, Phil laid out his rationale for [Main Motion]. I think he did a real good job describing how he got to that point – and that is how to find the middle ground. If not, [it might not] make everybody completely happy on either side, but might be something that would keep the program moving and, perhaps, be accepted by processors and harvester.

“We heard a lot of testimony regarding community stability – and a lot of good testimony in that regard. And I noticed in some old literature that I have just for California in the 20 year period preceding the time – not too long ago – when I graduated from high school, along the coast and throughout the delta, there were 270 ports and or receiving stations. Now you can’t even fill the screen with significant ports on the entire west coast. That’s rather pitiful.

“The remaining ports that we do have, we do need to give them any consideration possible in order to help them survive. As Maria said, there’s probably not enough science to back up the rationale for that, but I think in the interim between now and November, maybe some of that can come forward.

“I know that dropping from 270 ports to a handful is not fishery related— by and large changes in demographics, societal changes, and urbanization. But we owe it to the region to do whatever we can to make sure we don’t add to the loss of those places.”

Phil Anderson:

“This is one of those times when it’s probably too late to change anybody’s mind. But it was suggested to my coworker while back that I just didn’t get it. That I just didn’t understand the issue associated with balance of power and how it would change if there were no processor shares. And she defended me and said, ‘Phil really does get it, but just happens not to agree with you.’

“I think that swayed me in this, and what brought me to the belief that we should have some portion of the quota shares going to processors is this: We’ve had this for a long time – a two-month cumulative limits. Each boat has a trip limit that they can go about and catch, if they don’t catch in two months, they don’t get another chance at it. And the processors, from my perspective, have had more power than is appropriate. The boats realistically only have this window of time period to get this catch in and the processor can dictate when and how much they can deliver. Sometimes they want it all sometimes they don’t, so I don’t like the current system. I don’t think there is a balance of power and we need to change it. But, conversely, if the harvester has all the quota shares, they have 12 months to deliver it in. They can decide when where and they have to work with processors to be sure, but it’s going to put them in a position that is much more similar to the processors today – which I find unfair.

“And it’s going to <long pause> the idea of rents <another pause> I’ve had a hard time getting a handle on that. The harvesters are going to be placed in a much different position in how they have power over the processors, and it’s going to change a lot. Changing it is good. Changing it as much as no quota share to processors goes too far.

“So, there are the issues that Mr. Ortman just referenced, which is certainly part of my rationale: Seeking to find a better balance that we have today but not go so far that we have the same problems with processors that harvesters have today.”

Mark Cedergreen (12/08 AM2 – 01:24:27):

“I agree with both of the previous speakers. One major concern I have – previously living in a coastal port for 52 years – is that there is a lot of fishing industry in that port and we’re watching infrastructure disappear. And I don’t think we could go any further down than we are now without

jeopardizing a lot of folks. I think a lot of this proposal is a good balance. It's a good option to analyze, so I'm going to support the main motion."

Kathy Fosmark:

"Coming from the fisherman's world and from the coastal areas that have had to grapple with the things we've heard about today and yesterday, I have watched changes in the industry to where fishermen have difficulty, and there are some cases where permits are held by so many entities and fishermen have to cut the pie in so many ways. And in our area, we've lost a lot of our processors. And the fishermen in our area are very concerned that they need to have control of the fish in their fishery. And if they are healthy, then the processors will get the chance to hold the shares that don't actually go out and participate in the industry can in fact gain money from that. And they haven't actually participated in the industry in catching those fish.

"I think this is balancing the power and letting them have control of their quota shares. I'm going to support Maria's motion."

Vote on Maria's motion. (12/08 AM2 1:27:10)

Motion does not pass.

Back to main motion

David Hanson (12/08 AM2 – 01:29:41):

"Discussion on main motion. I do believe the council is trying to find a balance in an area where it's difficult to show what the effects are. I think the shore-side whiting is very different from the whiting. Therefore, I'm going to move that shoreside non-whiting should be 10% to processors and 90% to harvesters.

"Yesterday, the staff gave us presentations about vertical integration in the mothership industry. There wasn't much discussion of vertical integration in the shoreside. I believe that the analysis shows that there are 17 permits owned by processing entities. The information we have been given is that more permits have been given since the analysis was done. Because of confidentiality reasons, we could only see the top three. It would be interesting to see the break down of those top three. But I think those top three make up 70%.

"So we have a great deal of consolidation that has already been expressed. I think we need to look at the amount of vertical integration that is out there – I believe that out of those 17 permits, 13% to 17% of active vessels. So there is a substantial amount held there are on the processing side. So 20% plus that would put us at where we are today. So I suggest that we do 10% instead."

Rod Moore (12/08 AM2 – 01:32:05):

“I’m going to oppose the amendment. We talk about permit consolidation. If you look further to Motion 6, what is proposed is, not having grandfather clause. So a whole lot of those permits would have to be divested if there were no grandfather clause. I asked if they owned any vessels. I said no. There has been all sorts of trading going on between processors, ngos, and harvesters since the rather stale control date was in effect <laughing in background>. We all asked several of the witnesses. What’s the right number on the processor side. What we got unanimously was 10% was not enough. What we got on the upper bound was a whole variety of things. So I don’t see where this amendment makes any sense given all the other interlocking things. So, I would have to oppose it.

David Hanson:

“In making this motion, I couldn’t prejudge where subsequent motions would go. And as it was pointed out earlier, there is an amount of linkage between these things. So I don’t know where this is going to go. And as you pointed out earlier, you made one of my points, processors said they don’t own boats means that those boats that are there are consolidated in a small number of processors.”

Rod Moore:

“I believe you made my point Dr. Hansen. That there would be processors who would get no shares under your motion.”

David Hanson:

“No, [they would get] 10% [not nothing].”

Mr. Lockhart:

Explains why he seconded motion but why he intends on abstaining.

Frank Warrens (12/08 AM2 – 1:35:10):

“Following our public comment this morning, I had a very interesting conversation with our visitor from Canada Mr. Brian Mose. I came out and asked him directly, ‘If you were calling the shots on our IFQ program, what percentage of permits would you allocate to our processors.’ He said, ‘20%.’ When I saw Mr. Anderson’s number of 20% this morning, I was quite surprised that coincided with the number that Mr. Mose gave us

– based on his experience up there which is not totally analogous to our experience down here.
I thought that was kind of ironic.”

***Vote on alternative motion.
Motion fails.***

No comment.

***Vote on main motion (1:37:00).
Motion passes.***

Motion # 4: Move to adopt as the Council's Preliminary Preferred Alternative, the following:

A.2.1.2 Recent Participation

Permits – Recent participation not required

Processors – Motherships: 1000 mt or more of groundfish in any two years 1997-03

Processors – Shoreside:

Non-Whiting: Option 2 – 6 mt or more of deliveries from non-whiting groundfish in each of any three years from 1998-2003

Whiting: Option 2 – 1 mt or more of deliveries from whiting trips in each of any two years from 1998-2006

Phil Anderson introduces Motion #4 (12/08 PM1 – 00:00:55)**Phil Anderson (12/08 PM1 – 00:02:00):**

“The non-whiting, there is a table somewhere. <long pause>. There is a table that shows the difference between Option 1... and Option 2 that’s recommended in this motion. It does reduce the number of processors that would be qualified for, especially in California there’s a rather large reduction in the number of processors between the two options... so just to call that to folk’s attention. There’s a reduction in every state.

Comment: I believe that Anderson is indicating that Option 2 reduces the number of processors that would be qualified

“And then for whiting, I’m responding to the significant changes that have occurred in the processing industry since ’03. I heard testimony yesterday from the gentleman representing Ocean Gold, [relating] to their investments in recent years that coincided with, what I understand to be, a fairly significant change in the market what had been largely reliant on surrimy to philic market and their efforts there to structure their plan to meet that new market demand. And as a result, having a number of deliveries between 2003 and 2006, I understand the concern here there was reference to playing by the rules and those types of things. I guess my concern is that we’re going to be eight years out from timeframe when from 2003 till we get this program implemented [and] to have expected everybody to have just treaded water during this time period – and to not have reacted to changes in this product form was being demanded at the marketplace – doesn’t seem to me to be very realistic.

Comment: Ports?

“That’s my rationale... And as you can see, it’s a new motion.”

Steve Williams (12/08 PM1 – 00:05:19): *proposes amendment*

“In the interest of time, I’d like to amend the main motion for whiting, under processor Shoreside Option 2. Amend the motion to go back to the dates 1998 to 2003.”

“My thought process there... from a standpoint of both consistency and from the standpoint that we defined the range of dates from 1998 to 2003, people made choices and decisions. They were certainly on notice, as I understand it, that anything after that 2003 date might be speculative. I’m sensitive to the fact of the staleness of the date, but in this particular case, I believe everybody was full aware of what was occurring here and what the potential outcomes were. From a standpoint of that, staying with the original dates, which meets what most people’s expectations were originally, is the appropriate thing to do.”

Phil Anderson (12/08 PM1 – 00:06:55):

“I appreciate Mr. Williams’s perspective. Just to remind the council, we did use the 2006 when we were addressing the question in Amendment 15. And so this would also coincide with that date, which was the basis for its selection.

Frank Lockhart (12/08 PM1 – 00:07:25):

“I mentioned at the outset I would have to make some decisions for whether to vote or not... And this is one of them. I am going to vote on this one. I think whether, Phil said it’s not fair for people to tread water, [but] I heard enough public testimony throughout this whole process that some people did, from the very beginning this 2003 date has been there, and some people followed that. So, I think changing this date kind of opens up some issues that shouldn’t be opened up. The council has been very consistent on this, started work on this in 2003, and has worked continuously and hard on this. I don’t think leaving the 2003 date is unfair to anyone. So, I will be voting for the amendment.”

***Vote on amendment
Amendment passes.***

***Vote on motion #4.
Motion#4 passes. All yes votes. 0 no votes. 1 abstention (Frank Lockhart).***

Motion # 5: Move to adopt as the Council's Preliminary Preferred Alternative, the following:

A.2.1.3 Allocation Formula

Permits: Option 2 – an equal division of the buyback permits' pool of QS among all qualifying permits plus allocation of the remaining QS based on each permit's history

Non-whiting Overfished Species: Option 2 – use bycatch rates

Whiting Bycatch Species: Option 2 – pro-rata based on whiting allocation

Catcher-Processors: Option 2 – pro-rata based on whiting allocation

Motherships: Option 2 – pro-rata based on whiting allocation

Shoreside Processors - Whiting: No bycatch allocation; whiting allocation only

Shoreside Processors – Non-whiting: For all species other than incidental species allocate QS based on entity's history for the allocation period of 1994-2003 (drop two worst years) and use relative history. For incidental species use same allocation options identified for permits.

Phil Anderson introduces Motion #5 (12/08 PM1 – 00:10:30)

Phil Anderson (12/08 PM1 – 00:12:15):

“...I know there have been some questions about shoreside processors. I’d like to have this analyzed. I think that we may want to have an additional option which would be the same as the whiting bycatch species up there under Option 2. I’d like to look at both of these because I think about the entire pie of bycaught species...This would be where we have one sector – in other words, non-whiting and whiting groundfish trawl would be one sector – if we applied all of the bycatch species pro-rata based on the whiting allocation that went to each vessel, they would end up with more than what they would need to prosecute their individual whiting amounts. That’s why I wanted to look at both of these approaches. I would add, if I could, as a second alternative shoreside processors consistent with option 2 for whiting bycatch species which is pro-rata based on whiting allocation.”

Rod Moore (12/08 PM1 – 00:14:45):

“Just a couple of points, because I am going to support this motion, on this last point that Mr. Anderson brought up, there are some processors who process whiting but don’t process groundfish. Um, so the bycatch issue would still potentially affect them. So appreciate you adding in that second part, Phil, because I think that gives us a more complete view.

“The other issue is one that I have been personally wrestling with all week. And that is on the initial allocation to vessels based on catch history versus catch history versus buy-back permits. Based on public testimony, I have tried to tease out the logic of one side or the other. The best I’ve gotten is that this was a compromise is to get people to support the IQ plan. ON the other hand, we had witnesses who wanted to just do catch history, which has a certain amount of logic – treat everybody equally. And you had others who wanted to do just catch-sharing, which is consistent with things the council has done in the past – you set up criteria for a window or to gain some privilege and if you don’t meet that criteria, too bad. As I say, I’m going to support the motion that still troubles with me. And I’m sure I’m going to continue to wrestle with it between now and November.

Marija Vojkovich (12/08 PM1 – 00:17:00):

“Phil, I have a question about the underlying section Shoreside Processors, Non-Whiting, what exactly is ‘other incidental species.’ What exactly are you referring to there?

Phil Anderson (12/08 PM1 – 00:17:27):

“I think it was in a previous motion, or one to come, where we talked about some of those incidental species that were not going to be allocated – that we’re not going to develop quota-shares for, like overfished species.”

Marija Vojkovich (12/08 PM1 – 00:17:50):

“Then maybe the motion needs to have a little bit of word-smithing, because it talks about same allocation options identified for permits, incidental. If we’re not going to allocate them but just tracking for permit holders. <long pause>”

Phil Anderson (12/08 PM1 – 00:19:05):

“This is what is in our current document on Page 50... Maybe someone who wrote it could explain it, Mr. Seger?”

Mr. Seger explains logic wording it as ‘incidental catch’

Frank Lockhart:

“I apologize I was a little late, so Phil, you may have already said this at the very front. I heard Rod’s explanation at the split allocation. Could you explain, perhaps again, your reasoning for doing catch history and equal division of buy-back history?”

Phil Anderson (12/08 PM1 – 00:21:10):

“Well, I think part of it was there had been a lot of discussion amongst industries in how to do this. I’m not saying there was a consensus but there was a general agreement this was a fair approach. <long pause> There was also some input from the whiting sector that they are participating in a paying back the loan, and the benefits went to the non-whiting sector and the benefits went to the non-whiting sector. And that’s another consideration that the equal sharing of the quota shares would help compensate the fact that they are contributing but didn’t realize the benefits.”

Vote on motion #5.

Motion#5 passes. All yes votes.

