

Report on the Community Fishing Association (CFA) Workshop
Held Monday, February 10, 2014 in Seattle, WA
North Pacific Fishery Management Council

Throughout the early development of a Gulf of Alaska (GOA) Bycatch Management Program, stakeholders have asked the Council to consider design elements that could protect the interests of coastal communities that depend on the groundfish trawl fishery. The Council held a workshop at the site of its February meeting to gain perspective from other U.S. regions on community protection measures that have developed within or alongside allocative quota-based management programs. The goal of the workshop was to further explore what Council action might be required to include community fishing associations (CFA) in a GOA trawl program, and to highlight specific issues on which the Council's early development of explicit objectives could smooth the program implementation process.

While not a comprehensive transcript of the proceedings, this report is intended to capture the major themes of the invited speakers' presentations, and to summarize the discussion that emerged through informal question-and-answer between the presenters, Council members, and members of the public. Panelists from the east and west coasts shared their experiences with developing approaches to preserving historical opportunities and anchoring fishing quota in communities that are affected by groundfish trawl catch share programs. Three representatives of the Cape Cod (MA) Commercial Fishermen's Alliance (CCCFA) and two NMFS staff members from the Greater Atlantic Regional Fisheries Office (formerly NERO) spoke about the New England Fishery Management Council's multispecies groundfish FMP Amendment 16 "sector management" program.¹ Two representatives of the Morro Bay (CA) Community Quota Fund (MBCQF) and a current Pacific Fishery Management Council member addressed the Pacific Council's groundfish FMP Amendment 20 trawl rationalization, individual fishing quota, and cooperative program.²

It is important to note that whatever program is developed for the GOA will be fundamentally different than those in other regions. One major factor that differentiates Alaska is the relatively small number of GOA port communities that are heavily involved in the groundfish trawl fishery. While migration of quota out of one community is certainly possible, Alaska does not have a large number of low volume ports whose hold on trawl sector participation may be a tenuous one. Second, the current regulatory landscape is not the same as it was when the first New England groundfish sectors – analogous to what are thought of as "cooperatives" in the GOA – were first established in 2003, prior to the latest MSA reauthorization. The first New England groundfish sectors developed outside of the current MSA limited access privilege program (LAPP) definitions of Fishing Communities and Regional Fishing Associations. Moreover, permit banks such as the Cape Cod Fisheries Trust (CCFT, or the Trust) – which are crucial to the CCCFA's community sustainability objectives – developed in response to NEFMC Amendment 16, rather than as a part of the program over which the Council had development oversight. Likewise, the

¹ Further information on Amendment 16 sector management is available at:
<https://www.nero.noaa.gov/sfd/sfdmultisector.html>.

² Further information on Amendment 20 groundfish trawl rationalization is available at:
<http://www.pcouncil.org/groundfish/fishery-management-plan/fmp-amendment-20>.

MBCQF developed organically, outside of the groundfish trawl rationalization program designed by the PFMC. MBCQF gained access to quota through a set of licenses that were held and willingly returned to the community by a non-governmental organization. That path is also much different from the direct initial allocation of harvest quota to a community, as envisioned in some of the GOA stakeholder proposals that have been presented to the NPFMC.

Overview of speaker presentations

NMFS Greater Atlantic Regional Fisheries Office

NMFS GARFO staff presented a set of “lessons learned” from their experience implementing the New England Council’s FMP amendment that established groundfish sectors. With the benefit of hindsight, the presenters identified aspects of designing a CFA-like structure that should be considered carefully and early in the action process. These aspects fall into three broad categories: developing criteria for forming a CFA, establishing avenues for and limits on quota acquisition by CFAs, and defining mechanisms for oversight of CFA operations by the Council, the Agency, and community constituents.

NMFS staff identified five points to consider on the front-end of program design when considering the formation of CFAs. First, criteria for membership should be clearly established before any allocation takes place. Specifically, CFA guidelines or regulations should allow for entry and exit from the association in light of changing conditions in the long-term. Second, mechanisms for enforcement of CFA contracts and sustainability plans should be explicit. The association and the Agency should know what must be in contracts, what to do with single “bad actors,” and whether individual entities can be excluded or made to stop fishing. The third point is related, and suggests that CFA members be held jointly and severally liable for the actions of all association members. Fourth, the Agency should be assured that the CFA is adequately representing the views of its broad constituency, and CFA decision making should be transparent – especially in regards to any quota transfers that may occur. Finally, any right of first refusal (ROFR) provisions should be defined before implementation.

Whether or not quota is directly allocated to CFAs, the Council should consider threshold levels for quota control. If there is a direct allocation, NMFS staff underlined the importance of having a full review of the landings that go into an allocation formula, as appeals are often both necessary and costly. Even if CFAs are only aggregating the quota of community members, or acquiring quota on the open market, it is necessary to establish consolidation limits for CFAs, to determine whether they are subject to the same limits as individuals, and to differentiate between allocation caps and acquisition caps.

NMFS staff also spoke to the oversight of CFA operations, noting that these are key issues for the Council and Agency to weigh in on prior to implementation. The highlighted oversight issue was data confidentiality – specifically data used to track landings and review compliance with contracts and community sustainability plans. Depending on how CFAs are structured, the Council may not have access to the landings data of a single “entity.” The Council and the Agency should consider its time and budget capacity to oversee CFAs; roles and responsibilities should be predetermined. The ability to collect and disseminate real-time data, now or in the future, should be considered, and the managing bodies should

have a clear idea of how that data would be used for oversight. If quota transactions can be approved or disapproved by the Agency, criteria for making such determinations should be explicit.

Cape Cod Commercial Fishermen's Alliance

(www.capecodfishermen.org)

Representatives of the CCCFA described the development of their organization, which began as a “sector” (analogous to a voluntary self-organizing cooperative) in the Northeast multispecies groundfish fishery, and now also works with small operation Cape Cod fishermen in a variety of fisheries. The groundfish fishery operates in the manner of a catch share program, though it is not technically classified as a Limited Access Privilege Program (LAPP). CCCFA runs one of 19 sectors in the groundfish fishery, each of which is formed primarily around a shared geography or harvest area. The New England Council’s action allowed for the expansion of the pre-existing sector program in 2010, but does not involve itself with sector operations in a hands-on manner. Rather, sectors formulate an annual operations plan that must be submitted to NMFS and noticed in the Federal Register. The CCCFA sector’s operations plan is developed by its board of directors, which includes members of the fishing community.

The presenters also represented the Cape Cod Fisheries Trust, which holds quota as a “quota bank” and manages that portfolio in an effort to make fishing opportunities Cape Cod community more stable, thus adding to the areas overall resilience. In addition to groundfish quota, the Trust manages quota for the scallop fishery and the Mid-Atlantic surfclam fishery. The Trust leases quota to local small boat fishermen at reduced rates. To be eligible, fishermen must be Cape Cod residents, must employ local crew, must have the owner on board (in most cases), must demonstrate financial need, and also must attend monthly policy and community building meetings. Eventually, local fishermen can leverage the benefit that they derive from accessing quota into expanded opportunities, which will benefit the community more over time. The Trust also aids in quota acquisition on a repayment timeline that is accessible but commensurate with the limited level of certainty on future harvest levels. The Trust receives input on and approval of its plan from a community economic development board, which has a broader membership representing community members beyond the direct fishery participants. Involving other community interests helps the trust avoid conflicts of interest – noting that owning and distributing high-demand quota on an annual basis can be controversial – and also brings into the organization a set of partners who can provide business planning aid to fishermen.

The presenters highlighted the need for a community-based cooperative to have a strategic plan that is flexible and can be responsive to community needs. Groundfish sectors are similar to other cooperatives in that they pool quota for multiple stocks, and prevent fishermen from having to lease a small amount of expensive constraining stock quota to land their catch. However, by working with the Trust, the CCCFA can also work towards a broader set of goals – as defined by the community advisory boards – such as keeping quota available to local fishermen, providing avenues for new entrants or those who did not receive initial allocations, improving business planning, and fostering familiarity with and engagement in the regulatory process.

Morro Bay Community Quota Fund

(www.morrobaycommunityquotafund.org)

Morro Bay, California is a groundfish-dependent community that saw its landings decrease to the point that its fishery was declared a disaster in 2001. The presenters from the community recalled that fishery-supporting businesses were closing down, and marine infrastructure and community stability were in a vulnerable state. A non-governmental organization, The Nature Conservancy (TNC), had purchased the available groundfish trawl permits in the community. The municipality subsequently worked with TNC to put the permits to work under an exempted fishing permit.

The Morro Bay Community Quota Fund (MBCQF) organized as an avenue to help fishermen in the area gain access to quota for the rationalized groundfish trawl fishery, helping to ensure that product would be landed in its port. The presenters noted that, absent other forces, ITQ programs tend to favor economies of scale, and in this case had contributed to groundfish landings flowing to larger operations in other coastal communities. Moreover, individuals in the Morro Bay community who did not receive initial groundfish allocations would probably lack the capital to buy back into the fishery. The Fund makes subsidized quota leases to fishermen, and the savings from the lower lease rate go into an account for the skippers to save and eventually purchase their own quota. The lease fee paid to the Fund goes towards science and marketing, and it is hoped that these investments will increase the value of local groundfish catch in the medium to long term. The community of Monterey, California is currently in the preliminary working group stages of putting together its own quota fund.

In the future, the Fund might have access to some of the 10% of the total quota share pool that was set aside during rationalization as an adaptive management program. However, the ultimate use of the 10% AMP quota remains undecided by the Pacific Council at this time. To date, PFMC has also discussed whether or not a community quota group should be subject to the same quota accumulation limits as any other quota holding entity. No action on accumulation limits have been taken, so the Fund is currently treated as any other license holder in the fishery.

Summary of Q&A Discussion

Stakeholders in attendance, including both Council members and members of the public, asked the panelists questions on a range of topics. The questions elicited greater detail on some elements of the New England and West Coast programs, and reflected the attendees' awareness that any action taken by the North Pacific Council would occur in a regulatory setting that differs somewhat from the presenters' experiences. Eighteen questions and follow-up discussions took place. The topics can be generally categorized in seven groups: avenues and requirements for Council oversight of community quota groups; quota groups' engagement with their broader community; initial quota allocation; access to capital and terms of loans; new entry and crew compensation; bycatch performance; and community protection alternatives that do not involve quota ownership.

A New England sector, like CCCFA, submits an annual operation plan for review by NMFS, which has the ability to approve or deny the plan. The Council may review a draft sector operation plan and comment to the Agency, just as any other member of the public could. Council comments may be given a

high level of credence, but sector activity is ultimately monitored by the Agency. While Council staff may access confidential data in sector reports, Council members are restricted by confidentiality rules. **The Council's opportunity to influence the direction of the sector program was in their creation, not in their annual approval.** The Cape Cod Fisheries Trust is mainly accountable to NMFS, as it is treated like a regular fishing business that must enroll its annual catch entitlement in a sector whose landings and reporting will be reviewed by the Agency. **The Council's opportunity to manage the actions of community quota funds, like MBCQF, is in defining the types of entities that are eligible to hold and/or lease quota, and in setting accumulation limits.** In regards to quota set-asides like the west coast groundfish adaptive management quota, the Council has its opportunity to shape the program on the front-end. Because creating a set-aside is essentially an allocation to one (or more) subgroup of fishery participants, the presenters highlighted the importance of defining what the quota should be used for at the outset. Again, once the adaptive management element of the program is implemented, the majority of oversight responsibilities fall to NMFS.

Community entities that hold quota, like the Trust, have engaged their broader non-fishing community stakeholders through the design of their own accountability structure. The Trust's representative acknowledged that commercial fishermen comprise 75% of its board, thus it would be conflicted in sub-allocating quota to members. As a result, the Trusts board restricts itself to high-level issues, like setting long-term goals and guiding principles. Due diligence on the Trust's quota leasing process is provided by a Community Development Partnership board, which does not include fishermen. **The Trust does not have a "hard-wired" mechanism for input on operation plans by representatives of the local municipalities, but the presenter noted that this is not uncommon for other quota-holding community entities.** The presenters from the west coast said that the MBCQF board of directors is designed to have a broad membership and could have processor representatives on it, though it currently does not.

The presenters were asked whether the relevant Councils considered making initial quota allocations to community groups when the programs were first implemented. The presenters said that allocating quota to communities is one way to keep money and jobs in a locality, but it is not the only way. Noting that the main motivation for a community group to own quota is to mitigate potential negative impacts of a catch share program in a specific locality, **presenters from both regions said that initial allocations were not included because the Councils did not feel that they could predict where these negative impacts might emerge.** Taking preemptive measures in the North Pacific would have to be based on conjecture, at least in part, but it is worth noting that GOA trawl activity is concentrated in relatively fewer coastal communities. Prior to implementation in New England, the fishery had an overcapacity problem; nevertheless, it was not possible to know which vessels would exit the fishery. New England's Council is considering a trailing action on fleet diversity and excessive share limits. The Pacific Council envisions its adaptive management set-aside as a flexible tool to address these issues as they become apparent. **The proportion of quota that is set aside for adaptive management could be based on either historical fishery participation by the community, or based on metrics that reflect what the Council deems to be the best indicators of community stability** – for example, the number of people employed in the community, or the number of processors taking groundfish deliveries. A presenter also noted that,

because annual IFQ levels may rise or fall in the future, setting aside a *percentage* of the fishery could go farther in promoting community stability in some years than in others.

When no initial allocations are made, a community group or a permit bank like the Trust may seek quota on the open market, subject to accumulation limits. **The Trust's first lender was a local private bank, and the quota that the Trust purchased was used to secure the credit line. The Trust currently puts 100% of its leasing revenues towards the retirement of debt and acquiring new quota.** Because it does not make business sense for the Trust to acquire new groundfish quota at present, due to poor stock levels and low annual catch limits, the Trust is exploring alternative uses for its revenue like supporting scientific research. The presenter commented that the market price for quota assets in Alaska's fisheries may be significantly higher than it is in New England, and so accessing sufficient capital through private loans could be more of a challenge.

In regards to the Trust's leasing program, **the organization makes a multi-year commitment to a fisherman, but the actual leasing of poundage (IFQ) is annual.** Lease fees are levied on the annual lease. Making a multi-year commitment helps to provide stability to small fishing operations, but the fact that the Trust's annual fishing privilege floats up and down with TAC levels makes it impossible to guarantee a fisherman a certain number of quota pounds in a future year.

The panel was asked how their organizations go about providing opportunities for new entrants to access the fishery. One panelist stated that a community organization provides a unique venue where "honest conversations" can be had about how to avoid disadvantaging future generations or users who did not receive initial quota allocations. Representatives from both regions pointed out that the stakeholders that are categorized as "new entrants" are often fishermen with experience in the fishery, but who did not qualify for an initial allocation. **The Council's setting of eligibility criteria for receiving an initial allocation is the key factor in defining who the new entrants are.** The Trust's policy is to provide smaller or younger businesses that did not receive an initial allocation with access to more of the Trust's quota. The Trust also earmarks 50% of its scallop quota specifically for lease to new entrants. New entrants start with lease-only access to the Trust's scallop quota, but they can receive assistance in purchasing their own quota through a revolving loan fund. The goal of these initiatives is to support new entrant stakeholders enough so that they can transition away from reliance on the Trust's quota.

When asked about a quota holding community organization's potential effect on crew payment, the Trust said it ensures that its member vessels pay crew a percentage share. It was noted that New England scallop vessels had previously been transitioning from paying percentage shares to a day wage. Panelists from MBCQF said that crew compensation had not been affected by their organization.

The panelists were asked how much their respective programs were designed to manage or reduce bycatch, and how their organizations are working towards those goals. The west coast groundfish trawl program was designed to help manage bycatch of rebuilding groundfish stocks. The MBCQF panelists responded that the ability for vessels to pool the risk of encountering rebuilding species, for which quota is scarce, allows fishermen to prosecute the fishery while limiting the possibility of being closed out of the fishery or having to purchase expensive quota for choke species on the open market. Neither of these

program benefits, however, is unique to the community quota fund. The New England sector program was motivated by high levels of discards under the previous trip limit and days-at-sea management regime. The CCCFA, and other groundfish sectors, pool risk and manage multispecies groundfish quota portfolios like other conventional cooperatives. The Trust actively tracks choke species limits and works with fishermen in real time to ensure that their catch is covered by quota, and that the fishermen do not have to return to port and find leasable quota on the open market. The Trust also allocates a portion of its lease revenues to go toward additional observers and other accountability programs, which is hoped to increase the amount of available catch in the future.

The panelists' perspective on the benefit of community quota management was summed up in describing how their organizations' tools differ from landing requirements and accumulation limits in protecting local interests. The panelists agreed that such top-down measures can be effective, but the community groups add value by helping to build strong businesses within the community. For example, the panelists noted that no regulatory constraints can help individuals raise capital to purchase quota, nor do they help to provide business planning assistance. In some cases, like in California where inputs such as fuel are more expensive, promoting community competitiveness could require focused efforts that the Council may not be able to define and include in a broad action. Therefore, the panelists concluded that community organizations can be the most responsive management body over the life of the program.