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REPRESENTATIVE PAUL SEATON HOUSE DISTRICT 30

The Practicality of Implementing the Optimum Number In the Weathervane Scallop Fishery

There has been discussion regarding the need to extend the vessel limited entry program for weathervane scallops in state waters in order for the Commercial Fisheries Entry Commission to perform an optimum number study and determination for the fishery.

- 1) An optimum number calls for adding or taking away permits in a fishery. It is the mechanism for easing conflicts between two competing clauses in our constitution: the clause of that calls for no exclusive right of fishery, and the clause that allows limited entry.**

Therefore, CFEC would do an optimum number only if the agency determined there was a problem.

What problem does CFEC intend to fix with the weathervane scallop fishery?

- How long has CFEC known about the current level of consolidation?**
- When will CFEC make up their mind that this consolidation is a problem?**

- 2) How many limited entry fisheries are there? (Answer: 65 since 1975)
How many optimum number determinations have been made? (Answer: three)
How many permits have been added or taken away as a result of the optimum number?
(Answer: zero)**
- 3) How does adding permits "deconsolidate" a fishery? (optimum number can only add permits)**
- 4) To make adjustments for consolidation, the only remedy is to add permits to state waters.**

This creates a scallop fishery with three separate permit schemes: state permit only; federal permit only; state/fed combined permits.

That was not the intention of CFEC's original goals when limiting this fishery.

Why is CFEC ok with that? Are the fishermen and communities ok with that? If they are not, and you receive overwhelming negative reaction to it – what other remedy do you have? What course of action does CFEC take? (there are none).

- 5) How does CFEC count permits toward the optimum number? (CFEC statutes lay out the criteria)
 - If a permit has a contract to stay out of the fishery (evidence suggests that is how the co-op works), does it count toward the sum of permits under the optimum number?
- 6) When measuring the economic impacts toward the optimum number, how do you factor in the economic impact of the co-op?
 - If the fishery operates under a co-op and they make contracts to keep boats out of the fishery (which goes on now), couldn't you put many, many boats into the fishery?
- 7) CFEC has repeatedly said that any optimum number is risky because there are strong elements of subjectivity in picking a number, and courts could always second-guess CFEC's judgment. Doesn't that hold true for this fishery as well?

The upshot appears to be that CFEC wants the 5-year extension on the vague promise that they can "fix" this broken fishery. CFEC has trouble telling us exactly what the problem is, or how they will go about fixing it, or what the outcome will be, but they want us to go ahead with "trusting" them to fix it.

CFEC has never, in 35 years, actually effected any real change as a result of an optimum number.

Last month, a CFEC commissioner testified in Senate Resources Committee that CFEC thought the current system was working well. Is the promise of an optimum number a last-ditch effort to salvage this legislation?