

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL MARINE FISHERIES SERVICE
OFFICE OF THE REGIONAL ADMINISTRATOR

In Re Application of)

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Appellant.)

Appeal No. 11-0033

ORDER AFFIRMING
DECISION ON REMAND

REGIONAL ADMINSTRATOR'S REVIEW AND MODIFICATION
OF THE NATIONAL APPEALS OFFICE
DECISION ON REMAND DATED JULY 10, 2012

The National Appeals Office ("NAO") issued a Decision dated October 19, 2011, *In Re Application of* [REDACTED] Appeal No. 11-0033 ("Decision"). The Decision upholds the Initial Administrative Determination dated December 15, 2010, and denies the Appellant's application for a charter halibut permit under both the successor in interest provision and the unavoidable circumstances provision of the Charter Halibut Limited Access Program ("Program") regulations. On January 26, 2012, I issued an Order that affirmed the Decision's findings and conclusions with regard to Appellant's unavoidable circumstances claim, but that remanded to NAO that portion of the Decision concerning Appellant's successor in interest claim. I directed NAO to address the issue of whether Appellant is a successor in interest. After providing Appellant an opportunity to submit additional information on this issue,¹ NAO issued a Decision on Remand dated July 10, 2012. The Decision on Remand supplements the October 19, 2011 Decision and concludes that Appellant is not eligible for a charter halibut permit because he is not a successor in interest to the person from whom he purchased his lodge and fishing vessel [REDACTED].² NAO established an effective date of August 9, 2012, for the Decision on Remand.³ On August 8, 2012, I stayed the effective date of the Decision on Remand until August 24, 2012.

I have considered the entire record on this matter and completed my review of the Decision on Remand. Pursuant to my authority under 50 C.F.R. § 679.43(o)(1), I affirm the July 10, 2012, Decision on Remand as the decision of the agency for Appellant's successor in interest claim. I conclude that NMFS must deny Appellant's application for a charter halibut fishing permit for the reasons set forth in the Decision on Remand.

¹ Decision on Remand at 1.

² Decision on Remand at 3.

³ *Id.*

In accordance with 50 C.F.R. § 679.43(o), this Order takes effect immediately and constitutes final agency action on this matter.

IT IS SO ORDERED.

Date: 8/27/12



[REDACTED]
James W. Balsiger, Ph.D.
Regional Administrator
NOAA Fisheries