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Kahawai and Blue mackerel Limit Exemptions 2024
Fisheries Management
Fisheries New Zealand
FMSubmission@mpi.govt.nz

29 November 2024

Submission: Oppose application by Pelco NZ Ltd to hold quota over aggregation limits for blue mackerel and kahawai (2024)

Submitters:

1. The New Zealand Sport Fishing Council (**NZSFC**) is a recognised national sports organisation with over 37,000 affiliated members from 55 clubs nationwide. The Council has initiated LegaSea to generate widespread awareness and support for the need to restore abundance in our inshore marine environment. Also, to broaden NZSFC involvement in marine management advocacy, research, education and alignment on behalf of our members and LegaSea supporters. www.legasea.co.nz Together we are *'the submitters'*.
2. The submitters are committed to ensuring that sustainability measures and environmental management controls are designed and implemented to achieve the Purpose and Principles of the Fisheries Act 1996, including "maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations..." [s8(2)(a) Fisheries Act 1996].
3. In developing this submission the submitters have considered the previous application by Pelco NZ Limited to exceed the lawful aggregation limits and [our submissions](#) in response to aggregation applications in 2021 and 2016.
4. Our representatives are available to discuss this submission in more detail if required. We look forward to positive outcomes from this process. We would like to be kept informed of future developments. Our contact is Helen Pastor secretary@nzsportfishing.org.nz.

Discussion

5. The submitters **oppose the new application** from Pelco NZ Limited (**Pelco**) to hold 45.993% of all kahawai quota and 55.304% of all EMA quota.
6. Advice of the current application was received from Fisheries New Zealand (**FNZ**) on 30 October, with submissions due by 29 November 2024.
7. The submitters support the principle and use of aggregation limits to constrain the potential for monopolies to become established in the Quota Management System (**QMS**).

8. Allowing monopolies to develop and the consolidation of quota share is inconsistent with our policy to reform existing governance and management of New Zealand's fisheries. The [Rescue Fish policy](#) is designed to avoid market dominance and regulatory capture by, in part, not permitting the aggregation of quota.
9. Despite being a statutory tool, aggregation limits have been steadily eroded over time. Initially, both kahawai and blue mackerel were limited to an aggregation limit of 20% *per stock*. In January 2019 Pelco held 13.5% of *all* blue mackerel quota shares and 11.3% of *all* kahawai quota shares.
10. Pelco currently holds 45% of all blue mackerel quota shares and 35% of all kahawai quota shares, largely due to trading with Sanford Ltd. Pelco now want to increase their shares in blue mackerel and kahawai by 10% and 11% respectively. These quota shares are in a package on-sold to Quota Management Systems Ltd (**QMSL**) in 2019 with a provision to enable Pelco to buy back the package in future.
11. The submitters have concerns that this current process is largely pre-determined given the 2019 buy-back clause in the sale agreement between Pelco and QMSL, the limited consultation documents available, and short submission timeframe.
12. Adding to these concerns is past outcomes. The 'track record' suggests the Ministry (FNZ, MPI, MFish etc) and previous Ministers (David Parker aside) have a history overwhelmingly in favour of granting applications to exceed the aggregation limits. Pelco's 2020 application referred to previous Ministers having approved 90 applications to exceed the aggregation limits for all quota species, and that few, if any, had been declined in their entirety.
13. In 2022 the Minister David Parker declined [Pelco's 2020 application](#) to exceed the aggregation limit. This 2022 decision was a notable exception when compared to previous decisions.
14. We are concerned that if the current Minister, Shane Jones, decides to approve this application it would mean that excessive quota would be held by Pelco who is a large industry operator with a major interest in all pelagic stocks. It is foreseeable this substantial degree of power may constrain and influence the Minister and future Ministers from making future allocation decisions in favour of other sector interests.
15. Pelco's argument for aggregation exemption, including the 'need to increase efficiency through scale and support industry investment' doesn't stack up. They already hold 45% of all blue mackerel quota shares and 35% of all kahawai quota shares. If they cannot operate efficiently and profitably without another 10% in addition to these holdings then maybe the focus ought to be on finding efficiencies in other areas of their operation.
16. To compound matters, the applicants operate a high-volume, low value business model that fails to add any value domestically, and is sold offshore as a bulk commodity for less than \$2 per kilo. This drives down the domestic return to the guys and girls doing the mahi, with reports of some local commercial fishers only earning 20 cents per kilo for landed kahawai. Trading our national taonga, treasure, for such a pittance, while depleting our marine environment, is an insult and ought not to be incentivised by lax aggregation rules.
17. Moreover, there is a growing call to ban purse seining (and bottom trawling) due to the impacts on fish stocks and the environment. The loss of baitfish impacts on endangered species such as birds and mammals, and larger fish that prey on these baitfish. As identified by the Courts, the Minister has a statutory duty to *ensure sustainability*. He/she does this by

“avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment”. The High Court¹ elaborated the meaning of ‘effect’ in the Fisheries Act as follows – the direct or indirect effect of fishing, including any positive, adverse, temporary, permanent, past, present, future and/or cumulative effect”. The effects of decades of purse seining thousands of surface feeding kahawai schools are still being felt today, with few measures in place to mitigate those effects.

18. The harvest strategies and science papers developed in concert by an industry lobby and government agency, Fisheries New Zealand, to support increases in the Total Allowable Commercial Catches for vulnerable fish stocks points to a pre-occupation with maximising commercial catches. Our concern is that any party that has a majority holding in pelagic species that are notoriously difficult to assess would have undue influence on management and allocation decisions.
19. Aggregation of quota in favour of a single industry operator does not address concerns around regulatory capture of MPI, which goes to the issue of undermining public confidence in the administration of the Fisheries Act 1996 and the QMS.

International context

20. In Iceland during the 1990s and early 2000s the owners of Iceland’s Individual Transferable Quota (ITQ) borrowed heavily against the asset to invest in European financial instruments that were producing very high yields. It was a joyride for the lucky few that received their fisheries assets free of charge. These financial instruments rely on ongoing increases in asset value – they are great Ponzi schemes.
21. By the time the 2007-08 global financial crisis (**GFC**) occurred these owners were leveraged to the gunnels, holding orders of magnitude more debt than they could cover interest payments from their fishing operations. As is inescapable in these conditions, the house of cards finally collapsed. The level of debt held by these “cod investors” was enough to destroy the Icelandic economy, causing collapse of their dollar, the kroner.
22. New Zealand overvaluing ITQ shares and enabling excessive quota share aggregation offers a false valuation point for institutions offering credit secured by these shares. Growth for fishing companies will only come from acquisition and all acquisition is funded by debt. FNZ’s current laissez-faire approach to aggregation limits leads to monopolistic actions and increases the national fiscal risk.

¹ The Environmental Law Initiative v Minister for Oceans and Fisheries [2022] NZHC 2969 [11 November 2022].