

Hon David Parker BCom, LLB

Attorney-General

Minister for the Environment

Minister for Oceans and Fisheries

Minister of Revenue

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MIN22-0313

4 August 2022

Karyn van Wijngaarden
Ocean Law New Zealand
PO Box 921 Nelson
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New Zealand

APPLICATION BY PELCO NZ LIMITED

Dear Mrs Wijngaarden

I am writing with respect to the application submitted on behalf of Pelco NZ Limited (Pelco) to hold quota shares for blue mackerel and kahawai in excess of the aggregation limits set out in the Fisheries Act 1996 (the Act). I wish to advise you of my decision to decline consent for all aspects of the application.

I would like to acknowledge the thorough and comprehensive application prepared to support my consideration of this matter. In making my decision, I weighed the statutory considerations within the Act using the information included in the application, the views expressed through tangata whenua engagement and public consultation, and advice provided by Fisheries New Zealand.

Pelco's application suggests that the net effects of granting permission to exceed the aggregation limits are anticipated to be neutral to positive for the kahawai, blue mackerel and associated fisheries. In considering all of the information available to me, I am unconvinced.

As you are aware, aggregation limits for quota are intended to promote competition within fisheries and prevent monopolistic behaviours, as well as ensure opportunities for small-scale fishing operations and new entrants to fisheries.

Having considered the matters set out in section 60(3) of the Act, the effects of market concentration on other quota owners and commercial fishers are of particular concern to me.

I note the analysis provided, using the Four-Firm Concentration Ratios and the Herfindahl-Hirschman Index, assessed the proposed exceeding of aggregation limits as likely to lessen competition in relation to both kahawai and blue mackerel. I acknowledge these assessment tools are aggregated measures and may not reflect some of the practical realities of the fishery and that consolidation of fishing effort (as opposed to quota ownership) may occur anyway. I do not, however, consider that these practicalities negate the potential implications for competition.

In my assessment, enabling further aggregation of quota for these stocks would present a barrier to new entrants and could entrench the current low liquidity in the ACE market. While I acknowledge Pelco's

argument that withholding consent may lead to an increase in ACE prices, I consider changes in ACE availability and pricing reflect normal market dynamics.

Submissions in relation to kahawai indicate there are willing buyers of quota for this stock. The position regarding blue mackerel is less certain, but I recognise demand for quota may be limited in light of the specialised nature of the fishery and the concentration of catching ability within Pelco's operations.

In this respect, I note Pelco states that the impacts of consent on the willingness or ability of others to acquire quota would be minimised, as the quota had previously been held across the Pelco and Sanford operations and was never freely available to the market. However, if quota has not been freely traded due to concentration under two main operators, there is a reasonable basis to expect that consolidation under a single operator will make trading even less likely.

In addition, I recognise that Pelco operates a high-volume low-value export model for kahawai and blue mackerel and that scale is important to its profitability and market penetration. But if scale and associated efficiencies are important to profitable fishing of these species, I am concerned that further quota aggregation for an established operator will present a potential barrier to future entrants seeking to develop and innovate in these fisheries - not only in terms of large-scale purse seine fishing, but also operations using alternative models and methods.

Similarly, while withholding consent may reduce the incentives for investment in pelagic (including skipjack) fisheries by Pelco, granting consent would increase the barriers to investment by others.

Ultimately, I am not convinced that the benefits of granting consent outweigh the potential implications of further quota aggregation for competition and access to the kahawai and blue mackerel fisheries.

In making my decision, I considered whether conditions could be applied (under section 60(2)) to any consent to mitigate the concerns outlined above. I have concluded that to do so would require the imposition of conditions of a nature inconsistent with the reasons advanced for, and potential benefits of, aggregation.

I thank you for submitting the application on behalf of Pelco and ask that you please pass on that I wish them well in their future endeavours.

Yours sincerely

s 9(2)(a)

Hon David Parker
Minister for Oceans and Fisheries