IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

PACIFIC DAWN LLC, et al.,

Plaintiffs,

v.

GARY LOCKE, et al.,

Defendants.

NO. C10-4829 TEH

ORDER FOR SUPPLEMENTAL BRIEFING AND CONTINUING MOTION HEARING

This matter is currently before the Court on the parties' cross-motions for summary judgment. Upon review of the submitted papers, the Court remains unclear on how the fishing history of "B" permits was used in determining the allocations at issue in this case. Defendants state that, "The Council and NMFS . . . consider[ed] the catch history of vessels registered to expired permits as part of the fleet's history (*i.e.*, 'in the denominator') as a method to determine relative participation in each year," Defs.' Mot. for Summ. J. at 18, but the cited "example of calculation of relative history" at C15:*7-*8 does not appear to indicate how any history from "B" permits would be considered. *Id.* The parties shall file a joint supplemental brief on this issue, including a numerical example and setting forth any differences of opinion if necessary, on or before **November 16, 2011.**

IT IS FURTHER ORDERED that the hearing on these motions shall be continued to **December 5, 2011, at 10:00 AM.**

IT IS SO ORDERED.

Dated: 11/03/11

THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT

United States District Court
For the Northern District of California