

UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

IN THE MATTER OF: PESCA AZTECA, S.A. de C.V., Respondent.

Docket No. SW0702652

March 1, 2010

ORDER DENYING PETITION FOR DISCRETIONARY REVIEW

This is a fisheries enforcement matter in which Respondent was charged with a violation of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), 16 U.S.C. §§ 1801-1883. On May 14, 2008, the National Oceanic and Atmospheric Administration (NOAA) issued a Notice of Violation and Assessment (NOVA) to Respondent Pesca Azteca, S.A. de C.V., owner of the F/V AZTECA 1. Respondent was charged with unauthorized foreign fishing within the Exclusive Economic Zone of the United States, in violation of Section 307 of the MSFCMA, 16 U.S.C. § 1857(2)(B).

After a hearing on July 7, 2009, an Administrative Law Judge (ALJ) issued an Initial Decision in this case on October 1, 2009, finding for the Agency and assessing a \$130,000 civil penalty and a five-year permit sanction. Respondent filed a Petition for Discretionary Review on October 30, 2009.

Pursuant to 15 C.F.R. § 904.273, Respondent's petition for discretionary review is denied because Respondent has not demonstrated that the ALJ's Initial Decision warrants further review.

This Order denying discretionary review constitutes the final administrative decision in this matter. The civil penalty and permit sanction imposed by the ALJ will become final on the date this Order is served on Respondent, and they will become effective for the purpose of judicial review on the date of service.



Jane Lubchenco, Ph.D.
Under Secretary of Commerce
for Oceans and Atmosphere

UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

AFFIDAVIT OF SERVICE

I hereby certify that on Monday, March 1, 2010, I served the enclosed Order Denying Petition for Discretionary Review in this proceeding by fax and by Certified U.S. Mail (return receipt requested) on the following parties and individuals:

Cris J. Wenthur, Esq.
Wenthur Law Group LLP
4121 Napier Street
San Diego, California 92110
Fax: (619) 398-9051
Phone: (619) 398-9050

Paul A. Ortiz, Esq.
National Oceanic and Atmospheric Administration
Office of General Counsel (GCSW)
501 W. Ocean Boulevard, Room 4470
Long Beach, California 90802
Fax: (562) 980-4080
Phone: (562) 980-4084

Richard Mannix, Esq.
Assistant General Counsel
National Oceanic and Atmospheric Administration
Office of General Counsel for Enforcement & Litigation
8484 Georgia Avenue, Suite 400
Silver Spring, Maryland 20912
Fax: (301) 427-2211
Phone: (301) 427-2202

Hearing Docket Clerk
United States Coast Guard
ALJ Docketing Center
40 South Gay Street, Room 412
Baltimore, Maryland 21202-4022
Fax: (410) 962-1746
Phone: (410) 962-7434

March 1, 2010
Silver Spring, Maryland



Joel La Bissonniere
Assistant General Counsel
for Ocean Services