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New England Fishery Management Council

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C.M. "Rip" Cunningham, Jr., *Chairman* | Paul J. Howard, *Executive Director*

Draft Amendment 5 to the Herring FMP
Public Hearing Summaries

Rockland, ME
Gloucester, MA
Portsmouth, NH
Fairhaven, MA

*Additional hearing summaries from the five other locations
will be brought to the Council Meeting*

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

DRAFT Public Hearing Summary

Amendment 5 to the Atlantic Herring Fishery Management Plan

**Samoset Hotel
Rockland, Maine
March 2, 2012, 9 a.m.**

Hearing Officer: Terry Stockwell

Other Council Members in Attendance: Mary Beth Tooley

Council Staff: Lori Steele

Attendance: Dave Ellenton, Sean Mahoney, Rick Usher, Dave Mason, Don Sproul, Rich Ruais, Barry Murgita, Shawn Rockett, Zack Klyver, Pete Douvanjo, Jim Ruhle, Chris Weiner, Barry Gibson, Arnold Nickerson, Gary Libby, Kim Libby, Ted Ames, Mike Brewer, Lisa Kushner, Frank Ohara, Robert Eugley, Dana Hammond, Karin Spitfire, Scott McNamma, Glenn Robbins, Roger Fleming, Lauren Wahl, Trevor Lyle (approximately 50 people)

Mr. Stockwell introduced Council members and staff in attendance and provided some opening comments about the Amendment 5 process. Lori Steele briefed the audience on the NEFMC Amendment 5 public hearing document.

After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in Amendment 5. Initially, comments were solicited section-by-section, but because of the overlapping nature of the issues/measures in Amendment 5, the floor was opened to comments on any elements of the draft amendment and public hearing document.

Public Comments

Glenn Lawrence, F/V Double Eagle (Herring Carrier): I'm not sure what the requirement means that I will have to accurately weigh all fish that I have to deliver to my customers. We are not really set up for that. It's like a building with barrels that we pump fish into. Is volume going to be OK for that?

(Ms. Steele clarified that this is the kind of input that the Council is seeking regarding the logistical issues associated with a requirement for dealers to weigh all fish.)

I was guessing that you were targeting million pound carriers that load trucks all day long. I only have a thousand bushels, and that measures out the same every time.

Rich Ruais, American Bluefin Tuna Association (ABTA): (Mr. Ruais asked for clarification regarding the comment process and indicated that he would like to comment generally on several sections of the draft amendment and asked for clarification about comments on the draft amendment versus Draft EIS)

I recognize that there will be more public hearings and then again on DEIS, so we won't be lacking for time to submit comments. ABTA will submit written comments.

Tuna fishermen are legitimate stakeholders in this issue because it's known that reason they migrate at all are for feeding and reproducing. It is also known that in New England their favorite food is herring, so how goes the herring is how goes the bluefin tuna fishery. That's why tuna fishermen started CHOIR. We are very pleased to see progress to date and will continue to follow this through.

One thing I am struck with thinking about the herring plan and the bluefin plan is that that both of them are based upon false scientific premises, and they are both huge issues. What got this problem started with pair trawling and midwater trawling in the herring plan was the scientists at the Northeast Fisheries Science Center announcing that the once extirpated stock on Georges Bank was now back and you could take a million metric tons for several years without having any impact on the spawning biomass, and that you could have a sustainable yield of about 400,000 metric tons every year. And that opened a lot of eyes and brought businessmen into the fishery. And they were prepared, when dealing in a fishery with that volume, that you want to be operating with very large vessels with a million ton capacity. That was a false premise. We know see based on the revised science that the best MSYs are going to be substantially lower than that. With bluefin, quickly, the false premise was that you could draw a line in the middle of the Atlantic Ocean and assume mixing doesn't happen and that you could rebuild the stock on the other side. We were held to strict regulation on one side of the ocean while nothing was happening on the other side. We wasted an incredible amount of money and disruption to the entire New England fishery based on that. It was an interesting parallel between the two fisheries.

ABTA is very concerned about five areas of the plan. First, implementing 100% observer coverage on A and B vessels may be the most critical component of the amendment. We don't believe you can rely on self-reporting. We are also concerned about observer effect as we move forward in time. It is not unreasonable to suggest 100% observer coverage on targeted fisheries like this. For example, the Gulf of Mexico pelagic longline fleet, because of concerns about fishing during the bluefin spawning season. To wrap this up, the Feds did find that they had the manpower to provide very high coverage. They have demonstrated they can target the resources for fisheries in dire need of ground-truthing and basic information on the fisheries. Also, the midwater trawlers have a lot of privileges in the fishery, and what comes along with this is the need to cooperate with management.

The second recommendation we feel strongly about is that the Council should implement Closed Area I provisions with trip termination after ten events to reduce dumping on Category A and B vessels.

The third concern is that the Council should implement measures to require weighing of catches across the fishery. We started this one back in the 1990s when arguments were being made that the herring FMP was one of the best plans because we had a Hard TAC, but yet there was nothing to deal with underages and overages, and that catches are not physically weighed. It's hard to make a claim that fishery is being controlled by a hard TAC when you are not weighing the fish. You need to find a way to weigh the catch through measures that are not overly burdensome to the industry or that require major investment by processors.

The second to last comment I will make is that the Council should prohibit midwater trawl vessels participating in the herring fishery from access to groundfish closed areas. We know that

midwater trawling is a bit of a misnomer, and the gear is capable of fishing on the bottom. It is not fair to groundfish fishermen or anyone else that they are allowed to fish there.

We pushed hard for seasonal GOM closure from June-September because of the localized resource depletion we saw, and the noise and fear factor the midwater trawl boats were causing that move the bluefin out. We were encouraging them to move offshore. We are sensitive to recommend now that we have been forced offshore because they still continue to fish inshore right up to the beginning of the season, and the herring stock is reduced in the Gulf of Maine as a result of that. The small tuna boats have been pushed offshore to northeast peak of Georges Bank carrying fuel bladders, and it is a very unsafe condition. And then, as soon as we find the tuna, the pair trawl vessels come there. I don't know how we solve this, whether it will take a series of time/area closures so the two fisheries can coexist, or whether managers will recognize that it was a mistake to begin with to allow vessels of that size and that efficiency to come into that fishery. It was a legitimate honest mistake based on false scientific information that suggested a much higher TAC that would have required an industrialized fishery to catch that fish.

(Chris Weiner from CHOIR asked a clarifying question regarding if/how the river herring measures may apply to Category D permit holders.)

Gary Libby, Port Clyde, ME: lobsterman, groundfisherman from Port Clyde ME. I am also shrimp fisherman.

I would like to see 100% observer coverage on A/B vessels only because they account for 97-98% of landings in the fishery. If we get that much coverage, the guys fishing under the C and D permits on smaller boats inshore would have an opportunity to go fishing without being forced to use herring observers and paying for them out of pocket, which I don't think they would be able to afford to do. That would cover the guys that are in river herring too. The catch by C and D is incidental. I think we could do an estimation of the catch of the 1-3% of the total that those guys may encounter.

The second point would about the Closed Area 1 rules. I am in favor of trip termination after ten events. There has to be some sort of accountability for either slipping or dumping. Knowing that dogfish is an exemption, I think this should be on A and B vessels once again because they are the major part of the fishery.

In terms of catch weighing, I was up in the air with this. I talked to a bait dealer in Port Clyde about this. And based on the conversation I had with him yesterday, I think that what they are doing now is accurate, and if it isn't broken, don't fix it. The dewatering has been a problem. I have been through plenty Committee meetings and discussed this one issue. I think the estimations are pretty good. I know there are a lot of folks who don't understand how you can get an accurate weight that way, but when I go lobstering, I buy bait out of barrels that hold three fish totes. And every one of those barrels all year has three fish totes in it, so it's accurate to a percentage, I'm sure. And I think it's pretty close.

The most important part of this amendment, to me, is restricting midwater trawl and pair trawls from the groundfish closed areas. I have had fishermen in Port Clyde give me their take, and they say closed is closed. They don't believe there should be any activity in these closed areas. I think that under the habitat amendment, we may be able to reach that when those areas get re-

defined. For this amendment, I don't believe that there should be access in there, but if access is allowed, I want 100% observer coverage. If it gets too expensive for the industry, I would like to see provisions put in for on-board video cameras. I used these last summer on my groundfish trips. When the observers realize there is a camera on the deck, we get better performance from the observers. They don't take tows off, they are there for every sample. If nothing else, we get better data if we use them.

Jim Ruhle, Wanchese NC: (asked a question/commented on the public hearing process and how comments from one individual are weighed/valued versus comments that are signed by multiple individuals)

The observed trips that have taken place on my boat should carry as much weight, if not more, than anything else. Observer reports should be best available data. Since Amendment 4, the level of coverage on the herring fleet has doubled to the point where you are at a very high number of observed trips. It is critical to recognize that this information is best available data. The first thing that will be said during the meeting in June is that the information has not been analyzed and we cannot incorporate it. You can, in fact, analyze it by going forward with the components of this amendment that you have data for, and state clearly that when new data is analyzed and a scientific determination is made from that information – at that point, you will act with the information that is needed to make a reasonable determination of what is going on.

I am here to represent traditional small boat bottom trawl herring fleet that primarily fishes in Rhode Island. I sat on the Herring Committee as the Mid-Atlantic Council representative through the development of Amendment 1. I am involved with a fishery now that is the cleanest fishery I have ever participated in in my life. You don't have to take my word for it. I have enough observer data on my boat that this is no longer anecdotal. When I can provide to you levels of bycatch in the directed herring fleet that are less than a fraction of a percent, in the one-eighth to one quarter of a percent, this has to be included in the information. The truth is in the data. The industry that I am involved in, even the midwater boats, have reached out to get help and verify what we are talking about. I am in the study fleet and the SMAST bycatch avoidance program, as well as traditional observer coverage that takes place. And dockside monitoring of the catch takes place – not every trip, but if I am fishing rail to rail with six boats, the catch from three will be monitored, and the catch from the other three will be identical.

The abundance of these fish is at an all-time high now. I have been fishing 47 years. 85% of Area 2 was taken from the tip of Jamestown Island to the north end of Block Island this year. It is incredible that much fish can be taken from that small of an area.

We have experienced a year this year that we have never seen before. The bycatch avoidance program would have failed this year. Every alternative in the bycatch avoidance program would have failed this year because the proposed areas have no fish in them other than dogfish. Every one was too far offshore. This year, unlike any other year we have seen, the herring traditionally migrate from the beach out 20-30 miles. This year, the fish all came down 2-3 miles, one narrow piece of water. The fish, each year class, kept replenishing themselves. The race to fish for herring this year was the best thing that could have happened because it targeted a clean fishery for any size fish you wanted.

The only way to have a successful bycatch avoidance program is to have it in real time, just like with the scallop fishery and yellowtails. And just like we did with a small group of fishermen this year, we reported daily and got an email every 2-3 days with bycatch areas. We knew where the bycatch areas were. The results of this year's SMAST program need to be expanded. The potential for that is a very positive functional program that does what you want it to do. It never works to draw boxes. All the areas you suggest in this document to close were slammed with dogfish, and there were no herring there.

As an industry, we do not target river herring. In my opinion, the assessment is going to fail because they are not separating bluebacks and alewives. They don't necessarily co-exist. There are many issues going on with river herring that have nothing to do with bycatch. My concern with river herring is to verify with the bycatch that we are not responsible. There has been significant degradation of habitat, and of rivers and streams. Look at sturgeon. You can pollute a river for river herring with light and sound. These fish are very sensitive. The regime shift that has taken place from Florida to Maine with every species – the "Northeast Push" – has got to be seen as part of this problem. The entire herring fleet can demonstrate that the bycatch levels associated to the herring trawlers is minimal.

When it comes to observer coverage, there is an easy way to fix this. I fish responsibly. We have come forward and done everything we could to verify everything we are telling you. It is not anecdotal anymore. It is scientifically-supported. The study fleet is considered almost as high level of confidence as an observed trip. That's self-reporting by the industry, with everything you get – ocean temperatures on every tow, tow times – everything you get with the study fleet is now being recognized, and I think it will continue to be so.

To determine the observer coverage, the Council can review the performance of every boat in the herring fishery. You will find that the majority of players have fished responsibly for the most of their careers. Everybody can have interaction with another resource – it occurs, but the level and number of times is another thing. There are a handful of boats that have bycatch events. They are the ones that deserve 100% observer coverage. Those of us who have demonstrated responsible fishing year after year do not. We deserve the random observer coverage that is adequate to meet SBRM levels. We are there, and it is not anecdotal anymore.

I cannot fish for any other species that I have a permit for as clean as I can for herring. Bycatch is the result of management measures. Bycatch isn't a bad thing at certain levels. It is fully misunderstood. I cannot do better than I can in the herring fishery. I am excited to go fishing every day for herring because you are going to be catching a lot of clean fish. The most rewarding part is that when you establish yourself in the marketplace, you know your price. You know how many fish you are going to catch, and you can help other fishermen find clean catch. You are doing what's right for the resource and the industry, and it's fun.

In terms of weighing the fish, all of us in RI unload the same way – we pump RSW product into trucks. That truck is how we get paid. That is all you need to know. The trucks traditionally hold 22 vats. It's 1,800 pounds per vat. You can get 1,900 pounds in it, you can get 1,700 pounds in it, but we don't have time to make the determination. Keep them at a level the driver wants. When a truck gets to where it's going, 2-3 of those vats are weighed, and then the average is carried across the truck. I haven't had a single truck come back this year far from 1,800 pounds to the vat. And that's how I get paid, and that's the only number you need to worry about. The plant isn't going to pick out 20 or 30 pounds here and there out of a vat. It's

an average, and it does work. To simplify my reporting, I have a dealer permit so that I know I report exactly what the VTR shows that I am catching. I just pass the VTR to myself, and I have not had any issues with this.

I am representing 9 boats out of RI, all single bottom trawl vessels. They will participate but don't have time to submit written comments. I don't have time to submit written comments. But take it to hear that regardless of others opinions, this is a clean fishery. Look at the data created since the implementation of Amendment 4. Use the observer data to make your determination for Amendment 5.

The Council can approve, disapprove, partially approve this amendment. My suggestion with Amendment 5 is to go forward with the non-controversial elements in June, and take the time to analyze and make the right decisions with the right data for the other components. Just establish a time certain, and you can get there.

Glenn Robbins, F/V Western Sea: I have been fishing for over 40 years. I represent the purse seiners. I have traditionally fished with a seine, and we have hardly any bycatch. In terms of trawlers, Jimmy probably does as good as anyone, and I have fished with some of the small boats with my seine down there. We have touched bottom, and we haven't caught much groundfish down there. But in the Gulf of Maine, I have run into more groundfish. I have caught pollock on Jeffreys, and I have had some codfish. I have never caught a haddock in over 40 years. But now we are starting to target herring on Georges Bank, and there is more haddock being caught. There is a problem with trawlers, we know that – and they are not midwater trawlers, they are bottom trawlers. Just as they outlawed pair trawling for codfish, they should do that with trawlers in the Gulf of Maine, especially in those closed areas – you cannot let trawlers in a closed area.

In terms of weighing fish – we used to weigh them as hogshead, then bushels, now pounds. Every time I sell a herring, I try to get the most for my buck. The carriers deliver to the islands – they don't have scales, but the totes or bins have been measured, and fish have been weighed for a long time. It will be complicated to weigh the way that they come in. Some come into port, and the fish go on a conveyor belt and get weighed after they get into a box. The best way I can see is to probably weigh the truck before and after, and subtract out a little water depending on whether it's small fish or large fish.

Mary Beth Tooley, O'Hara Corporation: I support Jim Ruhle's comments. I am speaking for the O'Hara Corp. We operate two midwater trawl/purse seine vessels and have been in the fishery for a number of years. I think that I would like to stress that we support the goals and objectives for the monitoring program – to create a cost effective and administratively feasible program. We support observer coverage in the fishery. The information that has been gathered to date has been helpful to understand our fishery. But the problem in the northeast is the cost of the program. Many people have made comments about the size of the vessels and made parallels to vessels that fish in the Bering Sea. In the Bering Sea, a pollock vessel pays \$325 day for an observer, and the gross for that vessel is more than the entire gross for the herring fishery in the northeast. The greatest challenge we have is cost effectiveness.

We support observer coverage in this fishery, even to a level of 100%, but it has to be cost effective, and the industry has to be able to afford it. It is not a beneficial program for any of us if the first thing it does is get rid of every mid-sized to small vessel in the fleet because they cannot afford to go fishing anymore.

We did have a provision in the amendment for a dockside monitoring program in this fishery. It was taken out about a year ago. We think the Council should reconsider that and move forward. The Science Center had concerns, which is why it was taken out. But for a volume fishery like herring, it is the best way to sample the fish and the fishery, and we think the Council should reconsider that.

Ed Snell, jig fisherman from southern ME: I also have seven seasons of experience on party fishing boats and whale watch boats.

I support 100% observer coverage for A and B permits. When they catch that much of the fishery, it only makes sense. I also support closures for river herring. There is data that suggests that a significant reason for decline of inshore groundfish stocks is because the groundfish were there feeding on staging river herring. Having those nearshore fisheries are vital for small boat fishermen, as well as bluefin tuna fishermen, and whale watch boats because they only have four hours to make their trips. Having the whales close to shore is valuable.

It makes no sense for midwater trawlers to be in groundfish closed areas. Closed areas are closed areas. Lobster fishermen should not be using haddock for bait.

Some of the problems we have is because these boats fish rail to rail. That kind of concentration is detrimental and disrupts the migrations of a lot of fish looking to feed on herring.

I am young fishermen, and I am not going to inherit any money from midwater trawl boats, but I will inherit what they leave behind.

Barry Gibson, NE Regional Director for Recreational Fishing Alliance (RFA): RFA urges 100% observer coverage on Category A and B boats. The amount of discards these boats are capable of fully warrants observer coverage, and this is done in other parts of the country.

Second, RFA encourages trip termination after 10 dumping or slippage events in Closed Area I to dis-incentivize non-legitimate dumping incidents.

Third, we feel the Council should implement measures to require the actual weighing of catch rather than estimates.

Finally, RFA feels that access by midwater trawlers to groundfish closed areas should be prohibited. I served on Council from 1986-1995, a number of those years as Chairman of the Groundfish Committee, when we developed these areas and implement restrictions to protect spawning cod and other groundfish. As we know, herring nets are quite capable of catching groundfish of any size. These fish need these areas to reproduce, something we are all encouraging, especially given the results of the latest cod assessment and recent projections on haddock and other species. RFA believes that we need to do everything we can to protect groundfish and bolster the stocks.

Karin Spitfire, river herring advocate: I am a river herring advocate. I eat fish. I have been eating sardines and herring my whole life. In 2007, I heard the herring quotas were cut in half and I started paying attention. I am here to provide an outsider point of view for a minute.

Since the Grand Banks collapsed in the 70s, we are down to shellfish and herring. All the other species are a dribble of their former abundance. Fishermen were not included in the dialogue or regulation and science until recently. The fishermen who used to see herring talked about being able to walk across the coves on top of them along the coast of ME.

It is also astonishing to me that fish are still being managed by species instead of a holistic ecosystem approach. This is 2012, and we know that everything is connected to everything. I want you to choose the most restrictive amendments. I want 100% observation on Category A and B because they are the bulk of the herring catch. Based on what I have heard today, I don't need to weigh the fish. The river herring areas should be closed. Groundfish closed areas should be closed and restricted to herring vessels as well as the groundfish fisheries. I couldn't understand the information about the dumping restrictions, but I would like that to be the most restrictive on Category A and B vessels. I am asking for this because we all know that this is already a big compromise. There are many people who would ban midwater trawlers altogether, and that isn't even on the table. It is also a big compromise because the data we are using are based on what fish we have left and has no relationship to what we had before the fisheries got to this state, when we couldn't possibly have counted herring or cod.

Zack Klyver, Bar Harbor Whale Watch: We favor Section 3.2.1.2 Alternative 2, Option 2 – 100% observer coverage and government/industry funding. We got involved in this issue because of a bycatch event we saw in 2003, where we saw hundreds of thousands of pounds of whiting on the water. We saw the impact of what can go wrong. We feel that 100% is necessary to get the good information. This will always be a political issue unless we get the information. We need this information for stock assessments, for determining mortality of herring and other fisheries. Having the full amount of information is critical. We hear that midwater trawl and pair trawl boats don't want to catch groundfish or occasionally marine mammals, and don't want to dump fish, but that these are the prices of doing business. This mentality has to end. It is no longer the wild west out there.

35% observer coverage doesn't get us there. To me, 100% observer coverage is the compromise. This is because these large boats are so mobile. Without observers, they can fish close to the bottom, they can be more aggressive about pursuing fish they may not be sure are herring, they can fish closer to mammals, and they can dump fish. Having observers will bring transparency to the process that is critical. During Amendment 1, we heard a lot of stories of what is capable with bycatch – codends full of seals, pods of dolphins being caught, tons of groundfish and striped bass. Without 100% coverage on these larger boats, there will always be speculation. The Council needs this to be good stewards of the resource.

Regarding funding, if the industry believes they have a clean fishery, they should support 100% observer coverage because that will clear up the question. I am glad to hear that they are in support of 100% coverage. To me, if the bigger boats need to pay for observers, then that is fair. That should be the price of doing business. They are reaping the benefits. If they have a sustainable fishery that is managed well and is healthy, they will get the windfall for that. Having an observer is not too much to ask.

Don Sproul, Bath, ME: Tuna Fisherman, representing NETC and ABTA. I agree with Rich Ruais 100%. I think 100% coverage is needed on boats that are going to take tonnage – not day boats. Herring is a clean fishery, but if you take that trawl and you rig it for the bottom, it's not a clean fishery.

A closed area is a closed area. If you close down 95, you are not going to just let the big trucks through. It's closed, no question.

The thing that worries me is when I was on a mooring, and was being asked to move. The boat went around me, and then I saw miles and miles of cod floating everywhere, dead. After seeing that, I followed the boat and was amazed at the destruction. I have seen it in small boats. Once the fish come up, they will go back dead, whether you look at it or not. The better solution is to put the bag on the boat, land it on the deck, and count it. You better be able to use the technology to read what you got. If you make the trawl, you are responsible for it, and it counts against you regardless of what it is. If you have to terminate your trip, that will teach people to be more accountable. Accountability is the big thing.

Pete Douvarjo, VP Maine Charterboat Captain's Association: I am about the furthest north charter boat captain in the State of ME. I support 100% observer coverage on A and B boats, and I believe they should stay out of the closed areas. Closed is closed, and I too have seen evidence of bycatch. Everyone needs herring, so I think fairness is something that we should think about. This is something that shouldn't be taken by a few big boats.

Mike Brewer, purse seine captain: We hold a Category A permit, but I am a small purse seine boat – the smallest purse seiner in the fleet, 50 foot. I am all for the observers, but on my boat, it's very small and confined and almost dangerous to take the extra person on the boat. I already have four guys on there, and he has so much equipment – I am for the observers, but it is very hard to take him every trip.

Kim Libby, Port Clyde ME: I also agree with 100% observer coverage. I think it is a misnomer to call midwater trawl vessels midwater trawl because there are documented instances where they run into groundfish. Also, a remark was made about bottom sensors not being good because they would keep breaking. If you are towing midwater, how do you break bottom sensors?

I have an observation, or a rhetorical question. Midwater and pair trawlers are banned pretty much everywhere else in the United States. Why is it okay to have them here in the Northeast, where fishermen have struggled and sacrificed, when they are capable of localized depletion and impacting the ecosystem because herring is a forage fish. Everything feeds on herring. It almost makes you wonder sometimes if there is insider stuff going on. We all know how corrupt Washington is, and palms are greased on a daily basis.

Chris Weiner, ABTA and CHOIR: I am speaking for myself. I am a commercial harpooner for bluefin tuna, third generation.

The reason we got involved is because I don't think any fishery other than ours had spent more time around the midwater trawl fleet. Everywhere they went, they were there. We were impacted greatly by this. Most people I have talked to about this amendment just wants the gear banned. Most people I talk to want this. This amendment is a compromise.

Some people are fighting against 100% observer coverage when there are 12-14 or so boats catching almost the whole herring quota. They caught 20,000 metric tons in a month and a half. I would like to know where all that went because there aren't that many lobstermen around right now. It would be smart for that part of the industry to realize that everyone is out to get rid of this gear. We have been looking for a way to make this work – herring and tuna keep me up at night. Herring is half the battle when it comes to tuna. I fully respect Jimmy, but I disagree that there is more herring around than I have ever seen. We had some herring in one area this summer, and then the fleet came in October 1 and caught 20,000 mt right off Cape Elizabeth. The whole fleet was there. The point is that things are not looking good, and we wouldn't be at these meetings if we thought they were looking good. I support 100% coverage. I don't think that is too much to ask for 150 foot boats using pair trawls.

The dumping rules are important too. We aren't making these things up. I have been around the fleet, and we know guys that work on these boats. Dumping has been a problem in the past. Closed Area I rules showed that the gear can be used cleaner. The problem now is that you have prioritized coverage offshore which is why the coverage level has gone up. I would like to know the coverage in the other areas, but 30% coverage and 90% offshore trips covered, what does that leave for the rest of the areas? It's less than 30%. I got involved in this not because of what's happening five miles from the Canadian line. I worry about the inshore. I think that you need to go with 100% to get the whole picture. I don't think it's crazy to ask that, and it's better than what a lot of people are asking for. We hear all the time that it is a clean fishery. If someone were saying this about my fishery, I would want 100% coverage right now.

Sean Mahoney, Conservation Law Foundation (CLF): We support 100% at-sea monitoring and not having midwater trawls in groundfish closed areas, and also the weighing provisions, Section 3.1.5 Option 2. Two things I would like to focus on:

The first is that we think it's very important to have an effective accountability system to discourage dumping. To that end, we support Alternative 4D in Section 3.2.3.4, which would be trip termination after five slippage events for the herring management areas.

The second is the catch limit or cap on the total amount of river herring. We support 3.3.5 but we think that it should be modified to require immediate implementation of a river herring catch cap. This has been a five-year process, and it's important that this be ready to be implemented for 2013.

Peter Speech, tuna fisherman: I am a commercial bluefin tuna fisherman, and I agree with Rich Ruais that we should 100% observer coverage on A and B vessels, and that closed areas should stay closed, especially to pair trawl and midwater trawl boats.

Jim Ruhle, F/V Darren R, Wanchese NC: A couple suggestions as this plan goes forward.

First, regarding the bycatch levels for river herring in the southern New England small mesh fishery – I think that prior to 2008, there was some confusion with species misidentification. But more importantly, the threshold utilized was 1000 pounds, and that is not a directed herring trip. That is a mixed trawl trip where the guy is trying to catch a lot of everything. If the threshold to identify directed trips was moved to at least 10,000, that would be helpful, just get it away from the lower numbers.

There has been a lot of talk about slippage and dumping. I think it would be a very good idea for the observer program to implement protocol changes so that observers ask when they board a vessel if they have any fish on the boat. I have done this several times this winter. I have come in with three trucks of fish, and only two show up. Then, I go back out and catch more and bring three trucks next time. To eliminate concern that some fish are being pumped overboard and not sold, the simple solution is ask the observer to record that information so that concerns about dumping can be eliminated.

There have been some issues regarding an ecosystem approach. It's a great idea, but until the Magnuson-Stevens Act is reauthorized and it is clear that all species don't have to be at historical levels at the same time, ecosystem management can't work. You would need to fish down stocks at high abundance levels and stay off stocks that are not. Magnuson does not allow the Councils that liberty. My concerns with this approach have to do with predator prey relations. I don't disagree that the herring are not where they have traditionally been, but Area 2 closed, and last year, Area 3 closed for one of the first times. This suggests to me that the fish have moved further offshore east and north. Look at the whole picture. The number of herring that are out there now is going to negatively affect the potential for mackerel to increase. They all eat the same thing. Butterfish, river herring, sea herring, and mackerel are all plankton feeders, and there is not enough out there to sustain everything at high levels.

Everyone says you need 100% observer coverage. I do believe that if it was analyzed, the fleet that fished Area 3 would have about 70-80% range of coverage. Look at the performance of the fleet since the implementation of Amendment 4. 100% may be required for some fleets, but the data should indicate that it may not be necessary across the board. Lastly, the seiners need to recognize that this applies to them too. It's not a gear type. If the seine fleet doesn't have bycatch issues, why should they be subject to 100% coverage. This should be determined by the performance of the fleet over the last few years.

New England Fishery Management Council
Tannery Building-50 Water Street-Mill 2-Newburyport, MA 01950

ATTENDANCE SHEET
Travel Authorization # 12-34

ATTENDANCE AT: Herring Amendment 5 Public Hearing

DATE: Friday, March 2, 2012 LOCATION: Samoset Hotel (ME Fishermen's Forum) Rockport, ME
CERTIFIED BY: _____

IMPORTANT... Any information provided on this form is subject to Freedom of Information Act (FOIA) disclosure and may be made available to anyone requesting such.

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NEW ENGLAND FISHERY MANAGEMENT COUNCIL

DRAFT Public Hearing Summary

Amendment 5 to the Atlantic Herring Fishery Management Plan

**Massachusetts Division of Marine Fisheries Annisquam River Station
Gloucester, Massachusetts
March 14, 2012, 7 p.m.**

Hearing Officer: Doug Grout

Other Council Members in Attendance: David Pierce

Council Staff: Lori Steele

Attendance: see attached (approximately 60 people)

Mr. Grout introduced Council members and staff in attendance and provided some opening comments about the Amendment 5 process. Lori Steele briefed the audience on the NEFMC Amendment 5 public hearing document. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in Amendment 5.

Public Comments

Richard Prammis, commercial tuna and recreational groundfish fisherman: I would be in favor of 100% coverage in Area 1A and 1B, and to stop the fishing in the groundfish closed areas.

Austin Doher: I am practically retired from fishing. I am here for the observer program. It is a very simple problem if you want to observe. I am talking about the big boats. They go as far as New Jersey and back up. You have million capacity boats working up and down the beach. I think that is great. But if you are talking about management, there is a way to manage, and that is to put people on the boats if you want observers. They don't have to be fishing related, no conflict of interest if you want to do it. I have been fishing 55 years. It's very simple.

I don't understand half of what is in this document. But I know that if you are talking about herring, I wouldn't know the difference between river herring and sea herring, but on my machine, I have seen bunches of herring totally cover my machine. Now in the last years, a little spike here and there. Then I watch them come and put them on shore in Gloucester – 5 inches, 6 inches, 3 inches.

You have an answer for every question but not mine. If you want to manage, it's a compromise between the fishing people and the government people. First, get rid of half the government people. I will never understand this. But I do know the answer for what I have seen. It will probably be another 83 years before I understand where this comes from and why. Management is a compromise between fishermen and managers. It is a livelihood, but that takes two groups to do it. The government, enforcement, and observers. It requires two observers on each big boat, not one. We don't have the money, but we do have the money to put out thousands of pages in these documents.

Steve Weiner, Atlantic Bluefin Tuna Association, Chair of CHOIR: CHOIR is a coalition that started in the late 1990s when the midwater trawl and pair trawl vessels showed up in the Gulf of Maine. I harpoon tuna fish. We have to hunt the fish down and look for signs of life. We are looking for where the feed is. It's primarily herring in the Gulf of Maine. These boats went everywhere we went. It felt like they were following us, and to this day, I'm not sure they weren't. Two big boats towing a big net catching a lot of herring. They catch a lot of other fish too. Groundfish, tuna fish, mammals – everything is looking for that herring when we are hunting fish. We started to see tuna disappearing from our waters. At the same time, there was a discussion about the health of the tuna stock. The tuna stock was always very healthy in the western Atlantic. When they swim into an area like the Gulf of Maine, and if there isn't anything to eat, they leave. Right up the road, Canada has had the best year of fishing in the last ten years. I can't say if it's because they banned midwater trawling of herring, but you wonder.

I have been fighting this thing since the late 1990s. I know how the industry thinks, and they know how we think. The reality is that there is a total distrust from the public – our coalition with lobster fishermen, tuna fishermen, groundfish fishermen, whale watchers – there is a total distrust with this gear. When they make a mistake with this gear, it's a big mistake. They say they don't dump much, we don't believe it. I don't believe it. There is not enough observer coverage. 30% trips observed means that 70% trips that are not observed. My experience is that monitoring fishermen is different than allowing them to self-regulate. Observers create change in behavior on boats. The reality is there is about 20-30 boats catching 90% or more of the fish. These are the A and B boats. CHOIR recommends that A and B boats be the focus of the monitoring. CHOIR is asking for 100% observer coverage on A and B vessels.

We are also concerned about dumping. This gear type pretty much pumps the fish aboard. If they have a mechanical failure, safety issue, or dogfish in the net – they are allowed to dump the net. A small or big dragger in New England brings the net aboard as I understand it. You see what's in the bag, you count the fish, and the observer gets to see what's in the catch. There is a concern with the public that as long as the net doesn't come aboard, it's hard to tell what's in the net. Who determines mechanical failure? It might be a legitimate issue, it might not. Same with safety. We have to take this off the table. 100% observer coverage. And we are asking for the provision that after ten dumping events, they have to go home. The problem is that if you don't have an observer on the boats, you don't know if they dumped. So you need 100% observers on the boats.

To me, the most unbelievable thing in the fishery is that these boats have been allowed to tow their nets in the permanent groundfish closed areas. Now we have a real groundfish crisis. Whether that problem is related to this gear, I don't know but the boats shouldn't be towing in those areas. That's the third thing that CHOIR is asking for.

The fourth thing we want is that they weigh the fish. That doesn't mean every fish goes on a scale, but there has to be a formula to allow you to reasonably know the weight that came on the boat is what goes off the boat.

To me, the real concern is the health of this stock. There is a stock assessment is going on now. If anyone has faith in science anymore, we will find out what that assessment says. I can tell you from the fishermen's perspective, and the harpoon fleet – 20-30 guys fishing all summer long, we are all skilled fishermen and we have technology now to look at our machines. And we know there is nowhere near the herring around that there used to be. People that say there is a lot of

herring around must be new to this area. The herring that are around are on the bottom, which is weird. These are older, smaller fish. Why are the fish smaller? They are spawning at a smaller size. Is that fishing pressure?

Underlying this with me and most of the members of CHOIR, we are small fishermen, we want coastal communities survive. This is the worst decision to allow this gear type in the Gulf of Maine and Georges Bank.

Roger Bryson, commercial handgear fisherman, recreational fisherman: I have been fishing for over 30 years. For a lot of years, we would watch the herring come in during October and November, inside Boston and Salem. You used to be able to just look around for bait and jig it up. It was a regular routine. We rebuilt the cod fishery before. It took a long time, and it worked. The fish came back. Then, we had a big meeting to allow the beginning of the midwater trawling. So I asked if now, we are going to let the foreign boats come in and get all the bait. Now, we are in the crisis again because of that. Too many herring are being caught. I don't see the fish anymore in October and November like I used to see. You get a handful of guys that are going to make decent money, and it is going to wipe out the whole fishery. It has a big effect, and it's hard to control. It was a problem from the beginning, and now we are trying to regulate it.

When you are trying to recover a fishery, bait plays a big part. The cod, haddock, pollock – you can't separate it. If you remove a lot of bait, you disturb the whole thing that is going on. I don't want to stop people from fishing, but especially in closed areas, it was problematic from the beginning.

Regarding the tuna – we used to go on Jeffreys year after year. The bait would show up, and then the tuna would show up. Depending on how much bait was in the area would determine how much tuna would reside in the area for the summer. We get a few fish, and now when the midwater trawls come in, they would take a bunch of fish out. Then, there is not enough bait, and the fish leave. We hardly have a fishery at all. It changed the whole fishery. Do whatever you can do to make it better for everyone, not a handful of guys making money, but all of the fisheries from Maine to the Cape.

JJ Johnson, engineer on midwater trawl vessel: I have been a fisherman in Alaska and Russia as well. I was up at the Gulf of Maine Aquarium, and we were watching a size-at-age study saying the herring are getting smaller not from fish pressure, but they are going hungry.

Most evidence with herring that I have seen speaks to a lack of plankton. That's the new science that is coming out. People are wondering why fish are getting smaller. Perhaps some science would help rather than guessing. I have been listening to the same accusations for years without proving any of them. There is a mountain of observer data, and it all says the same thing. Herring fishing with midwater is a clean fishery. We have proven we can fish cleanly in the closed areas. We can stay away from most groundfish except haddock. I have worked with the observers. They all say the same thing. They don't know where these accusations are coming from. This document is the result of a lot of unproven accusations. There is a mountain of evidence refuting those accusations. I would appreciate it if some of that evidence would be published.

Looking at the observer data, you can see that the elimination of midwater trawl fishery leaves the bottom trawl fishery. The environmental impact would be more marine mammals killed, more protected groundfish being killed. The alternative to midwater trawling is not seining. If we would be fishing with bottom trawls, we would be killing more groundfish and marine mammals. That is documented.

As far as the document is concerned, I favor the status quo for most of it. I sat in on the Herring Advisory Panel. And I have seen that this is the result of an agenda and ten-year campaign to ban or severely restrict trawling. My number one concern is those Council members who have taken money from campaigns to ban or restrict trawling and promoting bottom trawling and leasing quota to bottom trawlers. I would like to see them recuse themselves. If you have taken money to ban or restrict a fishery, then your input to that fishery can only be seen as designed to fail management.

Steve Pearlman, Coordinator Watershed Action Alliance of SE Mass: We represent 11 watershed associations from Dorchester Bay to Narragansett Bay. These rivers have historically been herring runs and there is very little left of those runs. A number of our organizations are trying to remove dams and other barriers to fish passage, but we are still not seeing a large return of herring.

We would like (1) the strongest monitoring possible, which includes 100% monitoring of A and B vessels and a system that discourages dumping so that everything is counted. (2) We would also like to see immediate caps on herring catches and eliminating fishing in the groundfish areas.

Mark Godfried, Gloucester MA: I am going to raise something that NMFS should have addressed in this document. There would be more herring available to all user groups if NMFS would stop thinking about the National Standard that requires them to consider competitive predators with our fish stocks. We have an uncontrollable population of pinnipeds. Seals are removing about 40 million pounds of herring per day out of the biomass in the Gulf of Maine. Somewhere in these plans, there has to be a way to reduce this population. We went from 0 seals at Monomoy to over 3300. We have a case of worm infestations. Every cod we catch is loaded with worms. Someone needs to address the fact that we have about 7 million of these things now, and they are like rats with fur.

Tommy Scanlon, charter boat operator Boston MA: I charter for stripers, bluefish, and groundfish. The sight of mile upon mile of striped bass floating dead behind the pair trawlers a couple years ago got my Irish up. The striped bass fishing community is very concerned about the lack of stripers, although they had a good breeding season this year. As a striped bass fisherman, I am concerned that these clean pair trawl vessels are indiscriminate in some areas where they have no business fishing. I don't know why you cannot distinguish between a school of striped bass and a school of herring.

This year, you say haddock is overfished and you want to reduce my charter parties' haddock catch. You know that the pair trawlers are always picking up haddock as a bycatch. They either dump them, or the small ones get mixed in with bait. I am also familiar with a community on the Saugus River, which used to have over 100 boats lobster fishing. Now, there are maybe 18 boats in that fleet. A lot of factors have caused it, but primarily it has been lack of bait. Bait in

the lobster fishery has been herring and pogies. Pogies disappeared so they went with herring. The herring prices get higher, fuel prices get higher, and the fleet goes away. I am also a member of the Stellwagen Bank Charter Boat Association. We want 100% observers on board any and all of the pair trawlers. I don't believe that this is a clean fishing industry. If you are purse seining, you can bring up the purse, you can see the fish, drop it, and 99% will swim away. I don't see that in the pair trawl industry. They have not made any friends in the other fisheries since they started here.

Carmen Lee, Gloucester: I am a concerned citizen from Gloucester. I have been following the issue of industrial trawling and the impact on herring populations. The more I learn, the more alarmed I get. What's happening now with inadequate monitoring, unmanaged river herring catch, dumping catch at sea – these don't make sense to me. I am in favor of greater accountability, greater transparency, and greater oversight. I don't think it is too much to ask for 100% at-sea monitoring, for an immediate catch cap for river herring, and for a requirement to accurately weigh all catch. I feel that this is one of those silent issues that don't make the headlines but will impact all of us in Massachusetts.

Shane Yellin, recreational fisherman: I think we need 100% observer coverage. There is way too much change when people know they are being watched. We also need a cap on the bycatch. It is unacceptable for big midwater trawl and bottom trawl boats to be catching all this river herring when they are in need of recovery. Net slippage is uncontrolled. Captains can dump whenever they want, and it is easy loophole for them. They should only dump when it's an emergency, and they should have to report them.

I have seen videos with what looks like 3 miles of dead stripers floating on the surface behind the midwater trawl vessels. It is terrible. If you are going to fish a giant net that covers most of the water column, and you are fishing for the bait, the predator fish follow the bait. It is way too large of a fishery, too efficient, and it doesn't give the fish a chance.

Also in the last few years, there has been a decline in the health of the striper fishery. Most of it is due to malnutrition, and I know most relates to menhaden. But river herring used to be a major forage food for them. The herring runs near where I fish have dramatically been depleted and we need to do whatever we can to help them rebound.

I would like to see midwater trawlers banned from closed areas. If we are trying to protect a fishery, we shouldn't make exceptions for one type of fishing versus another.

Brian Kelder, Ipswich River Watershed Association: We are a non-profit to restore the natural resources on the Ipswich River. One of our focuses is restoring diadromous fish runs, especially river herring, to sustainable levels. I work on a river that once supported millions of river herring, and now we have a couple hundred to a couple thousand fish coming back each year. We are working to restore the river's capacity by reconnecting habitat and improving water quality and quantity. We are working to remove dams and open up habitat in the freshwater portion of their life cycle.

As we continue to address this, we ask the Council to support our efforts by approving stronger protection for river herring when they are at sea. We support 100% monitoring on all midwater trawl trips and measures to discourage wasteful dumping, slippage. We would support an immediate cap on river herring catch.

Jay Shields, Beverly charter boat captain: I think that anything we can do to enhance the health of the ecosystem is a good thing. When we are dealing with a bait fish like herring, I understand that your job is to ensure viability and yield simultaneously. The best way to do this is by retaining robust populations of a nutrient-dense prey like herring.

From my experience on the water, these vessels are the most indiscriminate that I have ever observed. You can visualize it. There is always predator-prey interactions going on out there. There is very rarely unmolested schools of herring. To think that these boats could operate without tremendous levels of bycatch is absurd. I view these proposals as beneficial for gathering better data. Ultimately, this will create a better ecosystem.

I am in favor of 100% observer coverage and close the restricted area for these vessels. They say they are a clean fishery. The only thing they do is clean out the ocean. Anything we can do to make it more difficult for them to destroy the basis of our ecosystem will benefit everyone.

Fred Jennings, MA State Co-Chair Stripers Forever: We have 5,000 members in MA who are recreational anglers and about 17,000 along the coast. I feel that I speak for what was five or ten years ago 500,000 recreational anglers in Massachusetts alone. In five years, the striped bass recreational catch is down 84%. We are very concerned about the health of the fishery. The economy is threatened. I strongly urge you to place restrictions to protect river herring, which is important forage for striped bass, and 100% monitoring of bycatch, which is also a problem for striped bass.

Nat Moody, First Light Anglers: I run a charter business and tackle shop out of Rowley, MA and Gloucester. I think that the line between operational discards and slippage needs to be very clearly defined. If there are restrictions put on slippage, it will often slide in to operational discards. I don't know how you can deal with this but this is important issue that needs to be addressed.

I am concerned that fish from 1A migrate to Area 2 in the winter time. We have seen the huge recent landings out of Area 2 late in the season. I am afraid that Area 1A fish are being double taken.

I would also like to support 100% observer coverage A and B vessels. I would also like to support closed areas remaining closed to all of these vessels.

Joe Jancewicz, Kensington NH, BOD American Bluefin Tuna Association: Today, I will address the pink section – catch monitoring at sea. I don't believe that there should be any net slippage. If there is net slippage, those dead fish get counted against no one's quota, none whatsoever. If you catch it, you land it.

As far as weighing these fish, it is a hard TAC fishery. How do you manage a hard TAC for fish that are not weighed? It's all estimates. Maybe we should start estimating the groundfish fishery.

Midwater trawl access to groundfish closed areas – the purple section. I have been a scalloper, a dragger, a groundfish fisherman. It bothers me, when you see the boats haul back, that the ground gear is shiny. There are no abrasives in the midwater column. That ground gear gets shiny by dragging on the bottom of the ocean, whether it's sand or gravel. I don't know if they

have rockhopper gear, but I am sure they probably do. I have seen these guys haul back, and I have seen the shiny gear. They should stay completely out of the closed areas. Other people can't go there, so these boats shouldn't. They are called midwater boats, but I beg to differ.

As far as observer coverage – 200% coverage – one man awake at all times.

Mark Vona, charter fisherman, Beverly MA: If there is 30% observer coverage, that means there is no one on the boats 7 out of 10 times the boat leaves the dock. Maybe people behave better if there is someone on there. But if there is nothing to hide, let's get more observer coverage.

Regarding the weight of the fish, if we are three fish over the limit, we face a fine. And these boats come in and estimate the tonnage. Just put everything out in the open. They can make the argument and say there isn't enough coverage, there isn't enough data, give us more and delay things. We need to get more observer coverage, and we need to actually count what comes off the boat.

Tyler McGlaughlin, commercial fisherman, Rye NH: I think it's completely absurd that we don't have 100% observer coverage on these vessels. The destruction and their size, due to the fish that they are chasing, are not compatible. We are talking about boats that tow nets between the two of them and fish between 8 and 14 inches. How is that fair to the species? I have seen it myself since I was 16 years old, and now I am 24 years old. I have seen the ocean go from red out with tons of herring to me having to go miles and miles to find bait.

They should not be able to fish in the closed areas. Other boats can't do it, so why should they?

Peter Mullen, Gloucester MA: I own two midwater trawl vessels and a purse seiner.

It makes me sad to hear the amount of lies spoken here this evening. We had 75% coverage in the groundfish closed areas. How much more do we have to have before people start to believe us? I hate when people get up and lie that there was three miles of stripers that a midwater boat dumped. Show us the proof.

A few years ago, 90,000-100,000 tons taken out of Area 1A in the Gulf of Maine. Now it's down to 26,000 tons. Of that, somewhere between 15 and 20% is taken by midwater boats at the end of the summer. There is plenty of herring in 1A. We went 20 miles out the other day and there was tons of herring.

Down in the MudHole, in the upper reaches of Hudson Canyon, right now, there is 40 miles of herring 20 fathom deep. If you made a set with a purse seine right now, you are talking about probably 2-3 millions of tons of fish.

As you know, there is a groundfish problem now. A lot of it was bad management. Boats went out catching codfish and dumped it over the side because of trip limits. Then, something happened with the sectors, but I can tell you that there were millions of pounds of cod dumped over the side. Nobody said a word about it. All the codfish, haddock, and flatfish are going to spawn soon. That's the same time that you will have 2 million metric tons or more herring come through. When they come through, and they are starving, if you think that they are not going to eat all the cod, haddock, shrimp and other spawn that is in the water column, you are making a mistake. You will never rebuild the cod or other stocks if you don't balance the ecosystem.

Everyone is firing at midwater trawlers. Midwater trawl vessels take about 15-20% of the available herring out of the GOM in about six weeks at the end of the summer. We have spread the wealth around, taking fish from Georges Bank, south of the Cape, all the way down to New Jersey. It isn't all concentrated coming from Area 1A.

We have no problem at all taking 100% observer coverage once we figure out a way to pay for it. We can't pay east coast prices. We can probably afford west coast prices, and that's about \$320 a day. And I think the government should help us out with it. We will do it to clear our names.

Chris Weiner, bluefin fisherman, ABTA, CHOIR: I disagree about the amount of herring. I am at these meetings because I don't think that there are enough herring out there.

This year, you could drive to the shore and watch the whole fleet catching way more than 15-20% of the 1A quota in the one area we had herring all summer long. Every tuna caught off Maine, almost, this year, was caught within 20 miles of Portland. The second that fishery opened up on October 1 – the same thing happens every year. This year, we had one area of herring, maybe two. The boats came into the area that we fished all summer long and took about 20,000 metric tons in about three weeks. That's not healthy. I agree that the government should put more money into this because this is really important. I support what I said at the last meeting.

Dave Ellenton, Cape Seafoods, Western Sea Fishing Company, Gloucester MA: Western Sea Fishing Co. operating three midwater trawl vessels in Gloucester. I am going to send in written comments.

But I do want to confirm that we have a consensus with a large percentage of vessel owners in Categories A/B/C. We will totally support 100% observer coverage, and we will support paying for those observers at a reasonable rate in comparison to the reasonable rates on the west coast. \$325 a day is the rate that we are talking about at the moment with Category A/B/C vessels.

(Audience member asked a question about federal funding for observer coverage.)

JJ Johnson: Publish the observer data in an understandable format for the general public, and then we wouldn't have to listen to the ignorance. If you are going to have 100% coverage, stall the tax payer out and publish the data, help the tax payers out. They are paying for it.

Vito Calomo, Gloucester MA: I heard some interesting comments from the public tonight, something about foreign fishing on herring. I want to clarify that there haven't been foreign vessels for twenty years. I was instrumental in getting rid of foreign vessels in this fishery.

What other fishery on the eastern seaboard or just in the Gulf of Maine has as much coverage as these vessels have?

When we have observers and we are observing the herring industry, why aren't there observers on purse seine vessels? They are catching herring and have bycatch. It should be fair and equal throughout the range, whatever the percentage is.

Peter Mullen: Most countries in Europe measure the tanks. Then, the observer comes down and dips the tank, put a weight down and the weight sits on top of the fish, and then write the measurements down. That goes to a database and they know exactly what comes off the boat. It's about 98% accurate. A lot of boats already have their tanks measured. It's a simple way to do it. The observer on the trip could drop the weight when the boats hit the dock, write the numbers down, and someone else could analyze it. The observer doesn't have to say how much is on the boat.

I'm not sure if NMFS can ever figure it out. We call in every morning and tell them how much fish we have, and yet we still went 1,500 mt over in Area 1B this year east of the Cape. I don't understand how that happens.

New England Fishery Management Council
 Tannery Building-50 Water Street-Mill 2-Newburyport, MA 01950

ATTENDANCE SHEET
 Travel Authorization # 12-45

ATTENDANCE AT: Herring Amendment 5 Public Hearing

DATE: Wednesday, March 14, 2012 LOCATION: MA DMF, Annisquam, Gloucester, MA

CERTIFIED BY: Lori Steele

IMPORTANT... Any information provided on this form is subject to Freedom of Information Act (FOIA) disclosure and may be made available to anyone requesting such.

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New England Fishery Management Council
Tannery Building-50 Water Street-Mill 2-Newburyport, MA 01950

ATTENDANCE SHEET
Travel Authorization # 12-45

ATTENDANCE AT: Herring Amendment 5 Public Hearing

DATE: Wednesday, March 14, 2012 LOCATION: MA DMF, Annisquam, Gloucester, MA

CERTIFIED BY: _____

IMPORTANT... Any information provided on this form is subject to Freedom of Information Act (FOIA) disclosure and may be made available to anyone requesting such.

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NEW ENGLAND FISHERY MANAGEMENT COUNCIL

DRAFT Public Hearing Summary

Amendment 5 to the Atlantic Herring Fishery Management Plan

Sheraton Harborside Hotel
Portsmouth, New Hampshire
March 15, 2012, 7 p.m.

Hearing Officer: Doug Grout

Council Staff: Lori Steele; Talia Bigelow

Attendance: see attached (approximately 60 people)

Mr. Grout introduced Council staff in attendance and provided some opening comments about the Amendment 5 process. Lori Steele briefed the audience on the NEFMC Amendment 5 public hearing document. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in Amendment 5.

Public Comments

Michael Blanchard, groundfish fisherman, bluefin harpooner, Gloucester MA: I will submit comments in writing. I am speaking tonight as a member of CHOIR and ABTA and a number of other organizations. It's been a long five years. There has been a lot of rocky road, and five years later, it's not any smoother now than when we started. If anything, it's gotten worse. The four points most important points to us are:

1. Require 100% observer coverage – Just having 100% observer coverage in and of itself will alleviate a lot of questions for obvious reasons. If you have someone on the boat all the time, everything will be observed and we'll know what's going on. It is a very valuable fishery monetarily to the industry, as well as the other people and the whole ocean that relies on herring.
2. Second is to prohibit midwater trawlers fishing in groundfish closed areas. It doesn't make sense to have a midwater trawl boat fishing in a groundfish closed area. We now know that they are quite capable of catching groundfish. We have had massive interaction with haddock so much that the Council had to up the TAC that was allowed for the take of juvenile haddock. We would like to see the elimination of midwater trawlers in the groundfish closed areas.
3. Third is accurately weighing the catch. It's hard to believe we can put a man on the moon, but we're going to assume or take someone's word for how much weight of fish they think they caught. We have scales, and in other areas, we have accurately measures and weighed total catches for fishes much like herring. If you look at the Pacific Northwest, the fish are accurately weighed, and that is an important thing to us.
4. The last issue is slippage – it's the termination after 10 events in a given management area. I personally like five events and disincentive of 100,000 deducted from the catch. I think 10 events is too much. But it will at least dis-incentivize the boats and give them a reason to

stay away from a potential dirty set. Or if they are having trouble with the pump, get in and get the pump fixed. We do know for a fact that with midwater trawling, there is no opening the net up and letting the fish swim away like there is with a purse seine, for the most part. If the fish are feedy, if they are small, if they are not herring, they open the net up and the fish swim away.

It has been a long five years. We would like to move forward, and these are the most important points for CHOIR.

Don Swanson, Coastal Conservation Association of NH: Mr. Swanson read a written statement into the record (see attached).

Dave Goethel, Hampton NH: I am a Council member, but I am speaking as an individual who has fished for herring for 28 years. I have a Category C herring permit. This is my only chance to speak on behalf of my own business.

First, I think the entire document should be split between A/B boats, which is the directed fishery, and C/D boats, which are basically incidental catch in other fisheries. Some of my comments may be confounded because I have to assume that the document may stay as written, which a lot of times includes C and D vessels. But I will try to make delineations.

Regarding observers, I don't think you need 100% coverage. I think that you will find the same results with less than 100%. There is a penny exercise we do in the Marine Resource Education Program, which shows that you don't need a census. You can get the same result with less coverage. I think you should consider that because of cost. If you do have 100% coverage, you should have a sunset clause – 100% for a couple of years. Get a baseline, and if you find that you don't have issues that a lot of people think you have, then it goes away. This is incredibly costly no matter who pays. If the goal of having 100% coverage is to get rid of the herring fishery, then let's just have an option to get rid of the fishery. Because requiring 100% coverage on C and D boats will get rid of the herring fishery.

On the trip notification requirements, I think it should be changed to something less than 72 hours. For groundfish, it's 48 hours, and I think that's too long. I don't understand why observers can't be deployed in 24 hours or less. 72 hours is three days. For someone like me who goes every day, that means I am on the phone constantly. That's just unnecessary.

I don't think that there should be any change to the transfer at sea rules – status quo, no change. Option 3 transfers only herring permitted vessels is unenforceable. The Enforcement Committee already said that. Option 2 A and B vessels only is discriminatory. Are they better at reporting than C and D vessels? Or is this an attempt to zero out the people that do most of the transferring?

It is easy to say you should weigh the fish. I think you should come up with volumetric measurements and convert them to weight. For example, a standard tote weighs 100 pounds or 110, just pick a number and that's what we will report. The same can go with grey tubs – 1,000 pounds, whatever it is. It's a perishable product, and we can't be sitting around all day weighing it in the hot sun. It rots. I don't see what the issue is here. Another issue is how you are going to weigh when you pump them into trucks. When the fish get pumped, there is a lot of water in them. You need to consider this from a logical point of view and get to a number everyone can agree on.

River Herring – this is the one that I have a real problem with. Overall, I think you should split it between A/B and C/D. If you don't split it, most of these options will basically close the fishery to people who cannot leave an area. When you close an area to the A/B boats, they will move because they can go anywhere. The C and D boats are mostly day boats and are limited geographically. A lot of them are limited by the rules in other fisheries. For example, I operate in the whiting fishery. We have area 1, a small area in Ipswich bay. If any of these measures to reduce herring bycatch are triggered, the event could occur off central Maine, but the area that would close would be off Ipswich Bay. It doesn't make sense. The people who pay the price are the people who have the least impact on the resource. If you close Ipswich Bay September, October and November, we can't fish. That's the only place we are allowed to go. I don't think that we are responsible for creating the river herring problems since we have been fishing there for over 100 years, and this problem seemed to just pop up over the last ten years. Whiting boats are limited to time and area. We catch herring in the whiting fishery.

I also hope that the Council will consider exempting the shrimp and groundfish fishery. It is the height of irony to me that we would close fisheries with mesh bigger than 5.5 inches. And the shrimp fishery uses a grate and doesn't have much impact on river herring. The river herring has largely left that area by the time the shrimp fishery is open.

On the groundfish closed areas, I understand the sentiments, but I remind people the law of unintended consequences could apply. If you move them out of a groundfish closed area, you could put them into areas with higher concentrations of groundfish. The groundfish areas will change with time. A lot of the closures we have now are combination groundfish /habitat closures. The habitat closures are likely to change, and the groundfish closures may too. If the Council does vote to keep them out of the groundfish closed areas, make sure that it is constructed in a way that you can move the areas in the way that you can move the areas based on how the groundfish actions move those areas around so that there isn't a mismatch.

I would support, as a logical way of dealing with this issue, 100% observer coverage in the closed areas. That would be a more logical way to approach this. I think you would find out if the problem is real or perceived. Since these boats fish inside and outside of the areas on a given trip, if you require 100% coverage, they will either not go into the areas, or they will have an observer for the whole trip.

I think there are a lot of modifications that need to be made to what's finally done here. I think most of these measures would be considered the most restrictive alternatives, but the Council can, and I hope would modify some of these to make them less costly and get the results you would desire, which is accurate monitoring.

Keper Connell, Rye NH: I am a participant in lobstering, tuna fishing, and charters. Herring is fundamental. Regarding observer coverage, I believe it that for the A and B boats.

Also, regarding Closed Area Access, I would disapprove of that and I question how they got access to the closed areas.

Regarding the slippage – how are the slippage numbers set?

The ecology of the Gulf of Maine is fundamental with herring. If we don't have herring, we don't have anything else.

Chris Weiner, ABTA, CHOIR, bluefin fisherman: From the get-go, this was never about C and D boats. Somehow they got figured into this, but it was always just about the A boats in my opinion, and only about half of the A boats. Through a number of ways, certain lobbyists were able to figure the C and D boats into the process. And now, we have this situation that we worried about, where small draggers and small boats that were never intended for this are being brought into the process. This is about the 20 big pair trawlers. That's what this is about. I really hope the Council will focus on those. You need to split them off. There is no reason for a boat like Dave Goethel's to be included with a 160-foot pair trawler.

With the big A and B boats, you have to have 100%, and that's not too much to ask. Show me another fishery in this country like those boats that doesn't have 100% coverage on boats. It would be great to have 200%. That's the only way you will really get it. We are not asking for that, but when you are on a four-day trip, when is the observer supposed to sleep. In other areas, that's what they have. I don't see how it's too much to ask to put observers on big boats like this. Yesterday, we heard that there is some support for 100% coverage from the industry, and that has us wondering what that is all about. My concern is that there is some support for that, but there will be a big fight on the dumping issue, which is critical. Everyone knows that dumping is going on. If you get a big bag – on the northern end of Jeffreys once, one of the boats we know dumped a mile log of herring with cod and seals mixed in, and the observer report afterwards said “mechanical failure” – that's pretty convenient. You need to fix that problem. You need 100% coverage, and don't even think about putting it on C and D boats. What will end up happening is that you will get nothing out of it. There is a room full of people here that show you that something needs to be done. So focus on the boats that people are worried about.

Tyler McLaughlin, tuna fisherman, Rye NH: I agree with Chris said. When you talk about a clean fishery, midwater trawling is not a clean fishery, midwater trawlers just clean out the ocean. I support 100% observer coverage. 200% would be better because what are you going to do when a guy is sleeping.

We need better oversight. There are interactions with mammals and tuna fish on a common basis. That's not right for any boat. The small boats and the C and D boats don't have those interactions with mammals.

We need to weigh the catch. In the tuna fishery, we get hit hard with dead discards from the offshore swordfish boats. Why does that not apply to the herring fishery.

We need to ban them from closed areas. If other boats can't access those areas, why is it that they can?

It's not too much to ask for boats those size to have 100% observer coverage It's the right way to do it and it's only fair. If they are having interactions with fish they shouldn't be, why isn't it recorded?

Michael Blanchard: I want to clarify my previous comments. I wasn't specific about 100% observer coverage. That would be for Category A and B, not C and D boats. Also for the Category A and B boats was the 10 slippage event provision.

Patrick Paquette, RFA New England: (asked a question about 100% observer coverage – defined as one person per trip or every haul observed?)

My understanding is that pacific pollock refers to 100% observers, and that means everything needs to be watched. That makes 100% mean that everything taken out of the water is watched, that's what we are supporting.

(asked a question about monitoring quotas and in-season quota adjustments)

The overage this year in 1B was a significant amount of bait, and it cost us a lot this year. It's a lot of natural resource to be missing.

Mark Pourier, Stratham NH: I have been involved in fisheries management for over 40 years now. What I find interesting is the addition of the C and D boats into the A and B boats. We know that the problems do not lie with the small day boat fishery.

The euphemism “slippage” troubles me. I used the word “fraud” earlier. Without 200% observer coverage or perhaps even 300% on a four-day trip, we are not seeing everything that is happening 24 hours a day seven days a week. There are cameras on the nets. They know. As a spotter pilot for bluefin tuna industry, I have seen massive shoals of herring disappear when these boats come into an area. Yet they are allowed to do a 50% overage. There seems to be no discipline. In every other fishery, you go over, and you get dinged. These guys don't seem to get dinged. It doesn't make sense. You touched on a measure that is going to happen. We hear “going to,” and “might,” it happens a lot in fisheries management. Those of us, these guys here, everyone is tired of it might, it may, we hope. It gets old, and that's where the frustration lies.

From a 10,000 foot view, I see these fish are the foundation of every fish that's out there – codfish, haddock, tuna, striped bass, whatever. We are undercutting the foundation. You can't build a house without a good foundation. We aren't watching what happens. Apex predators are moving elsewhere. Fish have tails. There is a reason we are fishing tuna on Georges Bank July-November. These boats shouldn't be there. We have destroyed the inshore fisheries for every apex predator because we are killing the bait. Until we look at how are supposed to build well-run ecosystem-based fisheries management, we are wasting time. This is something people ignore. It needs to be put into the record that we aren't going anywhere until we address this issue. I hope that you will do something about that.

Jim Dufresne, commercial tuna fisherman, Hampton NH: If you take A/B boats and C/D boats, you are comparing apples to oranges. I am not concerned about C and D boats at all. I have fished amongst them. They do their own thing. Having been anchored up and seen A boats come through to drag the ocean, it's clearly a different game they are fishing. A lot of the provisions that have been supported by people in this room are not too much to ask for operations at such a level. Look at the smaller day boats, they have tight budgets, they are gentlemen putting food on the tables for their families. We are talking about large corporations that have astronomical fuel bills to run boats of that size. To ask for some extra oversight is not too much. It's a different game they are in. It's not too much to ask for something as helpless as the herring.

Steve Weiner, ABTA, CHOIR, harpoon tuna fisherman, Ogunquit ME: It's important to understand that there is a room full of people here. We have come to meetings for years saying we represent hundreds of fishermen. The fact that they are in the room here – they are filling the rooms. Not all will speak because it's tough to do.

I grew up harpooning the Gulf of Maine. We had purse seine vessels around forever and never had a problem with bait. When the foreign boats were offshore, they drove our herring fishery into the bucket. And it came back. And this is the first time we have had that same kind of effort. They caught more then, but it's the same type of gear, the same type of efficiency, and it's the same type of risk. There isn't a person in the room that wants a fisherman out of business. This is different. These boats have a capability that none of the other boats have. The only boats that have this type of capability are boats on the west coast and in Alaska in this country. And they all 100% or 200% observers, and most pay for their observer coverage. But that's a tricky thing because there are on-the-water costs, off-the-water costs, overhead costs.

One of the things we have to do is find a way to make the observer costs less. We spent some time looking into those west coast operations, and we have gone out and gotten some pricing, and the reality is that I think you can do it for less. One of the reasons we need 100% observer coverage to address the potential for a big event. If you stand up high and look at what's going on, you have a major forage fish in the Gulf of Maine. Everyone is chasing the herring, and to think that these boats are going to tow around through the forage and not get other fish doesn't make sense, whether the observer coverage shows it or not. That's what makes me the most suspicious – when I hear that the observer coverage says that there is no proof that these guys catch codfish. It's crazy. These nets can tow right on the bottom, right to the bottom, and right almost to the surface. To think that these guys are going to tow a net to chase herring around and not catch codfish, haddock, striped bass, not catch bluefin tuna. I would think that bluefin tuna would be one of the hardest things to catch in pair trawl, but they do it, consistently. They did it in Rhode Island numerous times this winter, in January.

I am also worried they fish differently when there are no observers on the boats. I think that the coverage is about 30%, which means that 70% of the time, there is nobody on the boats. I think they will fish differently when there is nobody on the boats. When there are people on the boats, like Closed Area 1, the industry says look, we have proven with 100% or 80% coverage offshore, we are not catching any other fish. I think it proves what we are trying to say, which is when you put people on the boats, these guys know how to fish cleaner. They are fishing cleaner today than when they first came in here, but I believe they do it when there are observers on the boat. A and B boats is all we care about. All I care about is the midwater trawlers – pair trawlers and single trawlers. The A and B boats catch about 97% or 98% of the quota. We need to control the boats that catch about 97% of the quota, which I think may be 20 or 25 boats, no more than 20 or 30 boats catching that 97%. Personally, I am disappointed that we have to put it on the purse seiners, because I don't think that these hearings would be happening and the people would be in this room if it was a purse seine fishery.

I want to reiterate that I support 100% observer coverage, and I do believe they should not be able to fish in the groundfish closed areas. If those groundfish closed areas change, then it should change. They should not be allowed in those areas. The groundfish fishermen have been suffering for a long time, and now they are suffering more. If you can't catch groundfish in an area, shouldn't tow these nets through it.

There needs to be some way to dis-incentivize dumping. The dumping is what drove most of us in this room. A lot was localized depletion, but we are very concerned about dumping. CHOIR came up with a lot of ideas that were shot down, maybe rightfully so. The first one was maximized retention – whatever you catch, you bring in. I think that it may be the best thing in theory, but difficult and I guess impractical. I'm still not convinced that's not the right thing, but it's gone now. The reality is that there needs to be something that keeps these guys from dumping. I am sure there is true mechanical failures, and true safety issues, and times you catch dogfish, but a lot of times, that's just a loophole. We started with one dump means trip termination, and the Council shot that down. So we tried to adapt and got to the five and ten trips so there is some penalty and disincentive.

As far as the weighing goes, I agree that you don't have to weigh every pound of fish but if there are 20 totes on a flatbed truck, and they are all the same tote and weigh 2,000 pounds apiece, then you have 40,000 pounds on that truck. There needs to be a simple way to get to a weight. The idea is to monitor the fishery, don't let the fishermen report to us. There needs to be a method of monitoring the fishery.

I am impressed with all of the people who are here today, but if you really want to make a point about why you are here, then stand up and make a comment.

Tim Virgin, tuna fisherman, Ogunquit ME: I support 100% observer coverage on A and B boats. I agree that the A and B boats are the biggest issues here. The small boats supply local bait needs, and it's a good fishery.

I think we'll be surprised if we really look into how many river herring they catch. I think it's a lot more than has been reported.

I think you have to address slippage I support five incidents of slippage for trip termination.

Jeremy Loomis, Portsmouth NH: I agree with 100% observer coverage of the larger boats. I think there are other ways to get to 200%. I don't think it will be effective if we don't have overnight coverage. There is technology out there – cameras, time lapses, all kinds of different ways we can try to capture that other side when someone is sleeping.

The A and B boats need to be separated from C and D boats in this legislation.

The big boat waste is very alarming and needs to be accounted for. I understand it's a sticky situation, but it's a waste, and it's sad to see it happen.

Chris Adamaitis, lobsterman and part-time tuna fisherman, Portsmouth NH: I agree with 100% observer coverage. I know smaller C and D boats that go groundfishing. I see an observer on the boat every few days. Those guys are out just trying to make a living. The A and B boats are out there cleaning up the whole bottom. I have seen first-hand what goes over the side, and I totally agree with 100% coverage on the A and B boats.

Bill Neelon, whale watch industry: I agree about the damage being done by the big boats. I run charter boats and commercial fished for 30 or 35 years. As a whole, the herring are the lifeline of all the fish – tuna fish, big fish, and the whales. We see it first-hand when those boats come in. We are not here to put any fishery out of business, but we did live with purse seiners. There was never an issue. We never had shortages of anything, and whales were all over Mass Bay and Ipswich Bay.

For the past 10 or 15 years, we have fought this hard. We can tell the whales apart. When they go, we know where they are going, and they are going over to the Bay of Fundy. They are going to Nova Scotia. We get reports back on a daily basis. It's not that far. It's 200 something miles, and they will be there in 24 hours. If there is no food for them here, that's where they end up. Once the boats come in and fish it hard, it's a month before we see whales again. Any whales we see are just transit whales.

I think we need 100% coverage. We have seen what happens. When you walk the docks when the midwater boats are tied up in Gloucester, you see shiny chains. I don't know midwater fishery that comes up with shiny chains. I don't know what's abrasive in the water.

There should be 100% coverage. It will hopefully keep everyone honest. I think it has to be with the big boats. It's not the little day boats, so there has to be a definition in there somewhere.

Erik Anderson, Portsmouth NH: I would like to expand on the consistent comments that have been made here. I believe that this document should split Category A/B versus C/D vessels. I agree with a lot of Dave Goethel's comments. I also support higher percentage of monitoring on A and B vessels.

For some historical perspective, when I spent nine years on the Council, we dealt with allowing these vessels into this area. They explained themselves, and the Council wasn't clear on what the fishery was at that time, but they sold it to the Council. They said they wouldn't have a problem with groundfish. Now a few years later, they have an allocation of groundfish. These are the things that have developed since the fishery has arrived, and they are well-established. The size of the vessels do not mix well with the historical fisheries that were here prior to when they arrived. They describe themselves as midwater boats, and the midwater nets are in the water column. The fishery can take place in the whole water column, right down very close to the bottom.

They haven't blended well with the other traditional fisheries in the area. When these vessels show up, there is always a problem, whether it's gear conflict, or a variety of other things. I can remember when the fishery arrived, they said they would take observers. It never transpired, and now we are finally getting to that issue to see what's really going on in the fishery. The comments have been relatively consistent here tonight.

Don Swanson, recreational fisherman: I have been a recreational fisherman for almost 50 years. Most of my fishing knowledge is south of Boston. We are concerned down there about the river herring. There has been a moratorium on river herring in Massachusetts for over six years now. There are lots of hotspots recorded in the document. We know where the river herring are during certain times of the year. I would like to see these areas closed down or if they fish for herring, to have 100% coverage on the boats in those areas. It's very tough, especially for the guys I fish with – the problem is that it is illegal for anyone to possess river

herring in Massachusetts, yet they are caught and sold as lobster bait constantly. You should really do something to address river herring in Amendment 5.

Dave Linney, Cape Neddick ME, tuna fisherman: There isn't a fisherman that doesn't understand that herring is the most important thing in the food chain. Everyone understands ecosystems and what the herring do to that system. We are here to try to prevent the useless killing of herring. We understand lobstermen need bait. Some of these herring have to be taken, but there is no sense in wasting them. We need to accurately observe what comes aboard or doesn't come aboard.

We need to accurately get weights. I agree with Dave Goethel that weighing each fish will spoil a lot of herring, but there should be a tote weight, and there should be better methods than having a captain call a weight when he has a vested interest in it. That's like the fox guarding the henhouse.

As far as observer coverage goes, yes only the big boats. If 97% of the herring come from about 20 boats in the A and B category, that's where you put your money. If you can control 97% of it, you've got it licked.

I have seen the herring come and go, mostly go recently. We did live with purse seiners. They seemed to have a clean fishery. You do need 100% coverage – it may take two or three people but it's 100% coverage. You need to monitor every tow on the big boats and control 97% of what comes aboard to make sure there is no waste. I have heard from the boats, the owners and captains, that they fish clean so they have no problem having 100% observation on board because they have nothing to lose. It would make life a lot easier for them because we won't have these hearings if we are all satisfied that things are clean out there and that the quota is set properly. If that gets all that off their back, they should be willing to pay for a share of it, and I think they should. I don't pretend they are getting rich, but certainly the small boats aren't. They could help out with paying for it.

Jenn Kennedy, Blue Ocean Society for Marine Conservation: We are based in Portsmouth. I would like to provide a second voice for whale watch industry. We have seen the difference from when the big midwater boats come into the whale watching in the Gulf of Maine. All the whales disappear. When they weren't allowed to come in during the summer, the whale watching just expanded. Not only is it great for the whales, it is great for tourism and gets more people to come to the area, which is great for everybody.

We also echo CHOIR comments on 100% observer coverage and reducing dumping, and everything they recommend.

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March 15, 2012

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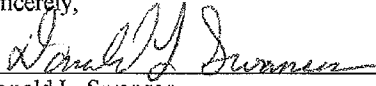
Dear Sir

The Coastal Conservation Association of New Hampshire (CCANH) is very concerned regarding upcoming measures being considered regarding the herring fishery. Measures bringing greater accountability are desperately needed. CCANH supports the following alternatives to Amendment 5 as applied to category A and B vessels. We do not feel that the measures sighted below need be applied to the smaller category C and D vessels.

We feel that honest reporting of by catch would be supported by Section 3.2.1.2, alternative 2, calling for 100% at-sea monitoring on all midwater trawl fishing trips. We also support Section 3.2.3.4 alternative 4D, allowing only five fleet wide slippage events per herring management area. Section 3.4.4 alternative 5, eliminating mid water trawling from areas established to promote rebuilding of ground fish stocks, should also be approved. We also would support Section 3.3.5 if it were modified to require immediate implementation of a river herring catch limit on the total amount of river herring caught in the Atlantic herring fishery. Finally, CCANH supports Section 3.1.5 option 2, which would require accurate weighing and reporting of all catch.

We understand that some of these measures could be difficult to institute and enforce, however, due to the critical role that herring play in the ecosystem and economy, instituting these measures is critical if a sustainable herring fishery is to be maintained. Thank you for your consideration of our comments.

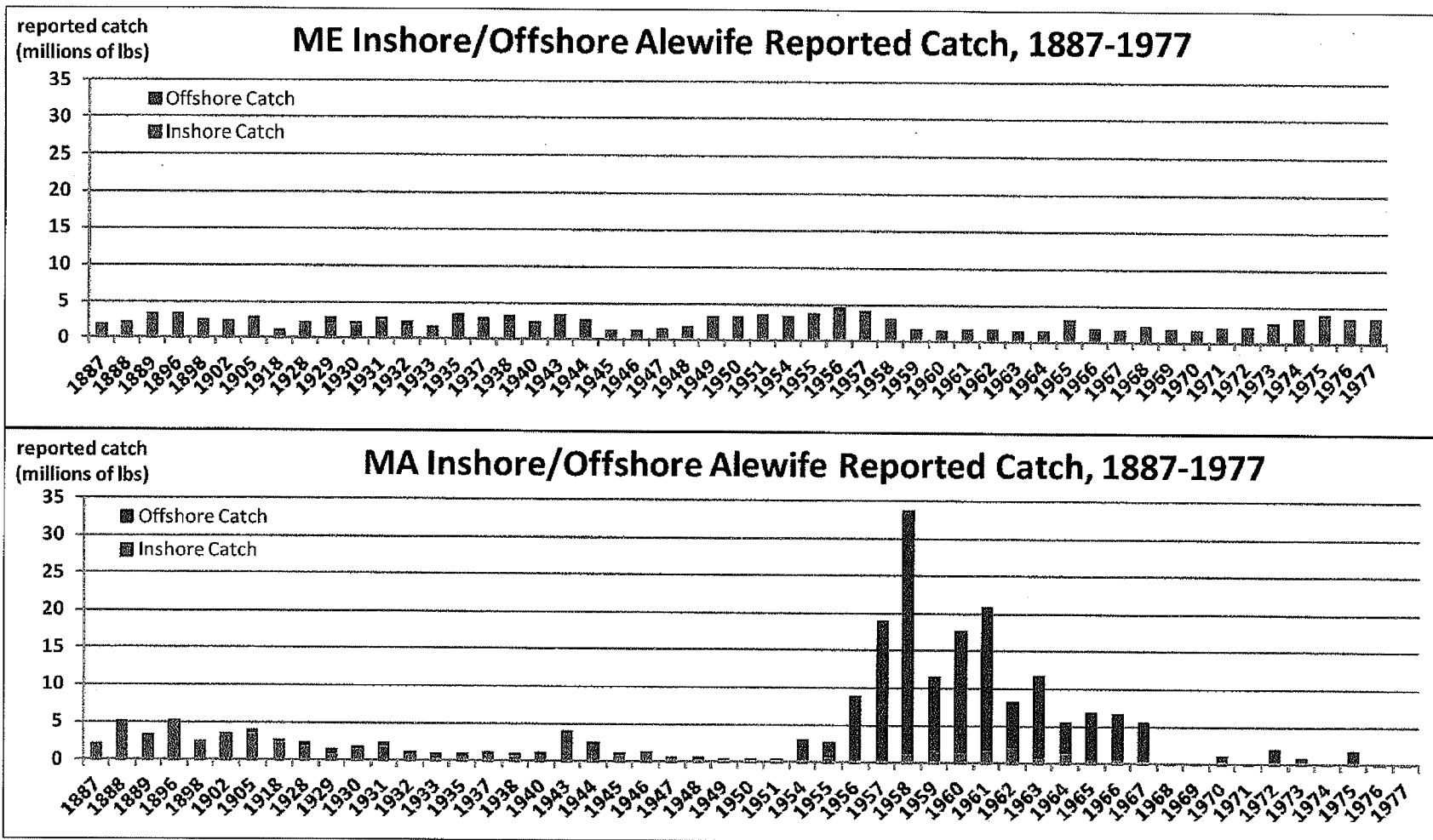
Sincerely,



Donald L. Swanson
President, CCANH

DEDICATED TO CONSERVING NEW HAMPSHIRE'S MARINE RESOURCES

The Coastal Conservation Association of NH ("CCA NH") is an unincorporated state chapter of the Coastal Conservation Association ("CCA"), which currently has over 96,000 members in seventeen states. CCA is a nonprofit, public charity corporation that is qualified under IRC §501(c)(3). Donations to CCA NH are tax deductible under IRC §170.



Alewife reported catch by home port of Maine (top) or Massachusetts (bottom) from 1887-1977. Catch was aggregated by offshore fishing gears (otter trawls, mid-water trawls, gill nets and purse seines) and inshore fishing gears (pound nets, weirs, trap nets, bag and dip nets, cunner traps, haul or inshore purse seines, and anchor or stake gill nets). Data sources: US Fish Commission Reports, Reports of the Commissioners of Fisheries (under the Department of Commerce), and The Fishery Statistics of the United States (under the Bureau of Commercial Fisheries) USGPO, Washington, D.C. All years listed had explicit data; missing years yielded no data.

Historical data suggests that offshore fishing significantly impacted alewife populations.

- During the period 1887-1977, there were no uniform restrictions on offshore or inshore alewife catch. All alewife that were caught could be sold.
- Red columns are reported catch weight of alewives landed by vessels fishing offshore, primarily seiners targeting mackerel and herring, with some otter trawl catch.
- Blue columns are reported catch weight of alewives landed inshore, primarily by static estuarine and riparian gears targeting alewives.
- The increase in offshore catch precipitated a sharp decline in inshore catch in Massachusetts.
- The relatively low offshore catch in Maine had little impact on Maine's inshore catch, and the difference in the demonstrated impact suggests separate spawning groups of Massachusetts and Maine alewives.

William B. Leavenworth, Ph.D.
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New England Fishery Management Council
Tannery Building-50 Water Street-Mill 2-Newburyport, MA 01950

ATTENDANCE SHEET
Travel Authorization # 12-46

ATTENDANCE AT: Herring Amendment 5 Public Hearing

DATE: Thursday, March 15, 2012 LOCATION: Sheraton Harborside, Portsmouth, NH

CERTIFIED BY: Lori Steele

IMPORTANT... Any information provided on this form is subject to Freedom of Information Act (FOIA) disclosure and may be made available to anyone requesting such.

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NEW ENGLAND FISHERY MANAGEMENT COUNCIL

DRAFT Public Hearing Summary

Amendment 5 to the Atlantic Herring Fishery Management Plan

Seaport Inn
Fairhaven, Massachusetts
March 19, 2012, 7 p.m.

Hearing Officer: David Pierce

Council Staff: Lori Steele

Attendance: See attached (approximately 100 people)

Dr. Pierce introduced Council staff in attendance and provided some opening comments about the Amendment 5 process. Lori Steele briefed the audience on the NEFMC Amendment 5 public hearing document. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in Amendment 5.

Public Comments

Jocelyn Kerry, proxy for Sarah Peake, ASMFC legislative commissioner for MA: I am here to testify on her behalf in support of more comprehensive accountability measures in Amendment 5. Her support of these measures is grounded in the belief that the current system is not working and that the herring fishery must have an effective monitoring system in order to ensure its future viability. To accomplish this, it is important that:

1. Vessels report complete and accurate catch weights for all trips.
2. Category A and B midwater trawl vessels shall submit to 100% observer coverage.
3. Everything in the net must come on to the deck and be observed and reported.

Thank you for consideration of her comments. Adopting these regulations in Amendment 5 would go a long way to ensuring the stability of one of the most important resources of the New England fishing industry.

Raymond Kane, Chatham MA: Nine years ago this coming October, was our first formal meeting in Saugus. I am Vice Chair of CHOIR. I will submit written comments.

In 1999, the New England Fishery Management Council unknowingly approved the most gear efficient fisheries to fish in the Northwest Atlantic. At that time, the industry welcomed 100% observer coverage and convinced the Council they didn't catch groundfish. Throughout the history of the fishery, they do in fact catch groundfish and have never welcomed 100% unless stipulated by the judicial system.

We want 100% observer coverage on Category A and B vessels in the herring fishery. It has been stated that there are 43 permitted vessels, but a more realistic number of active vessels is 12-15 vessels that account for 97% of the landings. They are a very efficient gear type, and one

tow could be a catastrophic event. Both management and scientists need to know of these events.

Second, we want no more than 10 dumping events in a management area, and these events include safety, mechanical, and dogfish. These vessels must learn to fish within a management plan and be accountable for every species they catch.

In every fishery across the United States, the fish are weighed. The herring fishery should be mandated to weigh their catch. As of today, it is an estimate between captain and fish dealer. We are often reminded of what a high volume fishery this is, so catch must be weighed. We are talking about millions of pounds of fish. The west coast whiting fishery and Alaskan pollock fishery both weigh their catch and have 100% observer coverage.

We know for a fact that river herring are caught in the sea herring fishery, and therefore we want a river herring cap.

These vessels should not fish in the groundfish closed areas, especially with the latest groundfish assessments on Georges Bank and the Gulf of Maine. One bad tow could be catastrophic to the groundfish stocks.

I ask that the New England Fishery Management Council establish a herring management plan that is amenable to thousands of stakeholders and the entire marine ecosystem.

Robert Decosta, selectman Nantucket MA: I am representing the town of Nantucket. We ask that you adopt Amendment 5 with emphasis on:

100% observer coverage for A and B vessels

100% no dumping policy. We feel that the entire catch needs to be counted and that whatever is in the back of the net be observed.

All landings be accurately weighed and reported, not estimated

Prohibit midwater trawling in groundfish closed areas. With the drastic numbers in the groundfish reports lately, we should give juveniles need as much time as possible to mature and spawn.

Improve river herring protection. Our river herring in Nantucket have all but disappeared. We have no commercial fishery. The waters are pristine and clean, so the herring are dying before they get there to spawn.

Fishing is very important to the economy in Nantucket, not only commercially but recreationally. Our fall striped bass fishery, which was once considered one of the best in the world, has all but disappeared because the migration of herring that comes down the east side of the island doesn't come through anymore. These herring are sucked up by midwater trawlers during the summer months, and when it's time for the fish to come through, they are gone. We urge you to support Amendment 5 with emphasis on those points.

Alex Freedman, Martha's Vineyard MA: Thank you for the long effort into the plan. I represent the Dukes County Fishermen's Association. On behalf of them and for myself, I want to strongly urge the Council to adopt Amendment 5. Speaking to objective 4 about the ecosystem and herring as a forage – that's why I am here. That's why my fate and my community's fate depend on the Council's actions.

Not so long ago, a very efficient, lethal system of fishing was introduced to the east coast, not to a random species or an apex predator, but to the key forage species for many of the fish our communities depend on – striped bass, tuna, codfish, all sorts of groundfish, even marine mammals.

I have all the respect in the world for trying to manage species individually, but playing “whack a mole” is not the way we should look at our ecosystems. And in that ecosystem, the tree of life, herring the trunk. Herring are a very important species. And I speak of sea herring because everything in Amendment 5 will help river herring populations. I echo the comments from the Vineyard and Nantucket. We have pristine runs, and the river herring are not returning. They are disappearing somewhere.

I want to strongly urge for Category A and B boats, to have anything less than 100% coverage doesn't allow the Council or NMFS to make informed decisions. It may be an inconvenience for the industry. Yet so many other industries, species, and fisheries depend on accurate catch information. That includes weighing of the catch and as little dumping as possible. From the meta-view, this is too lethal and too effective a method of fishing.

I would like to close by echoing the words of my mentor, the late Tom Osmer from the Vineyard – fishing needs more intentional inefficiencies. Pair trawling and midwater trawling is far too effective. Now is an opportunity that the Council has to make corrections that will benefit all of the ecosystem and all small-base fisheries.

I strongly urge you to adopt the amendment with as strong as possible – 200% observer coverage– as they do in other countries. It is impossible to ask the observer to observe every tow on a multi-day trip. There are technological possibilities. This is an opportunity to correct wrongs in the past and to preserve fishing communities into the future.

Darren Saletta, Chatham MA, MA Commercial Striped Bass Association: Our organization is over 125 commercial striped bass fishermen from the State of Massachusetts. Today, we strongly urge you to approve comprehensive monitoring and management reform with greater accountability and oversight to the industrial trawl fleet. At minimum, we request 100% at-sea monitoring on all midwater trawl fishing trips; an accountability system to discourage wasteful dumping of catch, including a fleet-wide allowance of 5 slippage events for each management area, after which each event would require a return to port; no herring midwater trawlers in established areas to promote rebuilding groundfish populations; an immediate cap on river herring; a requirement to accurately weigh and report all catch. We understand the importance of this forage species not only to our striped bass fishery, but to all fisheries in New England. We encourage you to take these steps.

Andy Baler, fish dealer, Chatham MA: I represent the fishing industry. We are at a point right now where it is vitally important for the health of all our fisheries – groundfish, tuna, herring, striped bass, all the coastwide migratory species – that we make some serious decisions so that the health of those fisheries continue and the stocks can be rebuilt. We have tried for years and have been unsuccessful with groundfish fisheries. We have manipulated the rules and had highly restrictive regulations for the groundfish fishery, yet the herring fishery is highly unregulated. This may be the fix we are looking for since we have tried everything else. What I am asking for is:

1. 100% observer coverage – we know that in all our other fisheries, it doesn't work unless you have 100%. We know what we have to do the day we have an observer. Things are different. The only way to quantify/qualify anything properly is 100%. I believe that NMFS should fully fund that program for one year. We will have to work the bugs out after. Having 100% addresses a number of issues. You address the river herring issue. You will know more effectively where abundances of river herring are, if there are areas that need avoidance. It is very hard to make decisions right now. Without 100% coverage, you are missing most of the information to make a good judgment call.
2. Closed Area fishing – These areas are closed for mobile gear finfishing except the herring fleet. The only vessels that are fishing in there are the hook fleet, which spent years of 100% coverage to determine bycatch and mortality. There is no mobile finfish gear in there, and that should apply to the herring fleet.

From one industry to the other, We all want to stay in business and it's important that we can fish in the future. That includes the herring fleet. They have to think for the future too. Our future is tied to them.

When you have observer coverage, I think it's very important to sample the bag. I think it is necessary to have a minimum number of events for dumping. There are certain circumstances where you need to dump the bag. But if you can't find out what's in the rest of the load, it doesn't help the observer coverage. It always comes down to funding, and I think that NMFS needs to find a way to fund this 100%.

It is not one industry against the other. We are all in this together. We have been missing this one piece of the puzzle. We haven't seen a groundfish fishery fully rebuilt it's down. There are reasons the fish are down. I don't see the herring in the fish I unload anymore. We have had an unusual span of sand eels. We have never seen anything like sand lance this long. When the sand eels come to an end, what else do the fish have to eat inshore if there are no herring around? Things have to change, and I think that this is the most important thing. You will find out in June when you make your assessment.

Paula Lofgren, Chatham MA: I am a resident in Chatham. I urge you to vote in favor of Amendment 5, not as a commercial or recreational fisherman watching the public resources depleted by the industrial midwater trawl fleet, or ecologist or environmentalist concerned about the collateral damage to our coastal communities by depleted herring populations, and not as a lover of seafood who will no longer be able to buy local fish. I am a citizen and taxpayer of Massachusetts who has put my faith in you to defend our public resources which we have entrusted to you. As a new resident of a coastal town, I am furious to discover what has happened to the fisheries and the fishing industry along our coasts due to the presence of the midwater trawl fleet. Most importantly, I speak as a parent and educator. We teach our children to be good citizens, which means be fair and equitable, work for the good of everyone, follow the rules which are the same for everyone. Know that your actions have consequences. Do the right thing and if you are not part of the solution, you are part of the problem. In learning about the struggles facing our local fishing communities and the future of our marine resources, I am enraged that these principles do not apply in the world regarding the actions of and the management of the midwater trawl fleet.

As stated on the website, the MA DMF strategic plan has as its number one goal (quoted) to improve fisheries sustainability, promote responsible harvest, and optimize production of living marine resources. The first sub strategy is to collect precise, accurate data to enhance fisheries management. Provisions in Amendment 5 will provide this data and help you reach this goal.

The Strategic Plan also states as its vision sustainable fisheries and a healthy marine ecosystem achieved through innovation, collaboration, and leadership. I urge you to show leadership and put in place these important provisions:

100% observer coverage of met vessels, no midwater trawling in closed areas, no dumping of unsampled catch, accurate weighing of all herring landed, and protection of river herring bycatch by the herring fleet.

Set an example for the next generation of environmental policy makers by doing the right thing to protect the resources. As an aside, I have heard that one of the reasons for not having 100% or 200% at-sea coverage is the prohibitive cost. When I received my teaching certificate in 1974, it was supposed to be for life. As times changed and accountability increased in the teaching profession, now I have to pay for the education required by the State, I have to keep reams of data saying I have fulfilled the requirements, and I pay to recertify every five years. I find it appalling that that is required of me as an educator but not of the midwater fleet.

Mike Abdow, Chatham MA: The observer coverage is a joke. They get 50,000 pounds of haddock, the observer told them, but where did the information go? To 50% over on the catch, the observer is there, yet where does the info go? I don't see any penalties, I don't see anyone stop fishing.

They don't weigh the fish how can you have a TAC without knowing the weight? You cannot guess what they are going to catch. They are going to lie, everybody does. There is no one there to watch them. You stop all of us from taking herring out of a brook because we want to catch a striped bass with it, but those bastards take plenty of them out there. I know because I have gotten herring from them, and alewives were in the mix. I have watched them pump out, and I have seen dead herring, alewives, laying in the water, along with cod and haddock. I even got in a fight with the guy. He threatened to run my boat over. I went the next day with a gun because no one is going to tell me you are not fishing on my property, especially some guy who comes from Ireland. Why are they even allowed in this country? It's frustrating. They came here back in the 90s, and I could go for 10 miles in the spring and see loads of herring on the surface everywhere. The minute they showed up, we started losing herring. I know the guys who own the trap businesses. Now, if they catch three mackerel, they get excited that the mackerel have come in, when they used to catch 20,000 a day. These guys used to catch boat loads of mackerel, and they don't catch any anymore. 1,000 used to be 20,000 30,000 a day. As soon as those boats showed up, everything started to go downhill – tuna fishing, bass, groundfish. I went to Washington with some of the people in this room. We told Congress, if you want the fish in the ocean, you have got to feed them. The poor guys fishing the traps are done. Those guys catch the fish offshore. Our fishery for squid is done. Those boats have done the damage, they made the money, and it's time to kick them out of here. This is America, and this is our place.

As for estimates of what is coming out in June, we have had a couple of real boo-boo estimates on the groundfish, so I can't trust the assessment anymore. Oops, we were over by 90%. The fishermen pay for that. As for the assessment in June, I hold no faith in that anymore. This is

wrong. I have been doing this for a very long time. I have seen the downhill trend. I have seen fish not replenish themselves.

Observer coverage 10,000 percent. Whatever they do, by the time it gets reported, the damage is already done.

Bruce Peters, charter boat fisherman, Chatham MA: I am also a commercial fisherman. Why do we have boy scout troops taking the weekends off and cleaning up the herring runs if we have the midwater trawl vessels scooping up the fish taking them all?

100% observer coverage

No fishing in groundfish closed areas

More protection of river herring

Accurate weighing of all herring landings

No dumping of un-sampled tows

Eoin Rochford, NORPEL: We process herring and mackerel. What amazes me is the anecdotal information I have heard here. I have been involved in herring fishing for over 30 years. It is actually a clean fishery with very little bycatch, as the observer data shows if they take the time to go online and look at the observer data.

100% observer coverage would be welcome as long as the industry doesn't have to pay for it. The problem I see is that the industry will have to pay for it. When Amendment 1 came in 2006, we lost about 30% of the boats in the directed fishery that landed over 100 tons, the boats that kept the plants going. If the burden of observer coverage is put on the boats, we will lose at least another 50% of the boats that are there. That means the boats left will have more resource to themselves. With the herring resource or for any fishery, it is important to spread it out and have more people have access, not less. I would welcome 100% coverage if people would look at the data and see how clean the fishery is and how little groundfish and river herring are being landed by the herring boats.

When it comes to weighing the catch, the burden of who pays for this is the problem. Herring is not a high cost fish, it is primarily used as lobster bait. So the burden of cost will go back on the lobster fishermen to pay for the scales because the bait will be more expensive. When Amendment 1 was introduced, they said there would be no effect on the lobster guys. Unfortunately, they are paying about twice the amount for bait now since 2006 as a direct result of these amendments because the cost will always be absorbed by the end user. We have to look at the cost and what effect it will have on the end user, who is most impacted. That will be the lobster fishermen, whether Massachusetts, Maine, Rhode Island, or New Hampshire, all will pay a higher price for bait. If the government is not going to pay the bill, I would be very slow in recommending 100% observer coverage.

When it comes to slippage, nobody wants to go through the effort of catching all this fish and dumping then. We are not recreational fishermen, and we never were. It's anecdotal information. I have a big problem with the term slippage. I know where the term is coming from.

Willy Hatch, fisherman: I support observer coverage, maybe 200% so if someone is asleep, maybe the other observer can be present during the haul backs.

As far as river herring goes, I think there should be strict closed areas to protect them. There are definitely areas with big interactions with river herring. They should be closed, just like the runs are closed for us. We can't get a single herring, so they shouldn't be allowed in there.

There should also be inshore closed areas for the midwater trawl fleet because of the interactions they have with the other boats – groundfish, tuna, charter, and striper boats.

There should be no dumping. They need to be accountable for what they catch. That's why we have observers.

I heard talk about how much herring to take out of the ecosystem. What needs to be taken into account isn't just the herring stock, but the health of all the other stocks. We have seen the crash of Gulf of Maine cod, and I'm sure that next year when the Georges Bank assessment cod assessment comes out, that probably going to be even worse. Tuna, striped bass, all of this has been negatively impacted by bait being taken.

I just heard about impact to the end user, the lobstermen. How about the end users like groundfishermen, tuna fishermen, the striped bass fishermen, the charter fishermen that fish on the herring schools. These guys come in and wipe them out. All the fish are gone. The fish are starving.

I hear the terms net slippage, self-reporting, how there is a guesstimate between the buyer and captain. I wish I could be accountable like that. That is ridiculous. These guys need to accurately weigh the fish and be held to the same standards as a guy like me with a rod and reel.

Patrick Paquette, citizen of Commonwealth of Massachusetts: I am providing testimony as a private citizen at this hearing and a business owner.

I support 100% monitoring and don't have a strong opinion about who pays for it. As a recreational angler, when Magnuson was re-authorized, we had to pay for all of our monitoring – through excise taxes or licenses, we pay completely for the monitoring of our fishery. If the industry has to pay for monitoring, I think they should. If the government could help them, that would be great. Either way, the decision that we need 100% monitoring should not be tied to the dollar. It should be tied to what the fleet needs. The evidence of this fleet fishing differently with monitors was never as clear as it was in 2009 on Georges Bank, when over a one month period, the catch swung by over 1 million pounds a week based on the amount of monitors. The Council heard testimony from Massachusetts State Marine Fisheries Commissioner Vito Calomo, who testified that things are different depending on whether there are monitors or not. That was at a New England Fishery Management Council meeting. I personally support 100% monitoring.

The dumping regulations, as proposed, have big loophole. I refer to industry lawyer Sean Gehan, who testified at a Herring Committee meeting, that his job was to find loopholes in this amendment. This loophole cannot be allowed to stay – to only count dumping events when there is an observer on the boat. We got 80% of the observed trips in the closed area. We didn't get 80% of all trips that were made in that period. Dumping events happen in all areas, all times of the year based on whether the fish are spawning, feedy, or bycatch events. No matter what the regulations are – 10 events, 5 events, whatever – to only count when there is a monitor on the

boat is not acceptable. That's not what the public wants. The public wants the needless waste of natural resources to slow down. The groundfish industry has taken a hit in the same subject – to cease the needless waste of natural resources. The groundfish industry is inside out with what the Council had to do in Amendment 16, and to not have the exact same standard in this fishery is criminal.

With regard to the river herring bycatch measures, I refer you to the 2011 fishing season and the UMass/SMASST program with industry, and this is from their website. Their website reported three large river herring bycatch events on the backside of Cape Cod in 2011 in the winter. This is coming from the industry – by their standards, three large bycatch events. This is why millions of dollars spent shoreside have us concerned. I belong to an organization that volunteers and cleans up one herring run in Weymouth. With millions of dollars in shoreside improvement, we continue to see things going down. We believe it's because of the original statement of the ASMFC Technical Committee working group in 2010, Dr. Matt Cieri when he said that he believed in his analysis, that this fishery may catch more than directed harvest of river herring coastwide. We believe that is true and continues to be true.

River herring hotspot closures are a beginning. At the beginning of the section, it also says that the alternatives could be combined. Any river herring hotspot closure is fine, but there is concern about what happens if the fleet runs into river herring elsewhere. A good beginning to address river herring is to try to address where we know it's happening. If they happen to run into it elsewhere, let's cap what else they are allowed to kill. This fleet has turned haddock into lobster bait while my sector is being reduced in its haddock catch. It still baffles me. As a former mate on a head boat, the fact that what was our money fish is now lobster bait is criminal. It's allowed, but it's capped. I believe it's too big of a cap, but it's capped. Let's cap river herring because it's a species of concern under both the State and Federal law. NMFS has listed it as a species of concern. We should close the areas where we know and can predict bycatch to be happening now. The SMASST scallop yellowtail program is a good beginning. It's another one of our options to consider, but the yellowtail program lives and dies on a catch cap. The incentive for that program to work is that there is a cap on the bycatch amount. So this bycatch amount should be capped as well.

As far as the groundfish closed areas, I will again refer you to the minutes and the testimony given during the development of this amendment. The Council's Herring Committee moved to considered but rejected in this amendment the ability to put bottom sensors on the net. The stated reason across the board at that meeting – the industry testified to this – was that the industry would frequently lose bottom sensors. This fishery was allowed in the groundfish closed areas under a special exception because it was believed they weren't on the bottom. To fish on the bottom is to catch groundfish. They should not be allowed in closed areas period. We just had another round of assessments, and not GOM haddock are in the toilet. Georges Bank cod are in the toilet. Why is it that every species that interacts with herring are in trouble? I believe we are about to find out when the assessment comes out. This gear has no business in groundfish closed areas.

The impact analysis in the document almost completely ignores the recreational fleet, charter fleet, the inshore fleet, and the groundfish fleet in terms of possible impacts. When haddock are being shifted into a new fishery, into the lobster bait market, the whole resource is now being spread to another group of people that are starting to tie themselves financially to it. The long-term impact of that is that there is going to be less fish for all of us. I say that we should be

protecting the fleets that are already making money off of fish instead of expanding this one fleet's ability to catch that particular species.

As an investor and part-owner of a charter boat out of Chatham, we will be submitting our trip log that includes our cancellations with names. In August of 2011, when the fleet came down the backside, all of a sudden the body of fish off Chatham that was driving a lot of the charter boats and rod and reel commercial catch out there – when those boats were done working about 10-12 days after the rod and reel quota was harvested, there was nothing left. The bass were gone. It was middle of August, and we had five or six good weeks we should have had left in that fishery. That was the result of extremely small, concentrated localized depletion. Our boat then had to fish off Nantucket instead of the backside of Chatham, which was a difference of over \$100 a day. The fleet moved. It was an economic impact. Some of the smaller boats couldn't go fish that far. There are all kinds of impacts that happen when these boats come into an area, regardless of the anecdotal stuff. We have only had four dead whales wash up in the last three years off the backside of the Cape. And all four of them happened when the 20 boats were working off the backside of the Cape. Call it anecdotal, call it whatever you want, but that is just a fact of life. This fleet is suspect because it changes behavior every time it's monitored, and that's on paper. I am hoping that you will choose one of the more intense monitoring options. There are thousands upon thousands of jobs at stake here, not a couple of hundred from the fleet—thousands of them.

Dr. Peter Escherich, retired fish and wildlife biologist: I was a biologist with the federal government for about 30 years in various natural resource damage assessment and NEPA analysis. In listening to a lot of the speakers tonight, it is very clear that there is a major flaw in your NEPA analysis. In the economic part of your review, under VEC five “fishery-related businesses and communities,” you only refer to the herring fishery. I have heard ample comments tonight from people representing a lot of fishery-related businesses and communities that should have been included in the economic analysis. From my experience with NEPA documents, this is a major failure of the EIS and may be an Achilles Heel. I am speaking as a private citizen. I am retired and have helped some NGOs with reviewing the threatened species listing for river herring. But I am speaking for myself on this issue. I think this is something you should pay heed to.

Ted Ligenza, Chatham MA: I am for 100% coverage, no dumping. I think it should all be brought home and used and counted. There should be nothing thrown back. I find it rather odd that it is not demanded that everything that is caught doesn't come in. I find that a fault. In terms of accurate weighing of catch, it has to be someone who is not a herring buyer. It has to be someone from the State or the Feds – nobody other than that.

I do a lot of cod fishing, so I take a lot of observers. Most of the time, I get a kid who is very smart, usually about 22 years old. They are good people, but you cannot expect a 22-year old person to get on a 200-foot boat be able to do a job. I would say you need four people on the boat and one person who is a senior advisor. I have talked to two people who work as observers on herring boats and got the same story. One guy told me that they get inside the house and try to measure what goes by, and he had no idea what was going on. Another guy on a herring seiner said he didn't know what was in the net that didn't come on the boat. Just because we have 100% observers doesn't mean it's going to work. If it's not done right, then it means nothing. I would say you need at least three or four people on a boat like that. Bullying

observers is something that happens. You push him around, you are nasty to him. It's bad enough with one person bullying an observer. But you have eight or nine guys there trying to get by with something, they are going to be able to do it. They are all 20 years older than the observer, and they are going to get away with it unless you have a senior person on the boat.

I was fishing up at Nausett this fall and catching cod. Early on, the herring and mackerel, when they come across Nausett in October and November, they are up on the surface. I can understand if I was a herring seiner at that time, that it would be a clean fishery. When the water gets cold, the herring and mackerel go down to the bottom, they are about six feet off the bottom. I was doing good jigging, and I had a crew with me. The seiners showed up about the second trip. As January went along, the fish went on the bottom, and they were towing right beside me. I know what they were catching. There is no doubt in my mind that they were catching codfish. They weren't trying to catch codfish but I know they were. Now you want me to read this big pamphlet, but the simple fact of the matter is you can't do this. You can't fish this way and expect any cod left in the ocean. I am speaking for the cod. I love cod, I have caught them all my life. You can't expect them to survive a pair seiner fishing on the bottom. It's impossible. I went back out fishing later that month. I caught six fish by 11 o'clock. I didn't catch six keepers, I was catching throwbacks. Water temperature hadn't gone down. If the water temperature went low, the fish would have left, but the temperature was still good, there was still bait, but there was no codfish. The lights were on, but no one was home.

The other thing I see in this document is there is no cap on Pollock or codfish or haddock. There should be a strict cap on how much Pollock and codfish they can catch with observers. The next time they are at Nausett, they won't be able to tow on the bottom because they would go over the cap like they did this year.

Tom Smith, commercial fisherman: I agree with most of what has been said. We need 100% observer coverage, but you can't do it with one guy. No one is going to stay out on deck for 24 hours, and if they are, they aren't going to be sharp. You need two guys on each boat. I have been fishing next to these boats since the early 1990s in Area 1A on Jeffreys Ledge. They are not going to go away. Now we are fishing 130 miles offshore on the Hague Line for tuna fish, and we had them all around us in Area 3 last fall. If it's something we have to live with, you need to reign them in.

One thing we need to do besides coverage is we need accurate weights. In every fishery we are involved in – bass, bluefish, tuna – it's all hard TACs, and we never exceed the quota. If we do, it's a very small amount. Every fish is weighed. There is no margin for error. Yet the herring boats don't weigh their catch. I just found that out recently, and I couldn't believe it. And they keep going over on the quotas. It seems like this happens every year. I just got done reading a book called menhaden – called The Most Important Fish in the Sea. I believe that herring is the most important. Every fish that we fish for is driven by herring.

Buddy Vanderhoop, Martha's Vineyard, Dukes County Fishermen's Association: Eight years ago, we had a decline of probably 85-90% in the herring run. To date, we are about 65-75% off the numbers we were ten years ago. It's not the small guys like me that are doing damage because we have had a moratorium. I think the herring boats should not be allowed to fish inshore during the spawning months, from early March until June – no inshore fishing at all

because herring are coming inshore into all the estuaries to spawn. It makes sense not to let them fish inshore at this time.

I am in favor of Amendment 5. I am for 100% or 200% observer coverage, and I would like to see them stop fishing in the closed areas. It is very important to everybody. These midwater trawlers are devastating our forage fish. Everything depends on it, from whales to people. Everything eats herring. If you devastate the herring, you won't have anything. You have to protect your resources.

Eric Braser, Georges Bank Cod Fixed Gear Sector Manager: The issue here is simple. If you don't know what's being caught, you can't manage the fishery. So the Council has two choices. If the Council wants to know what is being caught, it will implement the recommendations of nearly every one of the stakeholders sitting here behind me. If it doesn't, then it won't.

Stew Tolley, Georges Bank Fixed Gear Sector: I agree with what has been said this evening. My big thing is that you cannot have 100% coverage with one person. It's impossible. I strongly believe that should be increased to a minimum of 2-3 observers on the boat.

On the self-reporting of weights, I believe it would trend towards lower weights, which would result in larger overages for the weights.

I read that in Area 1B, there was a 50% overage. With that, you don't know what's being caught. The self-reporting needs to go. It needs to be reported and weighed by a federally-permitted dealer. I have been fishing for 42 years. I know that if I or any other fishermen had a 50% overage, I would probably lose my permit for a number of years, I would probably get a large fine and might even a jail term. What's going on needs to change.

Eric Stewart, charter boat/retail tackle store owner, Chatham MA: The biggest problem is we have 80 pages of a document to try to understand the problem. You need two pages – you need to go on your objectives and figure it out from there. The bottom line is that this fishery – the pair trawlers – are too good at what they do. They are effective, they kill and catch everything. They are fishing small mesh. They see the same thing on their fish finders that I see. I fish next to these boats all summer long when I am tuna fishing. I know what I see on my fish finder, and I'm sure their sonar is better than mine. I see herring mixed with groundfish, dogfish, striped bass, tuna fish. They are all interwoven. To say it's a clean fishery, I can't tell you anything but what my fish finder is telling me, which is you cannot put a net down there and have a clean fishery. You cannot target one species when the ecosystem is interwoven.

So if we look at the objectives – to implement measures to improve the long-term monitoring of catch (landings and bycatch) – clearly, you need observers. You need to know what's out there. There is a huge amount of information in here talking about a proposed experimental fishery program because you need data. You don't have the means to get a couple of trawl boats and trawl for a season, and that would only be one vessel. You have a fleet out there that's been doing it and you need their data, and you need it 100%. You cannot have one person on the boat 24 hours a day. We need 100%, 200%, 300% coverage, and we need them to be trained.

And your second objective – to ensure compliance with the MSA – we have to hold the boats to their quotas. We have to give them a hard TAC and hold them to it just like any other fishery. There isn't another fishery that any of us are involved in that there isn't a hard number that is absolutely counted and weighed, and we are held accountable. If we go over, the next season, we lose that. If we go over, they take it away. To implement management measures to address bycatch in the herring fishery – no slippage, no dumping – whatever is in the net should come on board. It should be counted, and they need to be held accountable.

And number 4 – in the context of objectives 1-3, to consider the role of herring as forage fish and predator fish throughout its range – is redundant. Objective 1, 2, and 3 will address all of that. What I would like to see is:

110-20-30-thousand percent – whatever it takes – coverage on A and B vessels

No slippage or dumping at all

Weigh all of the catch – bring them in accordance with every other fishery in the country. You have to weigh the catch. How can you hold them to a hard number?

No fishing in groundfish closed areas whatsoever

Stop overfishing period. Hold them to a hard TAC. The idea behind the MSA to stop overfishing. This is one of the only fisheries that isn't held 100% accountable.

Ryan Mann, Marstons Mills MA: I am here as a private citizen. I have organized a volunteer herring count in Harwich with Harwich Conservation Trust. There are groups all over the Cape and the South Coast doing similar projects. Over the last three years, we have engaged over 120 people to come out to our run and help us gather data. These are volunteers with minimal training. They are shown what an alewife looks like, what a blueback looks like.

Over those past three years, we initially said we will count whatever is there and submitted it to the State of Mass and NMFS. We have done that. Some of the volunteers have become disheartened. In Harwich, historically, there were millions of herring caught in our rivers as they spawned. Last year, in 2011, the total amount of fish run size was 10,466 fish – from millions and millions of fish. That is wrong. I have been told the answers to this are pollution, water quality. But the amount of sampling over the last 15 years has shown that there have been improvements, and data is showing that towns are trying to remediate water quality even more. I have also been told that dams and other impediments have been a problem. Dam removal has been a major effort across the State. I really have a hard time when all of these people are putting in all this effort on the ground in the coastal communities, and people are giving me answers that this is the problem, but there is not 100% observer coverage at sea.

I spent a little time an observer on the groundfish fleet. I have found that even though there is a level of sophistication that people need to have as observers, it is important just to have the observers there. Without them there, we don't know what is going on. It has been asked of me to put some effort and get the volunteer out to our runs to make this an effective effort. The little bit of money that we have put into the run – I think there needs to be something to show that all of the effort from the 120 people in our town, which can be extrapolated all over the south coast and the Cape and Islands – this shows that this is a need, and we need to know what is going on. We need to have that complete picture of river herring population. Without 100% coverage, it's like an algebra equation – you have a variable and won't ever be able to solve the problem.

Pete Kaiser, F/V Althea K, Nantucket MA: I have been involved in a lot of fisheries. You have your job cut out for you. I started fishing Nantucket in early 70s, and the herring were everywhere, washing up the beaches, in the shoals. Since the two inch fishery started in the 90s, now you are hard-pressed to find a herring anywhere within 20 miles of the Islands. A lot of attention is given to Area 1A and 1B, but from there down, it just doesn't exist anymore.

I was at a meeting a year and a half ago talking about river herring hotspots. That was a little bit ludicrous. If you have the coast and a ten-mile area that is an active area, then another 20 miles down the coast is a hotspot – all the areas between the hotspots are full of river herring. They are basically a coastal fish. If one of the objectives is to stop river herring bycatch, it seems appropriate to set up a minimum ten-mile barrier up and down the coast, and leave the co-existence of river herring and all the fisheries that exist near the coast alone.

About the fishery on the backside of the Cape, the same year you had four dead whales, I was appalled to hear that in a fishery like the pair trawlers with two-inch mesh. With the size and scope of those nets, say whatever you want to say, but anyone with any common sense on the water would say these whales are a direct result of these nets. I was appalled to hear that if they do get a whale in the net, live or dead, they have to do their best to clear the whale, and if it dies, it dies, that's okay, just report it to the manager. In any other fishery, if there is a lot of interaction with whales in an area, they shut the area down. It makes sense, especially with the size of these boats. The burden is on the scientists. They can't possibly do their job managing all the other fisheries with the existence of the two inch mesh fishery as close to three miles off the beach.

We have seen recently in Area 1B, the agreement was to shut down at 2600 metric tons, and they went up to 37. There is a reason for the quotas. The overage should be taken immediately off the adjacent area, that year, right then, from the area right next to it. Obviously, fish go across the line. Then, we wouldn't have to go over, and because of the paperwork, go into the following year before it's deducted. The reason a lot of us are irritated is because a lot of us have been trying to make a living when this fishery got run through the system. We thought our backs were being watched and someone would make sure that there would be protocols taken to ensure the coexistence of this fishery. We are frustrated that protocols were not taken. In Amendment 5, all of these things should be adopted:

100% observer coverage on Category A and B boats, the big boats catching most of the quota, along with no dumping at all. Other large volume fisheries on west coast – the whiting fishery and Pollock fishery – I believe have 100% coverage and no dumping. They have to bring everything on board. I would say that the data from the observer coverage right now – I would rather have no observer coverage because it's totally anecdotal. If they can't bring the net up, it's pretty cagey. You get to a point that you can't pump enough herring on board because large bycatch is clogging the grate, so the tows are getting dumped. Everybody knows that this is one of the dirty little secrets of the fishery. 100% coverage on the big boats, no dumping at all. If they have to because of emergency, fine, but no random dumping at all.

No fishing in the groundfish closed areas. Cod are about at an all-time low. You just cannot fathom that these boats are fishing as close to the bottom – the fish comingle. No fishing at all in the groundfish closed areas.

Weigh the fish. As it has been stated, the government has required all of us to report everything. We can't go over. And if we do, we are fined and it is taken off the beginning of the next year. They should weigh. If it's such a burden – if they have to fish near the bottom because the fish are down there – all of these other excuses – do you want some cheese with that wine? If they can't fish correctly, then tough. Go work at McDonald's. But don't trash these other fisheries.

This is fundamental fish-ology. Find the herring and you will find the other fish – groundfish, migratory fish. To be able to just catch the herring, it can't be done.

JJ Johnson, engineer, F/V Western Venture: The thing about midwater trawling is you don't need two observers because there isn't a lot of time spent on deck. It's easy to get an observer. The industry has offered 100% coverage at \$325 a day, that's the west coast rate, and that's a fair rate. If you can't do it for that rate here, then send west coast observers here and let's get it done. We want to get the lies over with, and the only way to do it is 100% observer coverage, and I think we have industry consensus on that.

Don't ask us to kill them though. In the event that there is a problem with the net, I'll go before the observer, but don't ask us to bring observers and put them in harm's way. If there's a problem, there is nothing we can do. We side pump, we are not like a stern pump operation. I have taken water over my head side pumping in bad weather. There have been situations where I didn't think the observers could go on deck, and I've had to drag baskets over to a corner for them. The safe sampling station needs to be done. We need the observers safe.

A lot of confusion about midwater is that people don't get it. We spend most of our time looking for fish. We are extremely selective about where we set our net and how we set our net. A lot of times, we may fish in the morning and sit there all night. Nobody sees that. The guy with the sonar can't see that we are not fishing. We may not fish because the fish are mixed during the day and they come off the bottom at night. We are there, we see it. You can judge our effectiveness by our numbers – we are the number one bycatch ratio fishery in the northeast. There is no comparison. Scallops is next, but we are the number one fishery. I was a bottom trawler and I know how dirty that gets.

A lot gets lost in these things. We have got to take care of the river herring and fix that, and the overages – we are reporting to you guys, and you are continuing to leave areas open long after we told you that we have caught the quota. We have voluntary reporting. I don't know why you guys are holding it. When we say we are done, shut it off – 12 hours. You don't need three weeks, you don't need two days. If we report that the fish is caught, shut it down.

We feed the world. That's what fishermen do. Some fishermen feed the fattest, wealthiest people with the richest fish. Some guys go out and catch a \$400,000 fish. We sell our fish for nine cents a pound, a lot of times to the poorest people on the planet. In Nigeria, two out of five children are starving. Think about that when you decide these measures. It's not just about us and our industry. I can find another job. I'm a licensed refrigerator mechanic. But I think it's important to remember that people are buying this fish. In New Bedford, poor people come to the docks to grab fish to eat. In Gloucester, they grab them for bait. Herring feed poor people. We are getting more and more poor people, not less. We need to be careful about the political stuff and remember what is important. The poor people that eat the fish have no voice.

Leo Maher, Chatham MA: Don't punish us here for the rest of the world. I am not buying the fact that you need to feed the rest of the world. I am here in a different situation, fighting to keep my livelihood alive. Let's remember that.

I would like to ask for 100% observer coverage. I have seen observers on these boats. For years, I have been off on Georges trawling. There is a vast array of talented observers. One observer on a boat is going to give you a totally different count and observation than another on a different day. There should be more than one observer because of wide variation you are going to get.

No midwater trawling in groundfish closed areas – I just read tonight that herring fishery demanded a five-time increase in haddock quota. That tells me that is a dirty fishery. If they increased it by five, maybe that's why they have such a good bycatch ratio. But they wouldn't ask that if it was a clean fishery.

No dumping of unsampled catch – they should be able to measure everything.

Accurate weighing – I didn't realize they self-reported until tonight. I have been around fishermen my whole life, and I can tell you that we are not the most honest people. You give me an opportunity to tell you what I caught – a lot of guys in this room are not going to tell you the right numbers. I catch 30 fish now only because I have to catch 30 fish.

Protection for river herring is also very important.

Joel Boyce, fisherman, Yarmouth MA: Little zones for river herring – exclusion areas – we need to make that the whole coast. Every town, every river used to have herring in it. Now we have these few little runs where people are observing and counting. It used to be everywhere. There needs to be a coastwide exclusion of these large vessels. These vessels can go back and forth across the Atlantic time and time again. The inshore area is the area for the small boats. These things can go way offshore, and that's where they should be fishing – not in everyone's back yard, where everyone can see them – offshore. With monitoring, 200% - you are really talking about 15-20 vessels. You are maybe talking about 40 observers, not hundreds of boats. It's 15 boats, it's not a lot.

John Pappalardo, Cape Cod Commercial Hook Fishermen's Association: I do support 100% coverage on A and B vessels. I would like to see the Council take an honest stab at quantifying slippage and try to eliminate or otherwise reduce slippage. I continue to be concerned about access to groundfish closed areas, although the Council is reviewing those as we speak. If an area is going to be closed to protect groundfish, I think it needs to remain closed for all fisheries. I'm not sure about how the recent Amendment 4 lawsuit plays into Amendment 5, but I'm sure you will be getting some advice from Counsel on that, and I'm sure it's something that you will have to take seriously.

Weighing of catch – how can we have a fishery that sets quota in pounds, yet we don't have a consistent way to weigh the catch, the landings anyway, from State to State.. We don't have even a standardized volumetric unit to determine what's been landed. That's something the Council has talked about, and I hope you move forward with that one.

I am like you – tired of talking about this. I wish the offer to go to 100% coverage was accepted back in 2005 and 2006 when I started talking about it on the Council. For one reason or another, the question of monitoring the fishery kept getting kicked to the next amendment. Over those

years, I watched the resource decline from 2 million metric tons to 1 million to now 600 thousand roughly. We are going to have another assessment in June. I am not very hopeful for the number that is going to come out of that. I have spoken to folks involved in the assessment, and they have indicated that there no bright signs on the horizon.

I have spoken to a lot of the people in this room, and probably people you have heard from during these hearings, from Gloucester to Maine. Pretty much universally, there is not much hope for a robust herring resource. That's why I got asking the questions I did back in 2005 and 2006. I got concerned about the herring resource, not about bycatch of other stocks. I was concerned about what I was hearing at the time, primarily in Area 1A – the dumping of feedy fish or spawned fish, the inability to time spawning closures with the actual spawning. I know that's done through ASMFC. But I will go back to a comment by Herring PDT member comment Steve Correia. He spoke at a Joint Herring Committee /ASMFC meeting after the last assessment to the Joint Committee, and he said he is very concerned about the repeating of what happened to the herring when the foreign fleets were here. He said that when the foreign fleet turned its effort on to the Nantucket Shoals spawning component, they saw a quick decline and ultimate collapse of the herring resource. While have spawning protection through ASMFC in Area 1, we don't have any spawning protection for that Nantucket Shoals area. I would like to flag that for the Council to look at down the road. If we do get 100% coverage, perhaps we can try to get observers to note the spawning condition of the fish when they are observed in that area. I have spoken with some of the technicians, and apparently it's very difficult to bring the fish from offshore to determine its spawning stage, so that's something that will have to be worked out.

I can speak to my frustration since 2005 and 2006, when I have asked for accountability in the fishery. It seems like it's been a game ping pong between the ASMFC and the Council. There was always something better to do than what we are here tonight talking about. I can't help but wonder if we had put the observers on the boats and weighed the fish, where we would be today, if we would be here talking about a continued decline in the herring biomass. It's a very real concern, to the herring industry as well. There is big money invested in those plants in New Bedford and Gloucester. There's big money to run those ships. The industry should be shitting bricks if this resource goes down to 200,000 or 300,000 metric tons. That's a serious thing.

I think we need to also redefine the management boundaries. I do not think that Area 3 should come to the backside of Cape Cod and be called part of the offshore fishery. It didn't used to be that way. Area 1B used to stretch down along the backside.

Since 2005 and 2006, I feel like the burden of proof has been on me and others to prove that there is a problem with this fishery because we were always told that the data is clean. There is no smoking gun. Now, we are hearing that the industry is willing to take 100% coverage at the rate the west coast pays. I hope that rate can be made available to them and every other fisherman in New England that has to carry an observer. That's part of the game fishermen have to play now, it's part of the accountability. It's part of the issue the Council has. Lack of data leads to poor decisions or decisions that are too slow, and the people who ultimately get hurt are the people who depend on the resource for their living, as well as the general public. I think the burden of proof needs to shift on to the industry more – not just the herring industry, but all industries. If our government can't stand up and provide the services we need, then we need to sit down and figure out how to collectively fund the information that is necessary to make the

right decisions so that we can continue on in our chosen professions. It's not going to be easy, but I don't see any other way about it. It's been a long time coming to have this decision.

Dr. Arthur Costonis, retired plant physiologist, Chatham MA: I am 78 years young. What I would like to recommend is to get this trawling banned totally. Here is your data right here. I have heard enough good information about how to deal with this, and we ought to listen to them. I would like to complement you for your transparency, allowing everyone to speak.

I have fished groundfish; at this time, I am a sport fisherman. I have seen the herring decline in my time. Why don't you stop these guys? Make them clean it up. I don't think that is fishing, it's killing. I am against it. Do we need a Rachel Carson to write another Silent Spring again? Let's take the knowledge that we have, and listen to these guys. I have heard some wonderful things here tonight. I will tell you one story about Winston Churchill (story about making choices). We have a choice here. I say ban the bastards.

New England Fishery Management Council
Tannery Building-50 Water Street-Mill 2-Newburyport, MA 01950

ATTENDANCE SHEET
Travel Authorization # 12-47

ATTENDANCE AT: Herring Amendment 5 Public Hearing

DATE: Monday, March 19, 2012 LOCATION: Seaport Inn, Fairhaven, MA

CERTIFIED BY: Lori Steele

IMPORTANT... Any information provided on this form is subject to Freedom of Information Act (FOIA) disclosure and may be made available to anyone requesting such.

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**New England Fishery Management Council
Tannery Building-50 Water Street-Mill 2-Newburyport, MA 01950**

**ATTENDANCE SHEET
Travel Authorization # 12-47**

ATTENDANCE AT: Herring Amendment 5 Public Hearing

DATE: Monday, March 19, 2012 LOCATION: Seaport Inn, Fairhaven, MA

CERTIFIED BY: _____

IMPORTANT... Any information provided on this form is subject to Freedom of Information Act (FOIA) disclosure and may be made available to anyone requesting such.

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16 Mar 2012

TO: Doug Grout, Chair NEFMC Herring Oversight Committee

From: Roger Whitten, Marstons Mills, MA.

Subject: Herring Amendment 5

I am writing today to urge the council to support section 3.2.1 alternative 2 for the implementation of 100% observer coverage on category A and B herring vessels. This is essential to provide the best science available, and to insure the best fishing practices are followed on every trip.

Second the council should support section 3.2.3.4 option 4c or 4d. in order to discourage the wasteful dumping of catch and account for every fish caught.

Third I urge the council to ban mid water trawling in areas established to promote rebuilding of ground fish populations. (section 3.4.4 alternative 5)

Finally I would support section 3.3.5 requiring an immediate implementation of a river herring catch cap. It is telling to me that the taking an possession of river herring was banned 5 years ago for the citizens of this state and they are the "owners" of these fish, and yet no action to protect them as a by catch has been taken.

A handwritten signature in black ink that reads "Roger A. Whitten". The signature is written in a cursive style with a large, prominent 'R' and 'W'.

