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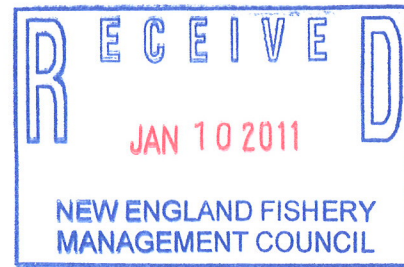
New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

Correspondence received pertaining to Herring
Amendment 5
from July 2010 - present

January 6, 2011

Mr. Paul Howard
New England Fishery Management Council
50 Water Street, Mill 2
The Tannery
Newburyport, MA 01950



RE: Please Support Annual Bycatch Cap as an Option in Amendment 5

I am writing because I am deeply concerned about the bycatch of river herring in the Atlantic herring fishery and the impact this may be having on their already decimated populations.

I have read that recent estimates indicate that there is an average annual bycatch of 670,000 pounds, roughly 2.5 million river herring. Observer data show that hundreds of thousands of river herring can be scooped up in a single net tow by a herring midwater trawl vessel, more fish than are recorded in many of the state's largest river herring runs.

Please protect these fish and help advance their recovery. At your January meeting, I urgently ask you to support an annual bycatch cap as an option in Amendment 5 to the Atlantic Herring Fishery Management Plan. It is my understanding that you have both the tools and the precedents to determine and implement the cap. This limit will provide strong incentive for the herring industry to avoid and minimize river herring bycatch.

Once abundant along the Atlantic coast, river herring populations have fallen to critically low levels, with some herring runs in decline by 95 percent or more. These river herring play an important ecological role in rivers and coastal waters, providing a crucial source of food for wildlife.

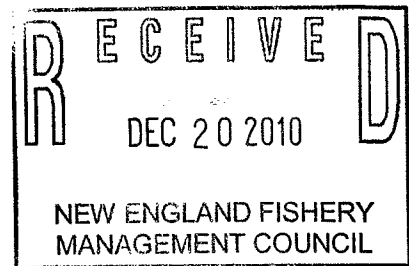
Four Atlantic states have banned all fishing for river herring and considerable effort and expense has gone into restoring fish passage and spawning habitat. Yet the Atlantic herring industry is allowed to catch river herring without limit or regulation.

Thank you for your help implementing an enforceable bycatch cap to control the capture of these critical species in the Atlantic herring fishery.

Yours truly,

J. Capozzelli
New York

From: Tom Rudolph [<mailto:tom@ccchfa.org>]
Sent: Sunday, December 19, 2010 5:43 PM
Subject: Memo on catch caps in other fisheries



Dear NEFMC Herring OSC Member,

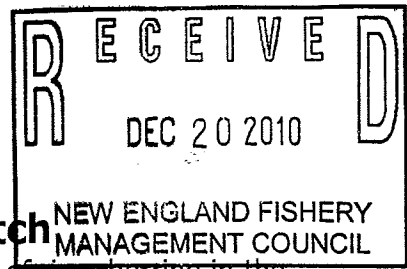
After looking over the materials for tomorrow's meeting, in particular those relative to the Council's request that the Herring Committee develop options for a river herring catch cap, I thought the attached information might be useful.

It demonstrates, by way of actual examples in other fisheries, helpful precedents for the establishment of catch-history based catch limits, even in the face of less than ideal data. The butterfish example is particularly important for the Herring Committee to be aware of. I think this info is important because it shows that the challenges to setting a catch limit on a bycatch or incidental stock can be overcome, and that it is being done by other Regional Councils.

I hope some of you find this helpful.

Tom

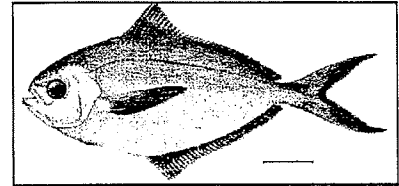
Tom Rudolph
Herring Campaign Operations Director
Cape Cod Commercial Hook Fishermen's Association
(508) 776-8056 (m)
tom@ccchfa.org
www.ccchfa.org



Catch Caps for Limiting Bycatch

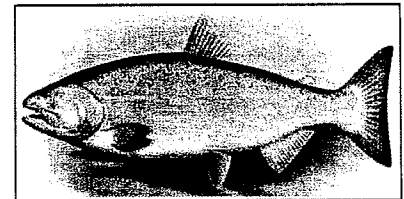
While the NEFMC is contemplating approaches to limiting the bycatch of river herring in the Atlantic herring fishery, it is useful to consider that such caps are common practice in many other fisheries, including those where only limited data may be available on either stock status or catch history for the bycatch stock. Ideally caps are set on the basis of a stock assessment but it is common to use catch history as a first step when an assessment is not available.

Butterfish in the *Loligo* squid fishery (MAFMC). Like river herring, the sea fishery for butterfish is as bycatch, in this case in a fishery targeting squid. Similarly, the status of butterfish is deteriorating, and a quality stock assessment is not available. A mortality cap has been established on the basis of rough estimates of recent catch (75% of the catch). This cap will go into effect during 2011 as amendment 10 to the Atlantic mackerel, squid, and butterfish (MSB) Management Plan. The fishery will close when the cap is reached. Additional details are available on the MAFMC website, and in the *Proposed Rules* for specifications and management measures for the MSB plan (<http://edocket.access.gpo.gov/2010/pdf/2010-29002.pdf>).



Chinook salmon in the Bering Sea pollock fishery (NPFMC).

Chinook salmon in the Pacific Northwest are anadromous fish like river herring, with many river runs severely depleted. In the case of Chinook salmon, 9 river stocks are protected under the Endangered Species Act and recognized as *prohibited species* in the pollock fishery. Chinook salmon are caught in significant numbers by the Bering Sea Pollock fishery, while the salmon are at sea. In 2009, the North Pacific Fishery Management Council voted to recommend Amendment 91, an amendment that places a catch-history-based cap on Chinook salmon bycatch in the Bering Sea pollock fishery. The cap is intended to establish an incentive to avoid salmon bycatch and to set a limit on the number of salmon that may be caught before the fishery is closed. Additional details are available in the Final Rules (Federal Register / Vol. 75, No. 167 / August 30, 2010 / Rules and Regulations), and at www.alaskafisheries.noaa.gov/sustainablefisheries/bycatch/default.htm.



Parker River Clean Water Association would like to bring to the attention of the Herring Oversight Committee the following letter that we delivered to NEFMC on September 22, 2010. We are hoping to see a strong set of protections advanced for river herring in Amendment 5.

Marlene Schroeder
President, Parker River Clean Water Association

PO Box 798 • Byfield, MA 01922

Parker River



**CLEAN WATER
Association**

www.Parker-River.org

• 978-462-2551

Paul Howard September 22, 2010

New England Fishery Management Council

50 Water Street - Mill 2

Newburyport, MA, 01950

Dear Council Members,

The Parker River Clean Water Association (PRCWA) is a community-based non-profit watershed organization whose mission is to, **"restore and protect the Parker River, its watershed, and Plum Island Sound."** Our annual fish count survey of migrating river herring returning to spawn in the Parker River is an important activity to fulfill our mission. (See attached photo of fish count volunteer at Central Street fish ladder, Newbury, MA). The data has yielded a dramatic illustration of the plight of river herring since the advent of midwater trawling.

Since 1997, during the spawning season, our dedicated PRCWA volunteer fish count monitors make hourly observations, using the same counting methodology that was used when a University of Massachusetts survey of migrating herring in the Parker was done from 1972-1978. Together, these two sets of survey observations represent the most extensive data available for any of the Massachusetts coastal streams. (See attached graph of survey results).

For more than 10,000 years humans in the Parker River watershed have utilized the river herring for food as well as recreational fishing. Now, in just a few years, this resource has crashed and the legacy of millennia is disappearing. Further, the importance of river herring extends beyond the mouth of the river to the mouths of fish that prey upon river herring for their food, and in turn connects to human mouths who consume those fish on their dinner table. We are truly "biting the hand that feeds us" if we fail to take significant steps to end the destruction of river herring as unmonitored bycatch.

The public wants to see real improvements in how the fishery is managed to protect depleted river herring. This can be accomplished through a cap on incidental take, prohibition on midwater trawling in protected groundfish closed areas, protections for spawning herring, reliable catch monitoring programs. All of these would be helpful, but the most important action should be an overall bycatch cap to limit the amount of river herring that can be taken from Federal waters each year.

It's time for the Federal fishery managers to provide river herring this protection while there is still hope for a viable population of river herring. Parker River Clean Water Association urges the Council to include a bycatch cap as a strong option in Amendment 5 to the Atlantic Herring Fishery Management Plan.

Yours truly,

Marlene Schroeder, President

Parker River Clean Water Association

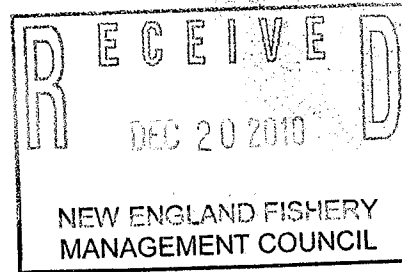


CITY OF NEW BEDFORD

SCOTT W. LANG, MAYOR

December 17, 2010

Mr. Doug Grout
Chair, Herring Oversight Committee
New Hampshire Fish and Game Department
225 Main Street
Durham, NH 03824



Dear Chairman Grout and Members of the Herring Oversight Committee,

Thank you for speaking with me Friday afternoon. From our conversation, I understand that the Oversight Committee meeting planned for Monday, December 20, will focus on management measures to address river herring bycatch. However, considering the urgency of addressing the haddock bycatch cap, I request that you address the issues presented in this letter in your discussions.

It is difficult to fathom how Georges Bank haddock could be a choke species. Artificially low haddock bycatch caps threaten to shut down the herring fleet, which has caught only 80% of their haddock allocation.

In 2003 an unprecedented haddock year-class recruited on Georges Bank and was subsequently encountered by midwater herring trawlers. The juvenile haddock behaved and looked similar to the sea herring and were sold as lobster bait. When the Maine DMR sampled the catches, the haddock was found. This led the New England Fishery Management Council to establish a haddock catch cap in the sea herring fishery. Known as FW 43, the cap was established based on the recommendation of the Science Center's groundfish biologist, who suggested a 2% cap would not jeopardize the haddock stock. However, during Council deliberations, Dave Simpson (CT) said that given the low herring fishery observer coverage at the time (< 5%), the bycatch cap should be lower. Simpson proposed 0.2%. There was no scientific basis for 0.2%. Now that at-sea observer coverage on the midwater trawl fishery has been increased with approximately 100% coverage of the Georges Bank herring fishery, there is no biological reason not to revisit the haddock cap and raise it.

Increasing the herring cap to 2% of the haddock quota would have a negligible effect on other fisheries. Specifically the multispecies fleet has caught less than 10% of the haddock quota for the past several years. Even if the midwater trawl fishery were to reach the 2% quota-cap, the overall catch of haddock would remain significantly below the overfishing level.

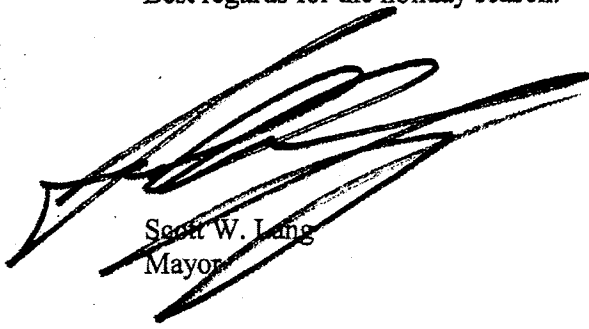
rec'd @ 12/20/10 HR OS Mtg, PMF

Sacrificing the ability of the herring fishery to achieve optimal yield based on a bycatch-cap that is, for all intensive purposes, insignificant is counter to the tenets of the Magnuson-Stevens Act. We would appreciate your support for increasing the haddock bycatch-cap from 0.2% to 2.0%. Given the chronic underfishing of the haddock stock and the potential economic harm a herring shut down would cause, an increase in the haddock cap is justified for the herring industry.

This adjustment of the cap will have a positive effect on jobs and the economy in Massachusetts.

I sincerely appreciate your consideration of this request

Best regards for the holiday season.



Scott W. Lang
Mayor

cc: Mark Gibson
Rodney Avila
Frank Blount
Jim Fair
Mike Leary
Glen Libby
John Pappalardo
David Pierce
Terry Stockwell
Mary Beth Tooley



New England Fishery Management Council

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John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

October 1, 2010

Captain Vince O'Shea, Executive Director
Atlantic States Marine Fisheries Commission
1444 Eye Street, N.W., Sixth Floor
Washington, DC 20005

Dear Vince:

At its September 28-30, 2010 meeting, the New England Fishery Management Council discussed the development of Amendment 5 to the Atlantic Herring Fishery Management Plan (FMP). As you are aware, one of the most significant issues that will be addressed in Amendment 5 is the establishment of a comprehensive catch monitoring program for the Atlantic herring fishery. During the discussion, the Council passed the following motion:

To request that the States continue and expand their portside sampling programs provided funds are found for the program, in support of the Council's priority for portside sampling coverage and that the herring PDT and Technical Committee jointly meet to review the states shoreside monitoring programs in order to address the goals and objectives of Amendment 5.

Portside sampling is a critical component of any comprehensive monitoring program, as reflected in the goals and objectives of the Amendment 5 catch monitoring program. Collaboration with the States and ASMFC will be important to ensure the long-term success of the program. The Council looks forward to working with the ASMFC to coordinate portside sampling in the Atlantic herring fishery. If you have any questions, please don't hesitate to contact me or Lori Steele.

Sincerely,

Paul Howard
Executive Director

cc: Council members



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

AUG 25 2010

John Pappalardo, Chairman
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Dear John:

I am writing in regard to the Council's ongoing work to develop Amendment 5 to the Atlantic Herring Fishery Management Plan (Amendment 5). I recognize the complexity and controversial nature of the issues being addressed in this amendment, including catch monitoring, river herring bycatch, midwater trawl access to groundfish closed areas, interactions with the Atlantic mackerel fishery, and protection of spawning Atlantic herring. Because of the importance of these issues to future Atlantic herring management, and the wide range of opinions on how to address them, I urge the Council to include a broad range of alternatives to address these issues in the Amendment 5 draft documents that will be distributed for public hearing purposes.

I appreciate the amount of work involved in developing Amendment 5, and assure you that my staff will continue to work closely with yours to complete this project.

Sincerely,

Patricia A. Kurkul
Regional Administrator

Cc: Paul Howard





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

Mr. John Pappalardo, Chairman
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

MAR 22 2010

Dear John:

I am writing to comment on the development of catch reporting and monitoring alternatives for Amendment 5 to the Atlantic Herring (Herring) Fishery Management Plan (Amendment 5).

Amendment 5 considers both minor and major changes to improve catch reporting and monitoring. At the August 24, 2009, Herring Oversight Committee (Committee) meeting, my staff expressed concern with Amendment 5 establishing new monitoring programs, without identifying funding sources for these programs. I reiterate that concern. Minor changes to catch reporting (e.g., increasing the frequency of catch reporting, expanding the use of vessel monitoring systems, expanding notification requirements) can likely be administered with existing National Marine Fisheries Service (NMFS) resources. However, the development of new monitoring programs (e.g., at-sea or dockside monitoring, video-based electronic monitoring, catch monitoring and control plans) or specific requirements for existing monitoring programs (e.g., 100% NMFS observer coverage) would require new funding sources. Objectives can be specified in the amendment, but observer coverage needs will continue to be assessed through the Standardized Bycatch Reporting Methodology process. The draft Amendment 5 document does not currently identify new funding sources for these programs, and relying on redirected NMFS resources to build and administer these programs is not feasible. I urge the Committee to continue to develop Amendment 5, and in doing so, identify funding sources for alternatives establishing new or significantly expanding existing monitoring program. Without additional funding, these alternatives are not viable.

At the August 2009 Committee meeting, my staff also discussed with the Committee that certain fishery practices (e.g., transferring catch at sea, transporting catch aboard carrier vessels, buying and selling catch at sea) make it difficult for NMFS to track herring catch, and asked the Committee to consider alternatives to modify complicated fishery practices to improve monitoring. Alternatives that limit transfers between vessels with possession limits, structure the activities of herring carrier vessels, and modify reporting requirements to provide for the buying/selling of catch at sea could greatly improve the efficiency of catch monitoring.

My staff outlined minor notification and reporting changes that we think will improve both the accuracy and efficiency of herring monitoring. These recommendations were shared with New England Fishery Management Council staff and are enclosed with this letter. Improving catch reporting and monitoring in the herring fishery are important aspects of Amendment 5, and I encourage the Committee to develop alternatives that effectively achieve these goals.

Sincerely,

Patricia A. Kurkul
Regional Administrator



Catch Reporting Recommendations for Herring Amendment 5

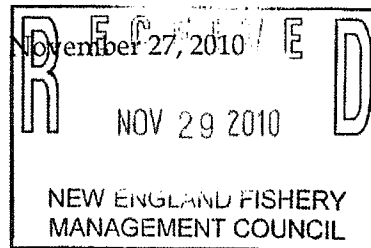
	Current	NERO Recommended
VMS Declaration	Limited access vessels (Category A, B and C vessels) declare "HER" prior to leaving port, or "DOF" if targeting a non-VMS species.	Same as current requirements, plus gear declaration to facilitate enforcement of midwater and purse seine LOAs.
	Herring vessels may turn off VMS units while in port.	Herring vessels must request a power down exemption (consistent with other FMPs).
Limited Access Notification Requirements	For Category A and B midwater and purse seine trips: <ul style="list-style-type: none"> • Notify NMFS OLE via VMS 6 hrs prior to landing; • Obtain an LOA; • Notify observer program 72 hrs before departure; • Carry observer if requested. 	Extend both observer and OLE notification requirement to all limited access vessels.
Limited Access Catch Reporting	IVR: Limited access vessels must submit a catch report via IVR each week by midnight on Tuesday (for the preceding week).	VMS: Herring landings and discards reported through VMS either <i>daily</i> or <i>at each offloading</i> , including: <ul style="list-style-type: none"> • Herring lbs kept and discarded; • Date and stat area where fish were caught; and • Trip identifier number.
	VTR: Monthly.	VTR: Weekly (vessels that also have groundfish permits will begin this in May 2010).
Open Access Catch Reporting	IVR: Vessels that land more than 2,000 lbs of herring on any trip in a week must report via IVR each week by midnight on Tuesday (for the preceding week).	Eliminate IVR reporting requirement.
	VTR: Monthly.	VTR: Weekly.
Carrier Reporting Requirements***	<ul style="list-style-type: none"> • LOA • Monthly VTR; • Carry an observer if requested; 	<ul style="list-style-type: none"> • LOA or at-sea dealer permit • Carrier declaration through VMS • No VTR reporting • Observer and OLE notification requirements

***Carriers are also subject to their vessel permit notification/reporting requirements.



*Conserving Ocean Fish and Their Environment
Since 1973*

Doug Grout, Chairman
Herring Oversight Committee
NEFMC
50 Water Street, Mill 2
Newburyport, MA 01950



**RE: AMENDMENT 5: MEASURES TO ADDRESS INTERACTIONS WITH THE
ATLANTIC MACKEREL FISHERY**

Dear Mr. Grout and Members of the Herring Oversight Committee,

On behalf of the National Coalition for Marine Conservation (NCMC), I am writing to draw your attention to the need to evaluate and modify Amendment 5 alternatives designed to address interactions with the Atlantic mackerel fishery now that the mackerel limited access program (Amendment 11 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan) is complete. As you may be aware, the Mid-Atlantic Council selected final Amendment 11 alternatives for a 3-tiered limited access mackerel program at its October meeting in Cape May, New Jersey.

Concern over disadvantaging historical mackerel fishery participants led the Mid-Atlantic Council to modify its proposed limited access tier alternatives to include liberal "Tier 3" requirements, increasing the number of qualifying vessels from 56 to 329.¹ (This number is in addition to 29 "Tier 1" vessels and 45 "Tier 2" vessels.) A preliminary review of permit records indicated that approximately 350 vessels qualifying for limited access mackerel permits do not currently hold an Atlantic herring Category A, B or C permit.² More than half these vessels are ported in New England.³ Based on the draft Amendment 5 alternatives under Section 2.5 (p. 32), nearly all mackerel limited access vessels would qualify for a significant increase in herring landings.⁴

¹ MAFMC. Amendment 11 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan including Supplement to the Draft Environmental Impact Statement (SDEIS) and Essential Fish Habitat (EFH) Assessment. August 2010.

² J. Didden, MAFMC Staff, personal communication, September 23, 2010.

³ *ibid*

⁴ See Alternative 2.5.3 in Amendment 5 Discussion Document (30 Nov 2010). "Mackerel Alternative 3 - Increase the Open Access Possession Limit to 20,000 Pounds in Areas 2/3 for Vessels that also Possess a Federal Limited Access Mackerel Permit."

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www.savethefish.org

cc. ls, th, etc

Now that the mackerel limited access amendment is complete, the Herring Committee should direct the Plan Development Team (PDT) to undertake its own analysis to fully understand the consequences of increasing the herring possession limit for mackerel limited access permit holders. The analysis should include the length, gear type, hold capacity, and home port of all mackerel vessels that might qualify for a possession increase under Amendment 5. Capacity of eligible mackerel vessels must be a main consideration in the design of alternatives. Otherwise, discarding may actually increase if larger possession limits encourage bigger vessels to fish but are still inadequate to prevent discards. This analysis should then be reviewed by the Committee in order to modify the existing alternatives as needed.

Above all, the Committee and PDT must consider how increasing capacity in the herring fishery could impact the health of the herring resource and its ecological role as forage. In addition, consideration must be given to how these alternatives affect other objectives of the amendment with emphasis on objectives for monitoring the catch, monitoring and reduction of river herring bycatch, and protections for spawning Atlantic herring.

Monitoring Goals

Catch monitoring program goals (Amendment 5 Discussion Document Section 1.2.3) include "creat(ing) a cost effective and administratively feasible program for provision of accurate and timely records of catch of all species caught in the herring fishery." To meet this goal, the Council has constructed a number of observer coverage alternatives for limited access herring vessels (Categories A, B, and C). "D" or incidental permits, which number over 2,000, were excluded as the cost of administering observer coverage for these vessels would far outweigh the benefits. "D" permit holders currently account for only a small fraction of the total Atlantic herring catch.⁵ However, alternatives under section 2.5 would allow a 3 to 18-fold increase in the open access possession limit for areas 2 and 3, likely increasing the contribution of "D" permit holders to the total catch. Since observer coverage could not feasibly be extended to this large permit category, a significant gap in monitoring data would be created. A more reasonable approach may be to create a separate permit category for mackerel vessels as described in Alternative 2.5.3. The Committee must ensure that the number of vessels qualifying for this new permit could be incorporated into observer coverage and funding alternatives while keeping these measures "cost effective and administratively feasible." While NCMC supports 100% observer coverage for Category A and B herring vessels, coverage levels for Category C and the proposed mackerel vessel herring permit could likely be much lower while still meeting Atlantic herring monitoring goals. The Committee should consider alternatives that tailor target observer coverage levels to permit category, vessel capacity or landings history.

⁵ NEFMC. Atlantic Herring Specifications for the 2010-2012 Fishing Years. 16 Feb 2010.

River Herring Bycatch Monitoring and Reduction

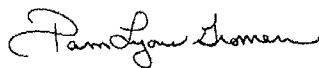
The vast majority of mackerel is harvested by small-mesh mid-water and bottom otter trawls, gear types primarily associated with river herring bycatch in the Atlantic herring fishery.⁶ As mentioned above, to achieve the New England Council's monitoring goals, including the target level of precision for estimating river herring bycatch, mackerel vessels granted increased herring possession limits would need to be incorporated into alternatives for observer coverage levels and observer funding. The Committee should also be aware that mackerel vessels are not required to carry Vessel Monitoring Systems (VMS), which are important tools for enforcement of spatial/temporal measures to reduce bycatch (e.g., hot spot closures or move-along rules). This would need to be rectified by requiring VMS in order for vessels to be granted any increase above the currently specified 3 metric ton (mt) incidental allowance.

Protection for Spawning Herring

Additional harvesting capacity in Area 3 could further jeopardize spawning herring in Nantucket Shoals. *(Please see letter from Cape Code Commercial Hook Fishermen's Association to the Committee dated July 26, 2010)* It was concern over herring spawning in Area 3 in particular that motivated the Council to add protection of spawning herring to Amendment 5.

While we encourage the Committee to take steps to minimize regulatory discarding of Atlantic herring, data have not been presented to demonstrate that the current 3 mt incidental catch allowance is insufficient. The claim that mackerel vessels are not fishing because herring possession limits are too restrictive should be investigated in greater detail. As the Committee moves forward with this part of Amendment 5, we urge you to ensure that alternatives are carefully constructed to meet the goal of minimizing discards while not encouraging additional vessels to direct on Atlantic herring.

Sincerely,



Pam Lyons Gromen
Executive Director

⁶ Cieri, Matthew, Gary Nelson, and Michael Armstrong. 2008. Estimates of River Herring Bycatch in the Directed Atlantic Herring Fishery.



Coalition for the Atlantic Herring Fishery's Orderly, Informed and Responsible Long Term Development

July 16, 2010

Paul Howard, Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Dear Paul,

I am writing to you today on behalf of the undersigned CHOIR supporters to comment on the current status of Amendment 5 to the Atlantic herring Fishery Management Plan.

In November of 2007, the NEFMC voted to make herring a workload priority for 2008. It has now been over two and half years since the Council first prioritized herring yet completion of this work is still two years away. We understand that this work is challenging and that progress has been made, but we strongly encourage the Council to strive to avoid any further delays.

What concerns us more is the direction the amendment appears to be going. The Council started work on this amendment to put in place an effective, new monitoring system and address ongoing bycatch concerns. But as time wears on, it appears that some are willing to take the old system, make some minor changes, and call it a new system.

We urge the Council to remember the primary reason for starting work on this amendment back in 2008: build a new, robust monitoring program that is both accurate and credible, and that provides timely information on all catch in the fishery. Such a system would need to be based on high levels of observer coverage, while eliminating both the reliance on self-reporting that plagues the current system and the unaccountable dumping of unsampled catch. Common sense tells us that this dumping undermines all existing observer data on catch and bycatch (including that of unmarketable herring) and this amendment should solve the problem, not just study it.

Lastly, in terms of how to pay for the new program, we believe that NMFS should allocate money specifically to this new program. The cost of this program will be relatively low given their annual budget and, given the importance of the herring resource to such a wide variety of stakeholders, we feel it would be money well spent. In the meantime, the Council should develop a full range of alternatives and not limit the discussion by questions regarding funding.

The concerns about poor monitoring and ongoing bycatch in this fishery have not gone away and we urge you to take advantage of this opportunity to fix the problem.

Thanks for your time,

A handwritten signature in blue ink that reads "Stephen B Weiner".

Steve Weiner, Chair

On behalf of the undersigned groups, businesses, and others:

Commercial Fishing Groups and Organizations:

American Bluefin Tuna Association, Executive Director Rich Ruais, Salem, NH
General Category Tuna Association, Executive Director Peter Weiss, Boston, MA
North Shore Community Tuna Association, Pres. Mark Godfried, Saugus, MA
Cape Cod Commercial Hook Fishermen's Association, CEO John Pappalardo, N. Chatham, MA
Northeast Hook Fishermen's Association, President Marc Stettner, Portsmouth, NH
Midcoast Fishermen's Association, Chairman Glen Libby, Port Clyde, ME
Midcoast Draggermen's Co-Op, President Glen Libby, Port Clyde, ME
Downeast Initiative, Project Director Aaron Dority, Stonington, ME
Northeast Fisheries Sector 3, President Richard Burgess, Gloucester, MA
Martha's Vineyard/Dukes County Fishermen's Association, Martha's Vineyard, MA
Commercial Angler's Association, Executive Director Russ Cleary, Maynard, MA

Charter/Party/Recreational Fishing Groups and Organizations:

Recreational Fishing Alliance, Executive Director Jim Donofrio, New Gretna, NJ
Stellwagen Bank Charter Boat Association, President Tom Depersia, Marshfield, MA
Northeast Charterboat Captain's Association, President Rich Milligan, Revere, MA
Maine Association of Charter Captains, Captain Dave Pecci, Bath, ME
Rhode Island Party & Charter Boat Association, President Rick Bellavance, Warwick, RI
Connecticut Charter/Party Boat Association, President Kevin Bentley
Rhode Island Saltwater Anglers Association, President Steve Medeiros, Coventry, RI
New York Sportfishing Federation, Pres. Jim Hutchinson, Jr., Forest Hills, NY
New Inlet Boating Association, President Skip Cornell
Boston Big Game Fishing Club, President Steven James, Marshfield, MA
Coastal Conservation Association- New Hampshire, President J. Jeffrey Barnum
Northeast Tuna Club, Founder Jeremy Johnson
New York Coalition for Recreational Fishing, President William Young
Boothbay Region Fish & Game Association, Boothbay, ME
Freeport Tuna Club, President Capt. Larry Festa, Freeport, NY
League of Essex County Sportsmen's Clubs, Inc., Pres. Tom Mailloux, Hathorne, MA
Plum Island Surfcasters, President Kevin McGrath, Newburyport, MA
Haverhill Ridge Runners Fish and Game Club, President Steve Dimakis, Haverhill, MA
Nantucket Anglers Club, Pres. Kevin Martin, Nantucket, MA
Massachusetts Beach Buggy Association, President Tom Gagnon
Massachusetts Striped Bass Association, President Jim Dow
Falmouth Fishermen's Association, President, George Costello
Weymouth Sportsmens Club, Pres. Joe Fee, Weymouth, MA
Hyannis Anglers Club, Hyannis, MA
Delaware River Shad Fisherman's Association, Pres. Bill McWha

Charter/Party/Guide Companies:

Bunny Clark Deep Sea Fishing, Capt. Tim Tower, Ogunquit, ME
Saco Bay Guide Service, Capt. Cal Robinson, Biddeford, ME
Pritnear Heaven Charters, Capt. Dave Johnson, Biddeford, ME
Bass I Charters, Capt. Dean Krah, Newcastle, ME
Dantilu Custom Charters, Capt. Chris Peterson, Portland, ME
Charger Marine, Capt. George Warren, Edgecomb, ME
Super Fly Charters, Capt. George Harris, Warren, ME
Portland Guide Service, Capt. John Ford, Portland, ME
Marsh River Charters, Capt. Hank DeRuitter, Newcastle, ME

Sweet Action Charters, Capt. Dan Wolotsky, Boothbay Harbor, ME
 Full Strike Anglers, Capt. George Lemieux, Wells, ME
 Maine River and Sea Charters, Capt. Mike Jancovic, South Portland, ME
 Captain Doug Jowett Charters, Capt. Doug Jowett, Brunswick, ME
 Trina Lyn Fishing Charters, Capt. Todd Stewart, Camp Ellis, ME
 Jillian II Fishing Charters, Capt. Richard Crosby Jr., Buxton, ME
 Morning Flight Charters, Capts. Dave and Ryan Paul, South Portland, ME
 Libreتي Rose II Sportfishing Charters, Capt. Bruce Hebert, Kennebunkport, ME
 Lethal Weapon Charters, Capt. Bob Liston, Wells Harbor, ME
 Livewire Sportfishing Charters, Capt. Rick Hanlin, Sabattus, ME
 Obsession Sportfishing Charters, Capt. Dave Pecci, Bath, ME
 Offshore Adventures Sportfishing, Capt. John Pappas, Cape Elizabeth, ME
 Bigger N' Better Charters, Capt. Michael Sosik, York, ME
 Shark Six Charters, Capt. Barry Gibson, Boothbay Harbor, ME
 Asticou Charters, Captian/Owner, Rick Savage, Northeast Harbor, ME
 Boothbay Mariner, Capt. Dan Stevens, Boothbay Harbor, ME
 Captain Bill's Charters, Capt. Bill Wagner, Portsmouth, NH
 Sunrise Adventure Charters, Capt. Jim Flanders, Merrimack, NH
 Shoals Fly Fishing and Light Tackle, Capt. Peter Whelan, Portsmouth, NH
 Sandy B Fishing Charters, Capt. Bruce Bornstein, Gloucester, MA
 Relenteless Charters, Capt. Dave Waldrip, Green Harbor, MA
 Walsh's Deep Sea Fishing, Bob Walsh Jr., Lynn, MA
 North Coast Angler, Capts. Skip Montello, Dave Beshara, Al Montello, Allan Smith and
 Instructor Stephen Papows, Gloucester, MA, Rockport, MA, Newbury, MA and Salem, NH
 Kelly Ann Charters, Capt. Mauro DiBacco, Newburyport, MA
 Little Sister Charters, Capt. Jason Colby, Quincy, MA
 Black Hull Charters, Capt. Ronnie Munafo, Quincy, MA
 Rod's Delight Charters, Capt. Rodney Ratcliffe, Newburyport, MA
 Fish Finder Charters, Capt. Frank O'Connor, Newburyport, MA/Salisbury, MA
 Atlantis Charters, Capt. Norm Boucher, Newburyport, MA
 Can-Do Charters, Capt. Chuck Casella, Georgetown, MA
 North Shore Charters, Capt. Dave Pelletier, Beverly, MA
 Rocky Point Fishing Charters, Capt. Bill Jarman, Newburyport, MA
 Tuna Hunter Fishing Charters, Capt. Gary Cannell, Gloucester, MA
 Southside Charters, Capt. Todd Bialas, Bourne, MA
 Rings Island Charters, Capt. Gary Morin, Salisbury, MA
 Yankee Charters, Capt. Jan Waalewyn, Gloucester, MA
 Off-Shore Charters, Capt. Roland Guyette, Millville, MA
 Karen Lynn Charters, Capts. Collin Mackenzie and Jim Ansara, Essex, MA
 Massachusetts Bay Guides, Capts. Greg, Taylor and Bryan Sears, Dave and Ed Newell,
 Rob Green, Greenbush, MA
 White Cap Charters LLC, President Brad White, Scituate, MA
 Kayman Charters, Capt. Kevin Twombly, Gloucester, MA
 Tailrope Charter Fishing, Capt. Mike Famigliette, Danvers, MA
 Rocky Point Fishing Charters, Capt Bill Jarman, Newburyport, MA
 F/V Erica Lee Charters, Capt. Rob & Lee Yeomans, Newbury, MA
 Ave Maria Charters, Capt. Mike Bousaleh, Boston Harbor, MA
 Merrimack River Charters, Capt. Robert Bump, Newburyport, MA
 Sigler Guide Service, Randy Sigler, Marblehead, MA
 Shadowcaster Charters, Capt. James Goodhart, Newburyport, MA
 Fishy Bizness Sportfishing, Capt. Ed Cloutier, Newburyport, MA
 Reel Pursuit Charters, Capt. Paul Diggins, Boston, MA
 GoFish Sportfishing Charters, Capt. Patrick Helsingius, Boston, MA
 Crimson Tide Charters, LLC., Capt. Fred Lavitman, Marshfield, MA

CPF Charters, Capt. Mike Pierdinock, Green Harbor, MA
 Castafari Charters, Capt. Damon Sacco, Falmouth, MA
 CJ Victoria Charters & Rod Builders, Capt. Rob Savino, Boston, MA
 Cape Ann Tuna Charter, Capt. Jules Boudreaux, Gloucester, MA
 Sheila D Charters, Capt. Artie Caissie, Beverly, MA
 Summer Job Charters, Capt. Scott Maguire, Newbury, MA
 Mariner Sportfishing, Capt. Tom Scanlon and Stew Holt, Lynn, MA
 Black Rose Fishing Charters, Capt. Rich Antonino, Green Harbor, MA
 Fin Addiction Charters, Capt. Jeff Smith, Wellfleet, MA
 Capt Tom's Charters, Capts. Tom and Jason Mleczko, Nat Reeder, Corey and
 Cameron Gammill, Adam Rickleff, Carl Danielson and Collin Sykes, Nantucket, MA
 Flashy Lady Charters, Capt. Dick Vincent, Martha Vineyard, MA
 Striper Charters, Capt. Gary Swanson, South Yarmouth, MA
 North Shore Charters, Capt. Scott McDowell, Menemsha, MA
 Cape Cod Charter Fishing, Capt. Art Brosnan, South Orleans, MA
 Slamdance Charters, Capt. Steve Moore, Barnstable, MA
 Laura-Jay Sportfishing, Capt. Don Cianciolo, East Sandwich, MA
 Maverick Charters, Ltd., Capt. Jack Riley, Harwich Port, MA
 Beth Ann Charters, Capt. Rich Wood, Provincetown, MA
 West Wind Charter Fishing, Capt. Robert Rank, Nantucket, MA
 Tomahawk Charters, Capt. Buddy Vanderhoop, Marthas Vineyard, MA
 Capeshores Charters, Capt. Bruce Peters, East Orleans, MA
 Outer Cape Sportfishing, Capt. Jeff Duncan, Provincetown, MA
 Bluefin Charters, Capt. Brian Courville, East Falmouth, MA
 Big Fish II Charters, Capt. Tom Depersia, Marshfield, MA
 Albacore Charters, Capt. Bob DeCosta, Nantucket, MA
 Tide Hunter Charters, Capt. Scott Bradley, Buzzards Bay, MA
 Monomoy Charters, Capt. Josh Eldridge, Nantucket, MA
 Helen H Deep Sea Fishing, Joseph Huckemeyer, Hyannis, MA
 Hindsight Sportfishing, Brett Wilson, Brewster, MA
 Chatham Charters, Capt. Matt Swenson, Chatham, MA
 Herbert T. Sportfishing, Fred Tonkin, Nantucket, MA
 Cross Rip Outfitters, Lynne Heyer, Nantucket, MA
 Snapper Charters, Capt. Doug Lindley, Nantucket, MA
 Topspin Charters, Capt. Karsten Reinemo, Nantucket, MA
 Gaffer Charter's, Capt. Adam Rickleff, Nantucket, MA
 Absolute Sportfishing, LLC., Capt. Brian Borgeson, Nantucket, MA
 Nantucket Sportfishing Co., David Martin, Nantucket, MA
 Got Stryper Charters, Capt. Alan Hastbacka, Chatham MA
 Bill & Jules Fishing Specialists, Capt Bill Bryant, Brockton, MA
 Reel Crazy Sportfishing, LLC., Captain Pat Juliano, West Haven, CT
 After You, Too Sportfishing Charters, Capt. Frank Blume, New London, CT
 Right Hook Fishing Charters, Capt. Bob Veach, New London, CT
 Rock & Roll Charters, Capt. TJ Karbowski, Clinton, CT
 White Ghost Guide Services, Ltd., Capt. Jim White, East Greenwich, RI
 Busy Line Charters, Capt. Norm Bardell, Woonsocket, RI
 Reel to Reel Sportfishing, LLC, Capt. Scott Lundberg, Pt. Judith, RI
 Cherry Pepper Sport Fishing, Capt. Linwood Safford, Charlestown, RI
 Tofather Fishing, Dennis Cataldo, Famingdale, NY
 Double Diamond Charters, Capt. Manual Canales, Brielle, NJ
 DJ Muller Surfcasting, DJ Muller, Manasquan, NJ
 Spunky II Charters, Capt. Bob Egger, Toms River, NJ
 Midcoast Kayak Fishing, Bryan Rusk, Easton MD

Fishing Vessels:

F/V Nightmare, Gregg Gilliam, Small Point, ME
F/V Belly Filla, Alex Notis, South Portland, ME
F/V Bettina H, Tim Virgin, Perkins Cove, ME
F/V Heather Rose, Eugene Thurston, Southwest Harbor, ME
F/V Eliza B, Neil Cunningham, Boothbay Harbor, ME
F/V Kelly Ann, Keith Landrigan, South Portland, ME
F/V Anticipation, Eric Gilliam, Small Point, ME
F/V Kathleen Jean, Stu Fay, Cape Elizabeth, ME
F/V Western Venture, Glenn Robbins, Eliot, ME
F/V Jay-Keel, John Cotton, St. George, ME
F/V Morningstar, Herb Yeaton, Small Point, ME
F/V Vick, Norman Koehling, Sebasco, ME
F/V A. Maria, Sonny McIntire, Perkins Cove, ME
F/V Underdog, Jeff Douglas, Kennebunkport, ME
F/V Empty Pockets II, Michael Stevens, Five Islands, Maine
F/V Three Bells, Matt Jones, Boothbay Harbor, ME
F/V Ella & Sadie, Colin Yentsche, Boothbay Harbor, ME
F/V Ice Princess, Peter Morse, Cape Elizabeth, ME
F/V Arco Felice, Lexi Krausse, Rockport, ME
F/V Josie B, Stephen Merrill, Wells, ME
F/V Pelican, Brett Gilliam, Small Point, ME
F/V Elizabeth Jane, Clay Gilbert, South Bristol, ME
F/V Claudet C, Gary E. and Gary C. Obrien, South Portland, ME
F/V Julia G III, Bradley Simmons, Boothbay Harbor, ME
F/V Scoot Too, Doug Gerry, Perkins Cove, ME
F/V Olympic Lady, Kurt Moses, Kennebunkport, ME
F/V Jazmataz, Don Page, Boothbay Harbor, ME
F/V Heather Kate, Glen Gilliam, Small Point, ME
F/V Mary E, Jeff Norwood, Boothbay Harbor, ME
F/V Eileen K, Mike Parenteau, Cape Neddick, ME
F/V Miss Alex, Steve Hanson, Cape Porpoise, ME
F/V Michelle Anne, Joel Strunk, Camden, ME
F/V Seldom Seen, Matt Webber, Monhegan Island, ME
F/V All In, Michael Lorusso, Wells, ME
F/V Danny & Chad, Jody Murray, Boothbay Harbor, ME
F/V Allie K, Steve Simmons, Southport, ME
F/V Endeavor, Emile Bussiere, Kittery, ME
F/V Don't Ask, Randy Durgin, Boothbay Harbor, ME
F/V Lady Anne, Dave Sinclair, Wayne, ME
F/V Deborah Ann, Chris Clark, Southwest Harbor, ME
F/V Peregrine, David Linney, York, ME
F/V Emily Rachael, Tony Coleman, Wells, ME
F/V Queen of Peace, Bobby & Shane McIntire, Ogunquit, ME
F/V Lion's Den, John Shostak, Boothbay Harbor, ME
F/V Fortunate, Jeremy Reynolds, Kittery, ME
F/V Sally G, Joe Barrone, Kittery, ME
F/V Sandra E, Allan Vitkus, Vinalhaven, ME
F/V Banshee, John Harmon, South Portland, ME
F/V Allyson, Tom Mansfield, Kennebunkport, ME
F/V Kathryn Giles, Matt Forbes, Ogunquit, ME
F/V Buckwacka, Mike Horning, Cape Neddick, ME
F/V Hunter, Vaughn Clark, Southwest Harbor, ME

F/V Zerlina, David Schalit, Brooklin, ME
 F/V Tricia Lee, Luis Tirado, South Portland, ME
 F/V Old Mud, Donald Sproule, ME
 F/V Moxie, Bill Ganske, Cundy's Harbor, ME
 F/V Linda Sea, John Stanley, Mt Desert, ME
 F/V Elizabeth Ames, Steve Weiner, Perkins Cove ME
 F/V Pamala Jean, Capt. Adam Littell, Kennebunkport, ME
 F/V Miss Megan II, Capts. Shawn and Megan Tibbetts, Wells, ME
 F/V Sally & Alyson, Joe Jancewicz, Kensington, NH
 F/V Michael Kevin, Ralph Pratt, Green Harbor, MA
 F/V Perfect C's, F/V Lisa Marie, Mike Pratt, Green Harbor, MA
 F/V Scotia Boat Too, F/V Heidi & Heather, F/V Julie Ann,
 & F/V Ryan Zackary, Richard Burgess, Gloucester, MA
 F/V Hannah G, Steven Getto, Green Harbor, MA
 F/V Hit & Run, Jim LeBoeuf, Wenham, MA
 F/V Freebird, Gregg Swinson, Gloucester, MA
 F/V Katie May, Dean Holt, Newburyport, MA
 F/V Jeanne Marie, Mike Blanchard, Gloucester, MA
 F/V Ella Briggs, Dylan Caldwell, Pigeon Cove, MA
 F/V Family Jules, Tom Libertini, Green Harbor, MA
 F/V Amanda, Peter Atherton, Newburyport, MA
 F/V Mary D, Daniel Dumani, Newburyport, MA
 F/V Coot, Dana Kangas, Gloucester, MA
 F/V Inseine, Mike Lange, New Bedford, MA
 F/V Hookin-Up, Capt. Darin DiNucci, Winthrop, MA
 F/V Sashimi, Doug Amorello, Plymouth, MA
 F/V Hawk, Capt. Dennis Lanzetta, East Dennis, MA
 F/V My Girls, Michael Devine, Humarock, MA
 F/V Shadowline, Putnam Maclean, Marshfield, MA
 F/V Jesse J, John Richardson, Hingham, MA
 F/V Sue Z, Tom Traina, Harwich, MA
 F/V Tobey Ann, Brian Higgins, Gloucester, MA
 F/V Coyote, Scott Brady, Provincetown, MA
 F/V Suzies Riches, Richard Whiteside, Hyannis, MA
 F/V Cityslicker, Capt. John Wallace, Boston, MA
 F/V Tuna.com, Capt. Dave Carraro, Gloucester, MA
 F/V Lorraine B, Capt. Bob Briggs, Hanover, MA
 F/V Mulberry Canyon, Capt. John Galvin, Jr., Falmouth, MA
 F/V Cynthia C, Tyler Macallister, Sandwich, MA
 F/V Back Off, Shawn Sullivan, Sesuit, MA
 F/V Lilly, Billy Muniz, Gloucester, MA
 F/V Gratitude, Eric Swanson, Gloucester, MA
 F/V Merganser, Peter Fyrberg, Rowley, MA
 F/V The Gov, Mark Godfried, Gloucester, MA
 F/V Miss Fitz, John Our, Chatham, MA
 F/V Lori-Ann, Dorwin Allen, Hyannis, MA
 F/V Fish Hawk, Joe Weinberg, Hyannis, MA
 F/V Rachael M, Roy McKenzie, Hyannis, MA
 F/V Magic, Mike Abdow, Chatham, MA
 F/V Sea Wolf, Tom Smith, Orleans, MA
 F/V Triton, Steve Peters, Orleans, MA
 F/V Luau John and Shakliks, Orleans, MA
 F/V Capt. Cook, Jason Hayes and Patrick Wood, Orleans, MA
 F/V Fair Lady, Chuck Catalou, Orleans, MA

F/V Osprey, Da Vipio, Orleans, MA
F/V Gumrappa, Goerge Ramian Jr., Rock Harbor, Orleans
F/V Sooner or Later, John Nichols, Newburyport, MA
F/V Blue Heron, Jonathan Geary, Chatham, MA
F/V Haywire, Chris Pistel, Harwich, MA
F/V Capt Cook, Brett Wilson, Rock Harbor, MA
F/V Frenzy, Ray Kane, Chatham, MA
F/V Horse Mackerel, David Gelfman, Chatham, MA
F/V Justified, Danny Hunter, Plymouth, MA
F/V Arlie X, Thomas Szado, Harwich, MA
F/V Peggy-B II, Ronald Braun, Harwich, MA
F/V Sea Frog, J. Roger Tessier, Harwich, MA
F/V Sea Hook, Earl Legeyt, Harwich, MA
F/V Sea Holly, Mark Leach, Harwich, MA
F/V Sea Win, Tom Luce, Harwich, MA
F/V Time Bandit, Kurt Martin, Chatham, MA
F/V Zackary T, Nick O'Toole, Harwich, MA
F/V Saga, Ben Bergquist, Chatham, MA
F/V Constance, Mike Woods, Chatham, MA
F/V Ouija, Gerald Miszkin, Chatham, MA
F/V Seabag III, Greg Tomasian, Harwich, MA
F/V Sea Chase, Roscoe Chase, Harwich, MA
F/V Beggars Banquet, Bob Keese, Chatham, MA
F/V Miss Rockville, Andrew Keese, Chatham, MA
F/V Wildwood, Nick Hyora, Chatham, MA
F/V Irish Lady, Chris Ripa, Chatham, MA
F/V Bada Bing, Tye Vecchione, Chatham, MA
F/V Yellowbird, James Eldredge, West Chatham, MA
F/V Riena Marie, Ted Ligenza, South Chatham, MA
F/V Great Pumpkin, Jan Margeson, Brewster, MA
F/V Rug Rats, Bob St. Pierre, West Yarmouth, MA
F/V Never Enough, Bruce Kaminski, Chatham, MA
F/V Taint, Mark Liska, Chatham, MA
F/V Morgan I, Glen Legeyt, West Yarmouth, MA
F/V Cuda John Tuttle, North Chatham, MA
F/V Kelly J, Michael Terrenzi, Harwich, MA
F/V Unicorn, Robert Eldredge, South Chatham, MA
F/V Ann Marie, Jim Nash, Chatham, MA
F/V Dawn T, Stuart Tolley, Chatham, MA
F/V Cuda Crew, William Barabe, Chatham, MA
F/V Jack Tar, Dave Murdoch, Chatham, MA
F/V Fishy Business, Dave Maher, Plymouth, MA
F/V Blue Heron, Jonathan Geary, Chatham, MA
F/V Lori B, Matt Linnel, Chatham, MA
F/V Angler, Jason Alger, Hyannis, MA
F/V Isabella H, Patrick Radford, Hyannis, MA
F/V Sea Hawk, Carol Ann Huckemeyer, Hyannis, MA
F/V Machaca, Willy Hatch, North Falmouth, MA
F/V Mudshark, Craig Poosikian, Orleans, MA
F/V Predatuna II, Paul van Steensel, Harwich, MA
F/V Althea K, Pete Kaizer, Nantucket, MA
F/V Monomoy, Capt. Josh Eldredge, Nantucket, MA
F/V Shalako, Jonas Baker, Nantucket, MA
F/V Just Do It Too, Capt. Marc Genthner, Nantucket, MA

F/V Tracey T, Lou Statzer, Nantucket, MA
F/V Bedalia, Mark Williams, Nantucket, MA
F/V Carol Anne, Patrick Taaffe, Nantucket, MA
F/V Starfish Enterprise, Donald Russell, Nantucket, MA
F/V Diggin It II, Dan Zawisza, Old Saybrook, CT
F/V Tuna Tangler Too, Paul Stern, Montauk, NY
F/V Hot Tuna, Timothy Ott, Broad Channel, NY
F/V Lucky Lady, Walter Harmstead, Manasquan, NJ
F/V Susan H, Eric Herbst, Newport, RI
F/V Proud Mary, Chris Brown, Pt. Judith, RI
F/V Mary Kay, Andrew Ditch, Bokeelia, FL

Tackle/Bait Shops & Companies

Hiltons Sport Dock, George Hilton, Newburyport, MA
Tightlines Tackle, Dave Mason, Walpole, ME
Saco Bay Tackle, Peter Mourmouras, Saco, ME
Offshore Marine Outfitters, Tim Greer, York, ME
White Anchor Bait & Tackle Shop, Carl Jordan, Boothbay, ME
Eldredge Bros. Fly Shop, Jim Bernstein, Cape Neddick, ME
Webhannet River Boatyard and Tackle Shop, Wells, ME
First Light Anglers, Nat Moody, Derek Spingler, Chris Comb,
Peter Yukins and Trent Gaffney, Rowley, MA
Fisherman's Outfitter, John White, Gloucester, MA
Offshore Pursuits Premium Tackle, David Dodsworth, MA
Nelson's Bait and Tackle, Rich Wood, Provincetown, MA
Bucko's Parts & Tackle, Michael J. Bucko, Fall River, MA
Offshore Innovations Inc., Pres. Kevin Glynn, Falmouth, MA
Green Harbor Bait and Tackle, Bob Pronk, Marshfield, MA
Belsan Bait and Tackle, Jerry and Pete Belsan, Scituate, MA
Fishing Finatics, Pete Santini, Everett, MA
Rock On Products, Manchester, MA
Sunrise Bait & Tackle, Gerald Armstrong, Harwich Port, MA
Sportsman's Landing, Carl Coppenrath, Dennis, MA
Riverview Bait & Tackle, Lee Boisuert, Yarmouth, MA
Nantucket Tackle, Arthur Quinn, Nantucket, MA
Fore River Bait & Tackle, Rick Newcomb, Quincy, MA
Antique Lures, Marty McGovern, Whitman, MA
The Hook-Up Bait and Tackle, Capt. Eric Stewart, Orleans, MA
RonZ Mfg. Co., Ron Poirier, Brewster, MA
Arthur's Custom Rods, Arthur Kaplan, Quincy, MA
Bigfish Tackle Co., Lawrence Wentworth, Hanover, MA
Got Stryper Lure Company, Capt. Alan Hastbacka, Chatham, MA
Line Stretcher Tackle Company, Ray Jussaume, Somerville, MA
The Fisherman's Line, Bob Rogers, Assonet, MA
Powerhorn Outfitters, Hyannis, MA
Wally's Wood Lures, Walt Morris, Sandwich, MA
Point Jude Lures, Joe Martins, Newport, RI
RI Poppers, Armand Tetreault, Woonscket, RI
Surfcasting Rhode Island, Joe Lyons, Narragansett, RI
Aquaskinz Corp., Kadir Aturk, Lindenhurst, NY
Backlash Sportfishing USA, Capt. Bob Bott, Suffolk, NJ
BFG Tackle, Capt. Chuck Fisher, Dundalk, MD

Whale Watch Companies:

Bar Harbor Whale Watch Co., Naturalist Zack Klyver, Bar Harbor, ME
Newburyport Whale Watch, Capt. Bill Neelon, Newburyport, MA
Portuguese Princess Whale Watch & Excursions, Provincetown, MA
Cape Ann Whale Watch, Jim Douglass, Gloucester, MA
Capt. Bill & Sons Whale Watching, Mark Cunningham, Gloucester, MA
Atlantic Fleet Whale Watch, Capt Brad Cook, Rye Harbor, NH
Granite State Whale Watch, Pete Reynolds, Rye Harbor, NH
Boothbay Whale Watch, Naturalist Mechele Vanderlaan, Boothbay Harbor, ME
Odyssey Whale Watch, Christopher Cutshall, Portland, ME
First Chance Whale Watch, Capt. Gary Grenier, Kennebunk, ME

Ecotourism Companies

Old Quarry Ocean Adventures, Capt Bill Baker, Stonington, ME
LuLu's Lobster Boat Ride, Capt. John Nicolai, Gouldsboro, ME
Midcoast Kayak, Glenn and Erin Mitchell, Damariscotta, ME
Passenger Vessel 'Belle', Capt. Tim Healy, Gloucester, MA
Acadian Nature & New Horizons Tour Company, Captain/Owner Gary Fagan, Bar Harbor, ME
Bar Harbor Whale Watch Co., Naturalist Zack Klyver, Bar Harbor, ME
Ardea Ecoexpeditions, Owner/Guide Darrin Kelly, Gouldsboro, ME
Coastal Kayaking Tours, Owner/Guide Glenn Tucker, Bar Harbor, ME
Downeast Nature Tours, Owner/Guide Michael Good, Bar Harbor, ME
Nantucket Adventures, Capt. Mark Scharwenka, Nantucket, MA

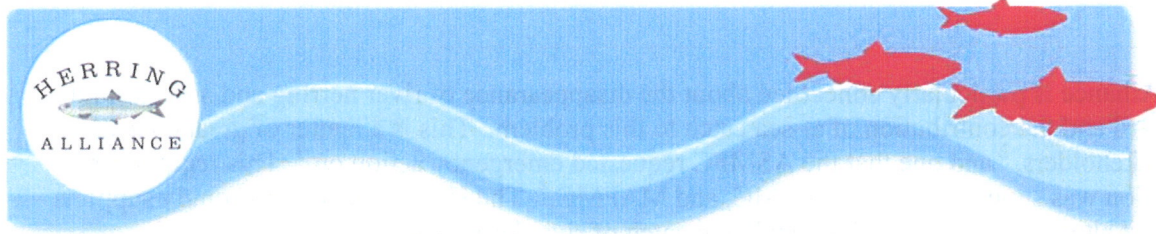
Marine Research, Education and Conservation Organizations:

Penobscot East Resource Center, Director Robin Alden, Stonington, ME
Whale Center of New England, Executive Director Mason Weinrich, Gloucester, MA
Blue Ocean Society, Director Jen Kennedy, Portsmouth, NH
Northwest Atlantic Marine Alliance, Exec. Director Niaz Dorry, Gloucester, MA
Coastal Research and Education Society of Long Island, Pres. Arthur Kopelman
Downeast Salmon Federation, Exec. Director Dwayne Shaw, Columbia Falls, ME
Allied Whale, Director Sean Todd, Bar Harbor, ME
Bar Harbor Whale Museum, Curator Toby Stephenson, Bar Harbor, ME
CETOS Research Organization, Executive Director Ann Zoidis, Bar Harbor, ME
Friends of Maine Seabird Islands, President Jane Hopwood, Rockland, ME

Businesses, publications and others:

Dysart's Great Harbor Marina, Ed Dysart, Southwest Harbor, ME
Estes Oil and Propane, Mike Estes, York, ME
Kittery Point Yacht Yard, Corp., Tom Allen, Kittery Point, ME
Marine Systems Custom Boats, Eric Clark, Southwest Harbor, ME
Barnacle Billy's Inc., Bill Tower, Ogunquit, ME
D&J Fuels, North Berwick, ME
Kittery Point Boatbuilders, LLC., Elliot, ME
MGX, LLC., Kittery Point, ME
Maguro America, Inc., Robert Fitzpatrick, Chatham, MA
Nantucket Fish Co., Inc., President Andrew Baler, South Dennis, MA
North Atlantic Traders, Ltd., Bob Kliss, Lynn, MA
Compass Seafoods, Patrick Mead, Charlestown, RI

Blunas, Inc., Chris and Ben Weiner, Perkins Cove, ME
Poon Harpoons, Kevin Glynn and Chris Godina, West Newton, MA
JC Boat, Jack Cadario, Brookline, NH
Lodestar Water Taxi, Robert Cicerrell, Nantucket, MA
Cap'n Tobey's Native Water Taxi, Tobey Leske, Nantucket, MA
Fred C Church, Inc., Lowell, MA
Bluewater Fish Co., Bob DeCosta, South Norwalk, CT
Navtronics, Tim Greer, York, ME
Redman Marine Fabricators, Noell Redman, York, ME
Blue Sea Fisheries, Inc. Dave Pelletier, Beverly, MA
Sarah-Kate Fisheries Inc., Fave Fyrberg, West Newbury, MA
North Atlantic Marine Service, Steve McNally, Amesbury, MA
On The Water Magazine, Publisher Chris Megan, East Falmouth, MA
NH Precision Metal Fabricators, Mark Poirier, Londonderry, NH
Offshore Pursuits, LLC, David Dodsworth, MA
NewEnglandSharks.com, Capt. Tom King, Scituate, MA
New England Farm Union, President Annie Cheatham, Shelburn Falls, MA
Momomoy Fuel Co., Andy Blanco, Chatham, MA
Cape Island Boats, Eric Johnson, Brewster, MA
Funktional Steel Art, Faye Swenson, Chatham, MA
Roger Carroll Boat Carpenters, Roger Carroll, Chatham, MA
Richardson Marine, Kent Richardson, North Chatham, MA
Radiotelephone Service Co., James Eteson, Orleans, MA
Commercial Marine Co., John Avellar, Orleans, MA
Whiteley Fuel Oil, David Peters, North Chatham, MA
Massachusetts Freedivers Club, Faye Anderson, Chatham, MA
Glyn's Marine, Inc., Roger Stolte, Nantucket, MA
Brant Point Marine, Bill Davidson, Nantucket, MA
Nantucket Ship Chandelery, Ellen Tonkin, Nantucket, MA
Forelle, LLC., Steven Leinbach, Nantucket, MA
Souza's Seafood, Shirley Souza, Nantucket, MA
Nantucket Seafoods, Dan Lemaitre, Nantucket, MA
Nantucket Boat Basin, George Bassett, Jr., Nantucket, MA
Larry Ray Marine, Larry Ray, Nantucket, MA
B&D Enterprises, Bernie Wilson, Ware, MA
Off The Hook Fishing, Roy Leyva, Plymouth, MA
Tri State Fishing Tournaments, Steve Mantia, President, Carver, MA
Fly Rod Striped Bass, Ted Demopoulos, Dover, NH
Stripersonline.com, Tim Surgent, Wall, NJ
DMC Executive Planning, Dennis Cataldo, Farmingdale, NY
www.Striped-Bass.com, John Redmond, Warwick, RI



July 19, 2010
Mr. Doug Grout, Chairman, Herring Oversight Committee
New England Fishery Management Council
50 Water Street
Newburyport, Massachusetts 01950

RE: Amendment 5 to the Atlantic Herring Fisheries Management Plan

Dear Mr. Grout:

On behalf of the Herring Alliance, I am writing about Amendment 5 to the Atlantic herring fishery management plan and the upcoming Herring Oversight Committee meeting (July 27-28, 2010). This letter primarily focuses on your development of alternatives dealing with incidental catch reduction for river herring (blueback and alewife herring) and American shad, and catch monitoring. Our comments regarding alternatives for river herring and shad for inclusion in Amendment 5 are summarized as follows:

- Existing observer data and NMFS seasonal bottom trawl data, from previous years, must be used to identify those areas where future incidental catch rates are expected to be high: *hotspots*.¹
- A set of management alternatives must be developed, based on modifications to the rules for midwater-trawl fishing within groundfish Closed Area I, to substantially reduce incidental catch within hotspots as defined above.
- The amendment must include at least one alternative for a new monitoring system to provide the near-real time data and analysis needed for a system of incidental catch move along rules: rules that force vessels to move out of a circumscribed area when an established incidental catch threshold is reached.
- One or more alternatives for incidental catch reduction through NMFS-administered move-along rules, triggered by an established catch threshold and leading to protection of sufficient size and duration to ensure that incidental catch is held to a minimum.
- The amendment must include alternatives for annual incidental catch caps. A meaningful catch reduction plan must be backed-up by an annual catch cap, which leads to closure of any fishery exceeding its portion of the cap. One alternative should be based on the population biology of these species, and a second should be based on recent landings as reported by Vessel Trip Reports (VTR).

In addition, the Amendment must include alternatives that:

- Protect spawning Atlantic herring on Georges Bank and Nantucket shoals, through time and area closures and/or move along rules for spawning fish, and;
- Protect juvenile and adult groundfish from mid-water trawling by excluding midwater trawling in groundfish closed areas and / or by applying rules based on the recently implemented CA I rules.

¹ The term hotspot has been used in a variety of ways. In this letter we are distinguishing between areas identified as *hotspots* based on data from previous years, and areas where incidental catch rates are judged to be high based on in-season observer data, triggering an immediate adaptive management response in the form of a *move-along rule*.

The Herring Alliance is particularly concerned about the disappearance of river herring and shad from the Eastern seaboard and the contribution of at-sea catch to this problem. This is a matter of great concern to a diversity of stakeholders,² and one that the ASMFC requested emergency action on.³ This request for emergency action was supported by the NEFMC, and MAFMC.⁴ The Herring Alliance strongly supports including robust alternatives for reducing incidental catch of river herring and shad at sea.

We support a strong Amendment 5 to improve data collection through a comprehensive and rigorous catch monitoring system. This is important for documenting and reducing all incidental catch, both discarded and landed, and will also improve data for stock assessments and help ensure that catch of stocks subjected to directed fisheries does not exceed annual catch limits. We have previously provided extensive comments and recommendations for analysis in Amendment 5 and its Environmental Impact Statement (EIS). These directly address the catch monitoring portion of the committee's agenda this month.⁵ Our position on many of these issues was summarized in two recent comment letters from the Herring Alliance, dated 26 March and 20 April 2010.

The two motions passed at the 17 May 2010 committee meeting dealing with (1) defining bycatch hotspot areas and (2) move-along rules triggered by incidental catch rate, represent important steps forward. If properly developed, these motions could lead to a set of strong management alternatives for the draft amendment and EIS. Suggestions for further development are discussed below.

Identification of bycatch seasonal hotspots. The first of the 17 May 2010 committee motions directs the Plan Development Team (PDT) to use observer data to identify gear-specific time/areas where the Closed Area I (CA I) regulations could be applied to reduce incidental catch of shad and river herring.⁶ The concept here is to use observer data from previous years to predict where and when future incidental catch rates are expected to be high, and take management action for those time/areas, or *hotspots*, in the future. The essence of this motion was also put forward in October 2008, when both the Herring Committee and the Council passed similar motions on use of observer data as a basis for time-area closures. The Herring Alliance strongly supports basing a set of alternatives on this concept – so long as they are designed to effectively reduce incidental catch.

The spatial and temporal distributions of incidental catch of river herring and shad in the Atlantic herring fishery, as revealed by data from at-sea observers, has been a focus for at least two years and has been presented to the PDT and committee several times.⁷ These data represent the best scientific information available on at-sea catch of these species and must be used to define seasonal hotspots as an important part of any incidental catch reduction program.

² Letters to US Secretary of Commerce dated 17 and 23 June 2009 from a variety of fishing, watershed and conservation organizations, 104 cosigners in total.

³ Letter from ASMFC Executive Director John V. O'Shea to U.S. Secretary of Commerce Secretary Locke, 27 May 2009.

⁴ Letters from the Mid-Atlantic Fishery Management Council (June 24, 2009) and the New England Fishery Management Council (June 26, 2009) to the US Secretary of Commerce in support of the ASMFC's request for emergency action.

⁵ Letters dated: December 5, 2008; February 5, 2009; August 5, 2009; January 13, 2010; March 26, 2010; April 20, 2010; Monitoring proposal December 5, 2008.

⁶ Federal Register / Vol. 74, No. 171 / Friday, September 4, 2009 / Proposed Rules pp 45798-801; Federal Register / Vol. 74, No. 210 / Monday, November 2, 2009 / Rules and Regulations pp 56562-8.

⁷ For example: Cieri et al 2008. Estimates of River Herring Bycatch in the Directed Atlantic Herring Fishery. White paper presented to NEFMC. Presentation to NEFMC Herring PDT, 14 January 2009, by A. van Atten et al.; Presentation to NEFMC Herring Oversight Committee, 17 May 2010, by M. Cieri.

We recommend that these observer data be used together with the fishery-independent data provided by the NEFSC seasonal bottom trawl survey to develop a set of alternatives for protection of seasonal hotspots for river herring and shad. These fishery-independent data can be used to provide an independent look at where incidental catch hotspots should be expected, thereby increasing confidence in time/areas identified by observers, and also to identify additional time/areas that could become problematic if fishing effort were to be directed on them in the future. A preliminary analysis of the distribution of shad and river herring as revealed by seasonal bottom trawl survey was already presented to the PDT and Committee.⁸

Although the seasonal bottom trawl survey was originally designed to sample demersal fishes (i.e., bottom dwelling), the survey has proven valuable for a much broader spectrum of species including pelagic species. A number of peer reviewed stock assessments and journal articles dealing with pelagic, or benthopelagic, species are based, at least in part, on seasonal bottom trawl surveys.⁹ Thus, despite being a “bottom trawl,” the utility of this survey for pelagic species has endured the test of scientific peer review and its use in this context is well justified.

The Herring Alliance encourages the Council to use the best available science to develop a set of alternatives that seeks to reduce the incidental catch of river herring and shad through time/area closures centered on hotspots. Some concerns have been expressed about the possibility that area closures intended to reduce incidental catch may have the unintended consequence of driving fishing effort into new areas where the incidental catch may also be high. There is always the possibility that a management measure like this one will have some undesirable consequences. However, this possibility is no excuse for failing to address problems where they are known to be occurring based on data from recent years. It is incumbent upon the Council and NMFS to maintain a strong monitoring program so that the consequences of new time/area closures are understood and responded to through appropriate adaptive management.

The move-along concept. The Herring Alliance strongly supports the concept of reducing incidental catch of shad and river herring through rules that are triggered by near real-time catch data for these species. The second of the two committee motions from 17 May 2010 tasks the PDT with developing this concept for the Atlantic herring fishery. In a nutshell, a move-along rule kicks in when the catch rate for the species of concern is observed to exceed a science-based threshold, and requires that the relevant fleet cease fishing within the area (i.e., *move along*) until the risk of further incidental catch falls to an acceptably low level. Analyses suitable for determining an appropriate time period might employ observer data from previous years, information about the movements of shad and river herring and future targeted sampling within exclusion areas established through a move-along rule.

The success of an incidental catch reduction program based on move-along rules depends upon rapid analysis of high quality at-sea observer data and enforced management actions. This requires verifiable

⁸ Presentations by J Cournane to Herring PDT (8 April 2010 and 15 July 2010) and Herring Oversight Committee (17 May 2010).

⁹ Species include alewife, American shad, Atlantic herring, Atlantic mackerel, Atlantic menhaden, blueback herring, butterfish, and dogfish; see Brown SK et. al. 1996. ECNASAP. Silver Spring, MD: National Oceanic and Atmospheric Administration, and Dartmouth, NS: Department of Fisheries and Oceans; Auster et al 2001. Environmental Biology of Fishes **60**: 331-46; Nye JA et al. 2009. Marine Ecology Progress Series **393**: 111–129; Nye et al 2009. ICES Journal of Marine Science, **67**: 26–40; Transboundary Resources Assessment Committee Status Report 2010/01 for Atlantic Mackerel; Transboundary Resources Assessment Committee Stock Assessment Update for Gulf of Maine/Georges Bank Atlantic Herring - Reference Document 2009/04; Northeast Fisheries Science Center. 2010. 49th Northeast Regional Stock Assessment Workshop (49th SAW) Assessment Report. US Dept Commerce, Northeast Fish Science Center Reference Document 10-01 (Butterfish);

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sampling of every haul and a prohibition on releasing catch to the sea without sampling. Released catch cannot be assumed to be representative of retained catch due to stratification and sorting. Thus, releasing catch without sampling will introduce error into estimates of catch composition that is based upon sampling of the retained catch.

During the committee discussion of move along rules (17 May 2010), reference was made to a research proposal, by the Sustainable Seafood Coalition and University of Massachusetts at Dartmouth, under consideration for funding by the National Fish and Wildlife Foundation (NFWF). While this proposal has many merits, it is a research proposal and cannot itself be included as an alternative in a draft amendment to a fishery management plan. The Herring Alliance supports good research that can contribute to reducing incidental catch of shad and river herring or anything else. However, the Herring Alliance cannot support an alternative that is based upon voluntary compliance with non-binding rules as suggested in the NFWF proposal. Amendment 5 must include strong regulatory move-along rules that are administered by NMFS and that can be enforced by NMFS, based on reliable data.

Moving along from shad and river herring. The idea of a new incidental catch reduction program based upon move-along rules is predicated on reliable sampling of all catch, rapid analysis and response. This is an excellent goal for reducing incidental catch of river herring and shad. However, there are other incidental catch concerns that have surfaced in the Atlantic herring fishery, for example, haddock and other ground fish and the harvest of spawning Atlantic herring. With a well-developed move-along system in place, it may be appropriate to expand the focus to include these other issues of concern. NMFS-certified observers can sample for adult and juvenile groundfish and they could also classify the spawning status of adult Atlantic herring – at least identifying ripe running females. This is done in the NMFS seasonal bottom trawl survey and thus it should be possible for the NMFS observer program as well. In this manner, trouble spots of a variety of types could be rapidly identified and avoided. Data acquired in such a system could also help to identify times and areas that reoccur from year to year and be used to guide fishing effort.

Use of multispecies Closed Area I rules for midwater-trawl vessels.¹⁰ The Herring Alliance supports the committee's recommendation that the rules proposed to reduce incidental catch of haddock in CA I be applied to hotspot time/areas identified for the catch of shad and river herring. We wish to be clear that we support the application of the proposed rule (September 2009) because it requires that all catch be sampled including catch that is not pumped on board during midwater trawl operations. That is, observers must be allowed to sample all the catch, even catch that is destined to be released to the sea after presorting within the net during pumping operations. The final rule (November 2009) was substantially weakened over the proposed rule because it allowed for such discarding of un-sampled catch, a change which is currently being litigated by ground-fishermen.¹¹ The Herring Alliance also supports adding an alternative with a trip termination clause, requiring return to port when catch is released for the reasons delineated in the proposed rule, including mechanical failure and vessel safety.¹²

¹⁰ Federal Register / Vol. 74, No. 171 / Friday, September 4, 2009 / Proposed Rules pp 45798-801; Federal Register / Vol. 74, No. 210 / Monday, November 2, 2009 / Rules and Regulations pp 56562-8.

¹¹ TAYLOR v. LOCKE, No. 1:09-cv-02289 (D. D.C. filed Dec. 2, 2009) .

¹² Federal Register / Vol. 74, No. 171 / Friday, September 4, 2009 / Proposed Rules pp 45800.

In addition, the CA I rules are effective for groundfish because they work in concert with an existing regulatory cap.¹³ If these rules were to be applied to hotspots for river herring and shad, an appropriate incidental catch cap would also need to be developed based on the best available biological science for these species. Without such a cap, the CA I rules would serve only to produce new data on catch of these species but would not serve reduce at-sea catch. Thus, the Herring Alliance supports the committee in applying the CA I rules in combination with appropriate incidental catch caps for river herring and shad (see below).

Catch caps. Amendment 5 must provide alternatives for developing an overall annual incidental catch cap for each of the alosine species. Fisheries management should seek to hold the annual incidental catch of these fish under the catch cap, with appropriate fishery closure provisions for components of the fishery exceeding an annual quota.¹⁴ One alternative should be based on the population of the affected species and another, a provisional alternative, should be based on recent catch history as revealed by VTRs.

Annual incidental catch caps should be based on the population biology of these alosine species. Although it may be expedient to define incidental catch caps relative to the amounts of directed catch (e.g., as a percentage of Atlantic herring), this approach is not acceptable because it does not ensure protection of river herring or shad.¹⁵ To define a cap in this manner amounts to saying that the acceptable incidental catch can go up as long as the catch of Atlantic herring increases, even if the status of the river herring or shad remains constant or is declining. In terms of stewardship of these imperiled alosine fishes, this is illogical. It implies a biological relationship between the status of Atlantic herring and alosines that does not exist. Acceptable incidental catch levels must be based upon an analysis of the best available scientific data on the status of river herring and shad species. Such data include assessments and status reports,¹⁶ data from state and federal government sources,¹⁷ and information available from academic reports.¹⁸ Science-based cap analysis should include consideration of the status of river populations within discrete geographic regions and any available information on the migration routes used by each of the alosine species. The available scientific information should be used to determine catch caps that are appropriate for geographic segments of the coastal shelf region, while taking into account any directed or incidental harvest within state waters. This analysis should also identify priorities for new research that will improve the quality of population biology-based incidental catch caps in the future.

Because it is not clear today that the caps can be set with the appropriate methods described above in time for completion of this Amendment, an alternative should be developed to set these caps provisionally based upon recent catch data from VTR reports. However, any such provisional caps must be replaced with caps based on biology within one year of implementation of Amendment 5.

¹³ Regulations specified in CFR Section 648.81 (a)(2)(iii)

¹⁴ See description of *voluntary rolling hotspot system* (VRHS) Federal Register / Vol. 75, No. 55 / Tuesday, March 23, 2010 / Proposed Rules pp 14018-20. This system includes 100% observer coverage and a fishery closure when the incidental catch cap for Chinook Salmon is reached.

¹⁵ See butterfish mortality cap program for the Loligo fishery. Federal Register / Vol. 75, No. 47 / Thursday, March 11, 2010 / Rules and Regulations 11443-44.

¹⁶ 2008 River Herring Stock Status Report, ASMFC Stock Assessment Subcommittee, Gary Nelson, Massachusetts Division of Marine Fisheries, Chair; ASMFC River Herring and Shad Stock Assessment in progress, expected in 2011.

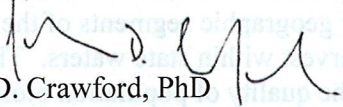
¹⁷ NMFS Seasonal Trawl Surveys, State surveys including landings records and annual river return counts.

¹⁸ For example: Hall CJ (2009) Damming of Maine Watersheds and the Consequences for Coastal Ecosystems with a Focus on the Anadromous River Herring (*Alosa pseudoharengus* and *Alosa aestivalis*): A Four Century Analysis. Masters Thesis, Marine and Atmospheric Science, Stony Brook University; Limburg KE, Waldman JR (2009) Dramatic Declines in North Atlantic Diadromous Fishes. *BioScience* 59(11): 955-965.

Incidental catch thresholds for move-along rules. To make a system of move-along rules a viable option, alternatives for setting quantitative incidental catch thresholds need to be included in the amendment. The purpose of the threshold is to serve as a trigger for moving fishing effort out of an area based on the rate of incidental catch. Thresholds in terms of incidental catch per unit of fishing effort (CPUE) could be developed based on a statistical examination of CPUE. For example, a threshold might be set at one standard deviation above the mean for a normalized distribution of CPUE. Other approaches may be more appropriate given the available data and its characteristics, and these should be explored in an effort to develop strong alternatives for catch thresholds. If available data preclude a CPUE-based statistical approach, thresholds determined as a simple percentage of annual catch cap might be considered.

Midwater trawl access to closed areas and Atlantic herring spawning grounds. In addition to the important monitoring and incidental catch issues discussed above, we remind the committee of the need to promptly develop alternatives for addressing any future access by midwater trawl vessels to groundfish closed areas and to protect Atlantic herring spawning grounds on Georges Bank and Nantucket Shoals. The Council prioritized midwater trawl access to groundfish closed areas as part of this amendment in 2007¹⁹ and more recently prioritized protection of Atlantic herring while spawning.²⁰ Insufficient attention and analysis has been paid to these issues, yet they are a critical part of ensuring the long term sustainability of groundfish and Atlantic herring resources. The Herring Alliance provided recommendations for alternatives to address access to groundfish closed areas²¹ which have been documented in drafts of this amendment, and we look forward to a comprehensive discussion by the committee of these issues. We also note that the Mid-Atlantic Council is developing a similar amendment (14) to its Squid, Atlantic Mackerel, and Butterfish FMP, and urge the NEFMC to make a concerted effort to coordinate closely as many of the issues and fisheries are shared between the regions.

Sincerely,



John D. Crawford, PhD
Science and Policy Manager
Pew Environment Group

cc: Mr. Paul J. Howard, Executive Director, New England Fisheries Management Council
Mr. John Pappalardo, Chairman, NEFMC
Ms. Lori Steele, Fishery Analyst, NEFMC Staff – Herring FMP

¹⁹ Council Priorities, Thursday, November 20, 2008, NEFMC Motions, Council Meeting, Danvers, MA.

²⁰ NEFMC Council Report November 2009


²¹ Herring Alliance monitoring proposal, submitted 5 December 2008 in response to NEFMC Notice October 16, 2008: *CALL FOR STAKEHOLDER RECOMMENDATIONS for an Atlantic Herring Fishery Catch Monitoring Program.*

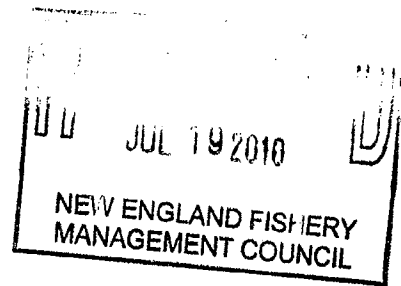
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Buckeye Brook

Protect & Preserve
P.O. Box 9025
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July 13, 2010

Mr. Doug Grout, Chairman, Herring Oversight Committee

New England Fishery Management Council

50 Water Street

Newburyport, Massachusetts 01950

RE: Amendment 5 to the Atlantic Herring Fisheries Management Plan

Dear Mr. Grout:

As president of the Buckeye Brook Coalition, I am writing about Amendment 5 to the Atlantic herring fishery management plan and the upcoming Herring Oversight Committee meeting (July 27-28, 2010). Our letter primarily focuses on the alternatives dealing with incidental catch reduction for river herring (blueback and alewife herring) and American shad, and catch monitoring, now being developed for the amendment. The specific concerns about alternatives for inclusion in amendment 5 are summarized here:

- Existing observer and NMFS seasonal bottom trawl data, from previous years, must be used to identify those areas where future incidental catch rates are expected to be high: *hotspots*.
- A set of management alternatives must be developed, based on modifications to the rules for midwater-trawl fishing within ground fish Close Area I, to substantially reduce incidental catch within hotspots as defined above.
- The amendment must include at least one alternative for a new monitoring system to provide the near-real time data and analysis needed for a system incidental catch move along rules: rules that force vessels to move out of a circumscribed area when an established incidental catch threshold is reached.
- One or more alternatives for incidental catch reduction should be based on move along rules, triggered by an established catch threshold, and leading to protection, of sufficient size and duration, to ensure that incidental catch is held to a minimum.

LC: 1/5, 6/6

- The amendment must develop alternatives for annual incidental catch caps for blueback herring, alewife, and American shad. A meaningful catch reduction plan must be backed-up by an annual catch cap, which leads to closure of any fishery exceeding its portion of the cap. One alternative should be based on the population biology of these species, and a second should be based on recent landings as reported by Vessel Trip Reports (VTR).
- Alternatives should be included that protect spawning Atlantic herring, through time/area closures and / or move along rules for spawning fish.
- The amendment should expand protection of juvenile and adult groundfish from mid-water trawling by applying CA I rules to all of the groundfish closed areas.

The Buckeye Brook Coalition is particularly concerned about the disappearance of river herring and shad from the Eastern seaboard and the contribution of at-sea catch to this problem. This is a matter of great concern to a diversity of stakeholders,¹ and one that the ASMFC requested emergency action on.² This request for emergency action was supported by the NEFMC, and MAFMC.³ The Buckeye Brook Coalition strongly supports inclusion robust alternatives for reducing incidental catch of river herring and shad at-sea.

We support a strong amendment 5 to improve data collection through a comprehensive and rigorous catch monitoring system. This is important for documenting and reducing all incidental catch, both discarded and landed, and will also improve data for stock assessments and help ensure that catch of stocks subjected to directed fisheries does not exceed annual catch limits.

The two motions passed at the 17 May 2010 committee meeting, dealing with defining by catch hotspot areas and move-along rules triggered by incidental catch, represent important steps forward. If properly developed, these motions could lead to a set of strong management alternatives for the draft amendment and EIS. Suggestions for further development are discussed below.

Identification of by catch seasonal hotspots. The first of the 17 May 2010 committee motions directs the Plan Development Team (PDT) to use observer data to identify gear-specific time/areas where the Closed Area I (CA 1) regulations could be applied to reduced incidental catch of shad and river herring.⁵ The concept here is to use observer data from previous years to predict where and when future incidental catch rates are expected to be high, and take management action for those time-areas, or *hotspots*, in the future. The essence of this motion was also put forward in October 2008, when both the Herring Committee and the Council passed similar motions on use of observer data as a basis for time-area closures. The Buckeye Brook Coalition strongly supports basing a set of alternatives on this concept, so long as they are designed to effectively reduce incidental catch.

The spatial and temporal distributions of incidental catch of river herring and shad in the Atlantic herring fishery, as revealed by data from at-sea observers, has been a focus for at least two years and has been presented to the PDT and committee several times.⁶ These data represent the best scientific information available on at-sea catch of these species and must be used to define seasonal hotspots as an important part of any incidental catch reduction program.

We recommend that these observer data be used together with the fishery-independent data provided by the NEFSC seasonal bottom trawl survey to develop a set of alternatives for protection of seasonal hotspots for river herring and shad. These fishery-independent data can be used to provide an independent look at where incidental catch hotspots should be expected, thereby increasing confidence in time/areas identified by observers, and also to identify additional time/areas that could become problematic if fishing effort were to be directed on them in the future. A preliminary analysis of the distribution of shad and river herring as revealed by seasonal bottom trawl survey was already presented to the PDT and Committee.⁷

Although the seasonal bottom trawl survey was originally designed to sample demersal fishes (i.e., bottom dwelling), the survey has proven valuable for a much broader spectrum of species including pelagic species. A number of peer reviewed stock assessments and journal articles dealing with pelagic, or benthopelagic, species are based, at least in part, on seasonal bottom trawl surveys.⁸ Thus, despite being a “bottom trawl,” the utility of this survey for pelagic species has endured the test of scientific peer review and its use in this context is well justified.

The Buckeye Brook Coalition encourages the Council to use the best available science to develop a set of alternatives that seeks to reduce the incidental catch of river herring and shad through time/area closures centered on hotspots. Some concerns have been expressed about the possibility that area closures intended to reduce incidental catch may have the unintended consequence of driving fishing effort into new areas where the incidental catch may also be high. There is always the possibility that a management measure like this one will have some undesirable consequences. However, this possibility is no excuse for failing to address problems where they are known to be occurring based on data from recent years. It is incumbent upon the Council and NMFS to maintain a strong monitoring program so that the consequences of new time/area closures are understood and responded to through appropriate adaptive management.

The move-along concept. The Buckeye Brook Coalition strongly supports the concept of reducing incidental catch of shad and river herring through rules that are triggered by near real-time catch data for these species. The second of the two committee motions from 17 May 2010 tasks the PDT with developing this concept for the Atlantic herring fishery. To surmise, a move along rule kicks in when the catch level for the species of concern is observed to exceed a science-based threshold, and requires that the relevant fleet cease fishing within the area (i.e., *move along*) until the risk of further incidental catch falls to an acceptably low level. Analyses suitable for determining an appropriate time period might employ observer data from previous years, information about the

movements of shad and river herring, and future targeted sampling within exclusion areas established through a move-along rule.

The success of an incidental catch reduction program based on move along rules depends upon rapid analysis of high quality at-sea observer data and enforced management actions. This requires verifiable sampling of every haul and a prohibition on releasing catch to the sea without sampling.

During the committee discussion of move along rules (17 May 2010), reference was made to a research proposal, by the Sustainable Seafood Coalition and University of Massachusetts at Dartmouth, under consideration for funding by the National Fish and Wildlife Foundation (NFWF). While this proposal has many merits, it is a research proposal and can not itself be included as an alternative in a draft amendment to a fishery management plan. The Buckeye Brook Coalition supports good research that can contribute to reducing incidental catch of shad and river herring or anything else. However, the Buckeye Brook Coalition can not support an Alternative that is based upon voluntary compliance with non-binding rules as suggested in the NFWF proposal. Amendment 5 must include strong regulatory move along rules that are administered by NMFS and that can be enforced by NMFS based on reliable data.

Moving along from shad and river herring. The idea of a new incidental catch reduction program based upon move-along rules is predicated on reliable sampling of all catch, rapid analysis and response. This is an excellent goal for reducing incidental catch of river herring and shad. However, there are other incidental catch concerns that have surfaced in the Atlantic herring fishery, for example, haddock and other ground fish, and the harvest of spawning Atlantic herring. With a well developed move-along system in place, it may be appropriate to expand the focus to include these other issues of concern. NMFS certified observers can sample for adult and juvenile groundfish and they could also classify the spawning status of adult Atlantic herring – at least identifying ripe running females. This is done in the NMFS seasonal bottom trawl survey and thus it should be possible for the NMFS observer program as well. In this manner, trouble spots of a variety of types could be rapidly identified and avoided. Data acquired in such a system could also help to identify times and areas that reoccur from year to year and be used to guide fishing effort.

Use of multispecies Closed Area I rules for midwater-trawl vessels.⁹ The Buckeye Brook Coalition supports the committee's recommendation that the rules proposed to reduce incidental catch of haddock in CA I be applied to hotspot time/areas identified for the catch of shad and river herring. We wish to be clear that we support the application of the proposed rule (September 2009) because it requires that all catch be sampled including catch that is not pumped on board during midwater trawl operations. That is, observers must be allowed to sample all the catch, even catch that is destined to be released to the sea after presorting within the net during pumping operations. The final rule (November 2009) was substantially weakened over the proposed rule because it allowed for such discarding of un-sampled catch, a change which is currently being litigated by ground-fishermen.¹⁰ The Buckeye Brook Coalition also supports adding an

alternative that with a trip termination clause, requiring return to port when catch is released for the reasons delineated in the proposed rule, including mechanical failure, and vessel safety.¹¹

In addition, the CA I rules are effective for groundfish because they work in concert with an existing regulatory cap.¹² If these rules were to be applied to hotspots for river herring and shad, an appropriate incidental catch cap would also need to be developed based on the best available biological science for these species. Without such a cap, the CA I rules would serve only to produce new data on catch of these species but would not serve to reduce at sea catch. Thus, the Buckeye Brook Coalition supports the committee in applying the CA I rules in combination with appropriate incidental catch caps for river herring and shad (see below).

Catch Caps. Amendment 5 must provide alternatives for developing an overall annual incidental catch cap for each of the Alosine species. Fisheries management should seek to hold the annual incidental catch of these fish under the catch cap, with appropriate fishery closure provisions for components of the fishery exceeding an annual quota.¹³ One alternative should be based on the population of the effected species and another, a provisional alternative, should be based on recent catch history as revealed by VTRs.

Annual incidental catch caps for river herring and shad based on population biology. Annual incidental catch caps should be based on the population biology of these alosine species. Although it may be expedient to define incidental catch caps relative to the amounts of directed catch (e.g., as a percentage of Atlantic herring), this approach is not acceptable because it does not ensure protection of river herring or shad.¹⁴ To define a cap in this manner amounts to saying that the acceptable incidental catch can go up as long as the catch of Atlantic herring increases, even if the status of the river herring or shad remains constant or is declining. In terms of stewardship of these imperiled alosine fishes, this is illogical. It implies a biological relationship between the status and/or catch of Atlantic mackerel and alosines that does not exist. Acceptable incidental catch levels must be based upon an analysis of the best available scientific data on the status of river herring and shad species. Such data include assessments and status reports,¹⁵ data from state and federal government sources,¹⁶ and information available from academic reports.¹⁷ Science-based cap analysis should include consideration of the status of river populations within discrete geographic regions and any available information on the migration routes used by each of the alosine species. The available scientific information should be used to determine catch caps that are appropriate for geographic segments of the coastal shelf region, while taking into account any directed or incidental harvest within state waters. This analysis should also identify priorities for new research that will improve the quality of population biology-based incidental catch caps in the future.

Annual incidental catch caps for river herring and shad based on recent catch. Because it is not clear today that the caps can be set with the appropriate methods described above in time for completion of this Amendment, an alternative should be developed to set these caps provisionally based upon recent catch data from VTR reports.

However, any such provisional caps must be replaced with caps based on biology within one year of implementation of Amendment 5.

Incidental catch thresholds for move-along rules. To make a system of move along rules a viable option, alternatives for setting quantitative incidental catch thresholds need to be included in the amendment. The purpose of the threshold is to serve as a trigger for moving fishing effort out of an area based on the rate of incidental catch. Thresholds, in terms of incidental catch per unit of fishing effort (CPUE), could be developed based on a statistical examination of CPUE. For example, a threshold could be set at one standard deviation above the mean for a normalized distribution of CPUE. Other approaches may be more appropriate given the available data and its characteristics, and these should be explored in an effort to develop strong alternatives for catch thresholds. If available data preclude a CPUE-based statistical approach, thresholds determined as a simple percentage of annual catch cap might be considered.

Closing remarks: In addition to the important monitoring and incidental catch issues discussed above, we remind the committee of the need to promptly develop alternatives for addressing any future access by midwater trawl vessels to groundfish closed areas and to protect Atlantic herring spawning grounds on Georges Bank and Nantucket Shoals. The Council prioritized midwater trawl access to groundfish closed areas as part of this amendment in 2007¹⁸ and, more recently, prioritized protection of Atlantic herring while spawning.¹⁹ Insufficient attention and analysis has been paid to these issues, yet they are a critical part of ensuring the long term sustainability of groundfish and Atlantic herring resources. The Buckeye Brook Coalition looks forward to a comprehensive discussion by the committee of these issues. We also note that the Mid-Atlantic Council is developing a similar amendment (14) to its Squid, Atlantic Mackerel, and Butterfish FMP, and urge the NEFMC to make a concerted effort to coordinate closely as the many of the issues and fisheries are shared between the regions, to which the Buckeye Brook Coalition has expressed its concerns to that oversight body also.

Sincerely,

Paul H. Earnshaw

A handwritten signature in cursive script that reads "Paul H. Earnshaw". The signature is written in black ink and is positioned below the typed name.

President
Buckeye Brook Coalition