

Comments/Correspondence Received
Re: 2010-2012 Herring Fishery Specifications



UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary of Commerce
for Oceans and Atmosphere
 Washington, D.C. 20230

OCT 22 2009

The Honorable Olympia Snowe
 United States Senate
 Washington, DC 20510

Dear Senator Snowe:

Thank you for your letter regarding the New England Fishery Management Council's development of catch limits for the Atlantic herring fishery for 2010-2012. You raise important concerns about the potential impact of the recommendation made by the Council's Science and Statistical Committee (SSC) to reduce allowable biological catch of herring from 145,000 metric tons (mt) to 90,000.

The SSC's recommendation stems from a re-analysis of the stock indicating that previous biomass calculations were overestimated. The SSC recommendation to account for this systematic overestimation is based in large part on its concern that the 2009 Transboundary Resource Assessment Committee advised that, "Ignoring the retrospective pattern in biomass could increase the risk of not meeting conservation objectives." In response, the SSC recommended that catch levels should be reduced by approximately 40 percent, to account for this uncertainty.

Earlier this month, the request for a new benchmark assessment was evaluated by the Northeast Regional Coordinating Council, composed of the leadership of the New England and Mid-Atlantic Fishery Management Councils, the Atlantic States Marine Fisheries Commission, the Northeast Fisheries Science Center, and Northeast Regional Office of NOAA's National Marine Fisheries Service. The Coordinating Council evaluated the request in light of other competing stock assessment priorities such as groundfish, and the availability of new information to improve the assessment. While recognizing the importance of the herring stock, the Coordinating Council determined that the earliest a new benchmark can be conducted is June 2012. This is due to a number of valid scientific and scheduling reasons including the need to develop data sets and new modeling approaches to evaluate the effect of the retrospective pattern.

Because Atlantic herring is not subject to overfishing, a mechanism for specifying annual catch limits (ACLs) does not need to be implemented until 2011. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) Section 302(h)(6) provides that a Council may not exceed the fishing level recommendations of its SSC in developing ACLs. Apart from these provisions, effective in January 2007, the MSA enhanced the role of SSCs, mandating that they shall provide ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch (MSA 302(g)(1)(B)). We have advised the Council that their recommendations for Atlantic herring catch limits will need to fully consider all MSA requirements, including preventing overfishing (National Standard 1), and using the best scientific information available (National Standard 2).

On the issue of Acadian redfish, we have received a proposal from the Maine Department of Marine Resources under the Northeast Region's 2010 Saltonstall-Kennedy Grant Program solicitation for an experimental fishery for Acadian redfish in the Gulf of Maine, with the goal of establishing a special access program (SAP) for Northeast groundfish sectors. The grant review process is underway, with technical reviews being conducted. Your letter will be taken into consideration. The top-ranked proposals will be further considered during a Constituent Review Panel November 16-20, 2009.

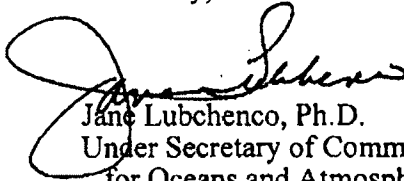
THE ADMINISTRATOR



This experiment would be the first step in any effort to establish a SAP to harvest Acadian redfish. A SAP can be proposed by the Council and approved by the agency through the Northeast multispecies framework process. In order to establish a SAP, the Northeast multispecies management program requires evidence that redfish harvests could be increased without compromising efforts to rebuild overfished stocks, end overfishing, minimize bycatch, or minimize impact on Essential Fish Habitat. A successful experiment could yield the information necessary to support a redfish SAP in the future.

If you have further questions, please contact John Gray, Director of NOAA's Office of Legislative Affairs, at (202) 482-4981.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Lubchenco", is written over the typed name and title. The signature is fluid and cursive, with a large loop at the beginning.

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

OLYMPIA J. SNOWE
MAINE

164 BUSHNELL SENATE OFFICE BUILDING
(207) 224-5344

Web Site: <http://snowe.senate.gov>
DEPUTY WHIP

United States Senate

WASHINGTON, DC 20510-1903

COMMITTEES:
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FISHERIES AND COAST GUARD
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FINANCE

INTELLIGENCE

RANKING MEMBER, SMALL BUSINESS

October 7, 2009

Dr. Jane Lubchenco
Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Avenue, NW
Washington, DC 20230



Dear Dr. Lubchenco,

The New England Fishery Management Council is currently developing catch limits for Atlantic herring for fishing year 2010. Last month, the region's Science and Statistical Committee (SSC) recommended that the acceptable biological catch (ABC) of herring be slashed by 53 percent from the 2009 limit. This decision was based on data which, according to the SSC itself, contains high degrees of uncertainty. I recognize that under the Magnuson-Stevens Act (MSA), the Council is not mandated to accept the SSC's recommendation for this fishery until fishing year 2011, but I will not stand by and allow this fishery and the businesses it supports to be decimated based on information so woefully outdated that the scientists themselves complain about its applicability. It is absolutely critical that National Marine Fisheries Service (NMFS) carry out a new benchmark assessment as soon as possible to ensure that our fishermen are not unfairly punished by the absence of viable data.

The MSA, as reauthorized in 2006, includes a requirement that all fisheries must operate under strict annual catch limits (ACL) by fishing year 2011 when, like herring, they are not overfished or subject to overfishing. The MSA further requires that once this provision takes effect, the Regional Fishery Management Councils cannot set an ACL higher than the level recommended by their SSC. We must ensure that when that mandate enters into force, our scientists are not faced with a paucity of data that could lead to drastic, unsubstantiated catch reductions. I firmly believe in managing our fisheries based on strong scientific data, but I also recognize—as does the MSA—the joint mandate to balance a requirement to achieve optimum yield from our fisheries with the need to minimize adverse economic impacts to the extent practicable.

Herring is often described as a keystone species in the Gulf of Maine, which, in addition to the directed fishery, provides forage for larger fish and marine mammals. In Maine, landed herring is most often used as bait for our lobster fishery, which last year brought in \$238 million, 79 percent of Maine's fisheries landings value. Recently, lobstermen have been forced to absorb one blow after another. New regulations intended to protect endangered whales have imposed additional annual gear costs estimated at \$10,000-15,000. Simultaneously, the price lobstermen

Augusta
Two (Two) at Falls Plaza
Suite 70
Augusta, ME 04210
(207) 786-2451

AUGUSTA
40 WESTERN AVENUE, SUITE 4000
AUGUSTA, ME 04330
(207) 822-8292

BANGOR
ONE CHIMBERLAND PLACE, SUITE 300
BANGOR, ME 04401
(207) 945-0432

BOSTON
227 MAIN STREET
BOSTON, ME 04005
(207) 282-4144

PORTLAND
3 CANAL PLAZA, SUITE 601
PORTLAND, ME 04101
(207) 874-0883
Maine Relay Service
TDD 1-955-3073

PRESQUE ISLE
168 ACADEMY STREET, SUITE 3
PRESQUE ISLE, ME 04769
(207) 764-8124

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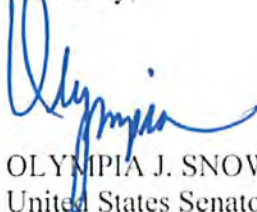
cc: LS, TN, CAG (10/16)

receive for their catch has plummeted to as low as \$2.50 per pound, more than a sixty percent reduction from what they received prior to the onset of the global economic recession.

Before herring became the preferred bait in the lobster industry, many lobstermen used redfish in their pots. After years of overfishing followed by drastic regulatory changes, in 2007 Acadian redfish was removed from both NMFS's "overfished" and "overfishing" lists. Subsequently, Maine's Department of Marine Resources proposed to NMFS an experimental fishery for Acadian redfish. If found to be successful, this proposal could benefit the lobster and herring fisheries by diversifying the bait supply and reducing pressure on the herring stock. Furthermore, it could provide additional fishing opportunities for groundfishermen, as redfish is managed under the Northeast Multispecies Fishery Management Plan. As such, in addition to prioritizing a herring assessment, I request that you expedite review of this redfish proposal to determine whether it is viable under the terms of current law.

The SSC itself has acknowledged the shortcomings of its data set and has called for NMFS to fund a new benchmark assessment of Atlantic herring. When our scientists clamor for better data, it is the responsibility of the Federal government to heed that call and ensure that our fisheries managers are capable of setting limits that meet the MSA's mandate of achieving, "on a continuing basis, the optimum yield" from our oceans. A new herring benchmark assessment will help achieve this goal and I urge you to prioritize such research.

Sincerely,



OLYMPIA J. SNOWE
United States Senator

cc: Patricia Kurkul, Administrator, Northeast Region, National Marine Fisheries Service
Nancy Thompson, Director, Northeast Fishery Science Center
John Pappalardo, Chair, New England Fishery Management Council

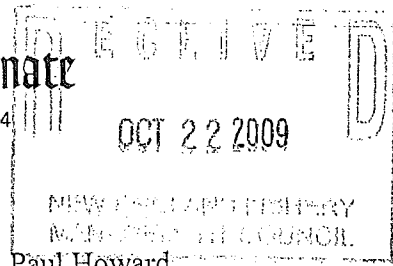
P.S. I appreciate your consideration of this vital issue to Maine and the industry -

SUSAN M. COLLINS
MAINE

413 DIRKSEN SENATE OFFICE BUILDING
WASHINGTON, DC 20510-1904
(202) 224-2523
(202) 224-2693 (FAX)

COMMITTEES:
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS,
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ARMED SERVICES
SPECIAL COMMITTEE
ON AGING

United States Senate
WASHINGTON, DC 20510-1904



October 19, 2009

Dr. Jane Lubchenco
Administrator
National Oceanic and Atmospheric
Administration
1401 Constitution Ave. NW
Washington, DC 20230

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

Dear Administrator Lubchenco and Mr. Howard:

I am writing to support the recommendation of the New England Fishery Management Council's Science and Statistical Committee (SSC) to undertake a new benchmark assessment for Atlantic herring. The Atlantic herring fishery is vital to Maine's economy, both directly to herring fishermen and indirectly as the major supplier of bait for the lobster industry.

The last benchmark assessment for Atlantic herring was in 2006. This year's recent Atlantic herring resource assessment found that herring is not subject to overfishing, but exposed numerous scientific uncertainties in herring stock models. According to the National Marine Fisheries Service, these models routinely overestimate stock size and underestimate fishing mortality. This means that the SSC must set a low recommend acceptable biological catch (ABC) to account for this known model flaw.

The recommended ABC for 2010 could lead to a cut of nearly 50 percent in the annual catch limits for Atlantic herring. This could devastate the herring industry, and the lobster industry that depends on herring for much of its bait. The lobster industry is already struggling with low prices for its product combined with higher operating costs and cannot absorb another increased operating cost.

Given the widespread implications of such dramatic reductions in herring annual catch limits, I strongly urge you to undertake a new benchmark assessment for Atlantic herring. This would update the science underpinning the herring stock model and ensure future SSC recommendations are based on the best available science.

Thank you for consideration of my support for a new benchmark assessment for Atlantic herring. I look forward to working with you on this important issue.

Sincerely,

Susan M. Collins
United States Senator



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*

October 23, 2009

The Honorable Susan Collins
United States Senate
413 Dirksen Building, 1st & C Streets, NE
Washington, DC 20510

Dear Senator Collins:

Thank you for supporting the New England Fishery Management Council's Scientific and Statistical Committee (SSC) recommendation for a new benchmark assessment for Atlantic herring. For clarification, the SSC asked that a new assessment be undertaken to address sources of uncertainty and several other issues. In reality the model itself may or may not be at issue. The problematic patterns exhibited in the last two assessments, a benchmark in 2006 and the update in 2009 could be the result of one or more unknowns about the herring stock or the fishery itself. Examples could be significant amounts of herring that have been discarded at sea that are then not accounted for in the model, increased natural mortality because of increased predation on herring, inaccurate estimates of stock size as the result of low levels of observer coverage or something else for which we do not have adequate information.

The low acceptable biological catch (ABC) level set by the SSC was intended to account for the unknown source or sources of scientific uncertainty and reduce the risk of overfishing. The SSC based its recommendation on how large the buffer should be between the overfishing level and ABC. Their rationale accounted for the retrospective inconsistency in the estimate of exploitable biomass, approximately 40%, because according to the 2009 update assessment, "uncertainty due to model configuration is dwarfed by uncertainty due to retrospective bias." Therefore, the SSC considered that the magnitude of retrospective inconsistency accounts for the major sources of uncertainty in the assessment, and the buffer between OFL and ABC should be 40%, resulting in a 90,000 metric ton ABC. And of course the SSC report recommended a benchmark assessment as soon as possible. I have provided a copy for your information.

We are very grateful for your interest in the herring and look forward to the response of NOAA. Please feel free to contact me at any time as we track this and other important fisheries management issues.

Sincerely,

Paul J. Howard
Executive Director

cc: Dr. Jane Lubchenco, Administrator, National Oceanic and Atmospheric Administration

enclosure


EARTHJUSTICE

 ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
 NORTHWEST ROCKY MOUNTAIN WASHINGTON, DC INTERNATIONAL

November 4, 2009

Jane Lubchenco, Ph.D.
 Under Secretary for Commerce for Oceans and Atmosphere
 1401 Constitution Ave, NW
 Room 5128
 Washington, D.C. 20230
jane.lubchenco@noaa.gov



Re: New England Atlantic Herring Catch Limits – Science-Based Management

Dear Dr. Lubchenco:

We are writing in response to your October 22, 2009 letter to Senator Snowe regarding the proposed New England Atlantic herring catch limits being developed by the New England Fishery Management Council (Council). We also write to specifically address the alternatives before the Council and the requests by some interested parties that you ignore the best available science and other legal requirements of the Magnuson-Stevens Fishery Conservation and Management Act. 16 U.S.C. § 1801 et. seq. (Magnuson-Stevens Act or Act).

Your letter to Senator Snowe identifies the applicable legal requirements of the Magnuson-Stevens Act, including Section 302(h)(6), National Standard 2, and National Standard 1. The Council decided to develop each of its 2010, 2011, and 2012 catch limits to be consistent with the new Annual Catch Limit (ACL) requirements of the Magnuson-Stevens Act.¹ The council requested and received the necessary fishing level recommendations for each of these years from its SSC.² Section 302(h)(6) of the Magnuson-Stevens Act requires that the Council not exceed the fishing level recommendations of its Science and Statistical Committee (SSC) when developing ACLs, including the recommendations for the overfishing limit (OFL) and the acceptable biological catch (ABC).³

At the Council's October 6, 2009 Atlantic Herring Committee meeting, however, the Committee developed one Alternative ("Alternative 1") that would ignore the fishing level recommendations of the SSC in 2010,⁴ and therefore violate Section 302(h)(6) of the Magnuson Stevens Act. We strongly recommend that your national and regional staff provide clear guidance to the Council that they must implement the fishing level recommendations of its SSC, which are reflected in "Alternative 2", when setting the 2010-2012 ACLs for the Atlantic herring fishery.

Moreover, National Standard 2 requires that conservation and management measures be based upon the best scientific information available.⁵ The 2007 revisions to the Magnuson-Stevens Act

¹ See e.g., Draft 2010-2012 Herring Specifications, 2, 8-33 (November 3, 2009).

² See id. at 9-11.

³ 16 U.S.C. § 1852(h)(6). Section 302(h)(6) became effective on January 12, 2007 when the Magnuson-Stevens Reauthorization Act became law. See Pub. L. 109-479 (Jan 12, 2007).

⁴ See e.g., Draft 2010-2012 Herring Specifications at 8. Some have suggested that because the Act technically does not require that a mechanism for specifying ACLs be implemented until 2011 for this fishery the Council can ignore the fishing level recommendations of the SSC in 2010. However, as indicated there is no support for this proposition in the plain language of the Act.

⁵ 16 U.S.C. § 1851(2).

enhanced the role of the SSCs and specifically required that they provide recommendations for ABC.⁶ New England's SSC includes many of the best fisheries scientists in the world, all of whom were selected based upon meeting requirements for scientific or technical credentials and expertise outlined in the Act. The foundation for their advice is the work of the Transboundary Resource Assessment Committee (TRAC), which relies upon lengthy analysis and peer review to produce what historically has been recognized as the best available science for setting catch levels for this fishery. For these reasons, National Standard 2 also requires that you implement the OFL and ABC recommendations of the SSC.

Finally, National Standard 1 requires that conservation and management measures prevent overfishing while achieving optimum yield on a continuing basis. Alternative 1 would set the ABC equal to the OFL in 2010, with only a small reduction in the catch level to account for the estimated Canadian herring catch. As stated in the National Standard 1 guidelines, it can be presumed that setting the ACL equal to the ABC, and the ABC equal to the OFL, will result in overfishing unless there is a strong analysis and justification for the approach.⁷ Based on the analyses of the TRAC and SSC, it is clear that there is no valid justification for this approach and that Alternative 1 must be rejected to prevent overfishing and comply with the Act.

We strongly support your efforts to advance science-based fisheries management. It is imperative that in these first efforts to implement the 2007 revisions to the Magnuson-Stevens Act that you support the work of the SSCs. Further, as you know the Atlantic herring resource is a keystone species in the Northwest Atlantic ecosystem and there is concern about its long term health, as reflected in the work of the SSC, TRAC, and the Council's Atlantic herring plan development team. Therefore, it is critical at this time that the SSC's work, which carefully accounts for current scientific uncertainty, is supported as we continue to improve upon the work of the region's stock assessment scientists.

Sincerely yours,

/s/ Roger Fleming
Roger Fleming
Attorney
Earthjustice
(978) 846-0612
rfleming@earthjustice.org

Cc. Senator Olympia Snowe
Dr. James Balsiger, Acting Assistant Administrator for Fisheries
Alan Risenhoover, Director, Office of Sustainable Fisheries
Galen Tromble, Chief, Domestic Fisheries Division for NOAA Fisheries
Pat Kurkul, Northeast Regional Administrator
Gene Martin, Northeast Regional Counsel
John Pappalardo, Chairman, New England Fishery Management Council
Paul J. Howard, Executive Director, New England Fishery Management Council

⁶ 16 U.S.C. § 1852(g)(1)(B).

⁷ 50 C.F.R. § 600.310(f)(5).



Paul J. Diodati
Director

Commonwealth of Massachusetts

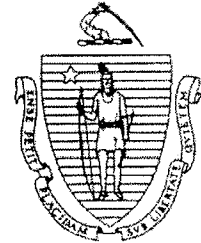
Division of Marine Fisheries

251 Causeway Street, Suite 400

Boston, Massachusetts 02114

(617)626-1520

fax (617)626-1509

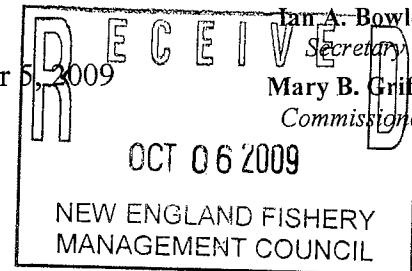


Deval Patrick
Governor

Jan A. Bowles
Secretary

Mary B. Griffin
Commissioner

October 5, 2009



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

Dear John:

The Council and ASMFC are being challenged and tested by the absence of a benchmark assessment for sea herring, the 2010-2012 specification process, and our self-imposed drastic reduction in the sea herring quota(s) as a consequence of our apparent belief that a SSC-recommended ABC and Council ACLs must be set beginning next year. At the Council's request and with PDT involvement, we asked the SSC for 2010-12 specification recommendations, and it responded with annual ABCs of 90,000 mt (OFL reduced by 40% in 2010). The SSC noted that total catch of the Gulf of Maine/Georges Bank complex by the U.S. and Canada was 90,000 mt in 2008.

As a result, we all find ourselves in a surreal situation: sea herring is not overfished and overfishing is not occurring yet we will dramatically reduce herring catch next year. In fact, according to the SSC, recent catches have maintained a relatively abundant stock size (estimates of stock biomass from 1998 to 2008 have been greater than B_{MSY}) and low fishing mortality (estimates 1998 to 2008 fishing mortality have been less than F_{MSY}).

On further reflection about the seriousness of this situation, i.e., (1) a very large decrease in area quotas especially for 2010 in Area 1A (42,000 mt decrease to perhaps 10,000 mt, or thereabouts), (2) a resulting dramatic shortage of bait for the lobster fishery, and (3) Canada having no restrictions on its GOM New Brunswick fishery (e.g., 30,145 mt in 2007) and no need/requirement to cut its catch in 2010 (or any year), it occurred to me that we do not have to set an ABC for 2010. We are not overfishing, and that conclusion is indisputable. The SSC has confirmed this all-important fact and has noted the previous years' long-term stability of the resource and fishery.

I suggest that the Council does not have to set an annual catch limit (ACL) for 2010 because overfishing is not occurring and has not occurred for many years. My argument is supported by NS #1 guidelines regarding Council actions to address overfishing and rebuilding for stocks and stock complexes in the fishery. If overfishing is occurring then ACLs and AM mechanisms must be established in 2010. If not, then ACLs and AMs are to be established in 2011.

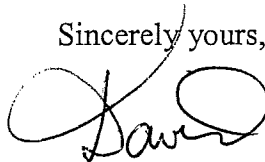
Furthermore, ABC can equal OFL. In the Guidelines it states: "...NMFS expects that in most cases ABC will be reduced from OFL to reduce the probability that overfishing might occur in a year..." With a 2010 ABC of 145,000 mt corresponding to catch at F_{msy} and our expecting that catch still will be at or near status quo of 90,000 mt in 2010, F_{msy} will not be exceeded.

Consequently, I suggest the specification for 2010 can be status quo at 145,000 mt. The 2009 ABC was 194,000 mt reduced to 145,000 mt (OY). To do otherwise will force the Council and the ASMFC Sea Herring Section to set the ABC at 90,000 mt (40% reduction from 145,000 mt) resulting in a one-year drastic decrease in ABC from 194,000 mt in 2009 to 90,000 mt in 2010 – a 54% decrease. This will occur even though stock biomass is just below B_{msy} (652,000 mt versus 670,600 mt).

I understand a benchmark assessment may occur in 2011. Ideally, we would wait until then to adjust the ABC. However, it appears we are required to adopt the SSC's ABC values for 2011 and 2012 that are the OFLs reduced by 40% to account for scientific uncertainty. Even though I believe that adjustment is too high and recent years' retrospective difference (about 15%) should be used instead of the 40% (average) and we await the SSC to revisit this issue (Council vote), for now it appears the 90,000 ABC will be required for 2011 and 2012. These ABCs may have to be adjusted up or down to account for benchmark assessment findings.

I end by emphasizing our need to be sensitive to stock status. We all should be heartened by the SSC acceptance of TRAC findings, i.e., "recent catches have maintained a relatively abundant stock size (estimates of stock biomass from 1998 to 2008 have been greater than B_{MSY}) and low fishing mortality (estimates 1998 to 2008 fishing mortality have been less than F_{MSY}). Those conclusions justify waiting until 2011 before implementing the SSC's ABCs, unless of course the SSC after revisiting the extent to which the OFL should be reduced, provides a different recommendation.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David", written in a cursive style.

David E. Pierce, Ph.D.

cc
Paul Diodati
Paul Howard

From: Bethany Baudanza
Sent: Monday, October 19, 2009 9:18 AM
To: Paul Howard
Subject: Bait Shortage

Hello,

My name is Barry Baudanza and I am a lobsterman in South Thomaston, Maine. I am writing to ask for your help with the issue of the plans to reduce herring landings. This will certainly cripple the lobster industry. It will lead to bait shortages, the price of available bait will be out of reach for most lobstermen, and this will ultimately force many lobsterman out of business. This does not just affect lobstermen. The entire economic stability of Maine's coastal communities will be affected.

Anything that you can do to help with this matter will be greatly appreciated by lobstermen, their families, and the fishing communities in Maine.

Thank you,

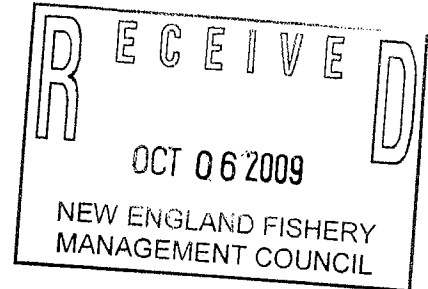
Barry Baudanza

Corea Lobster Cooperative, Inc.

P O Box 99 191 Crowley Island Road
Corea, Maine 04624-0099

Phone (207) 963-7936 Fax (207) 963-5952

October 6, 2009



Joint NEFMC Herring Oversight Committee
and ASMFC Herring Section
50 Water Street
Newburyport, MA 01950

To Whom It May Concern:

My name is Dwight Rodgers, I am the Manager of the Corea Lobster Co-operative, Inc. However I am representing the feelings of at least 6 co-op managers from Spruce Head to Jonesport. I am here today to see if there is any way to convince you that the proposed herring quota reduction will have the potential of ruining the lobster industry.

Consider if you will Corea Co-op as a microcosm of the lobster industry. We have approximately 50 fishermen in the co-op. The large majority of the bait is used by the fishermen from September through December, as this is the time that the fishermen depend on earning enough money to carry them through the whole year. Current projections show the bait supply in 1A, if the quota is reduced, running out as of mid August.

Historically area 1A has provided enough bait until the late fall. Recently 1A's quota reduction & reduced landing days have put more pressure on the bait supply. There have been many incidents over the last 2 years of bait shortages from lobster buyers who do not have much storage capacity for bait. Lobstermen can not fish with out bait!

Over the last 5 years the boat price paid to the fisherman in Corea, not counting their bonus, has averaged \$4.03. This year the fisherman's boat price through the end of September has averaged \$2.84 or a 30% reduction. During the same 5 year period mentioned above the average bait price was \$16.90. This year that average price is \$18.82 or an 11% increase. Prices


already being spoken of if this reduction takes place are representing a 60% increase from this year.

The result of these bait shortages & increase in the price from a quota reduction at this time will probably put ½ of the members of the Corea Co-op out of business. In addition to their families, one must consider their sternmen's families, the loss of tax revenue to the town of Gouldsboro, the loss of business to the local stores not to mention the businesses in both Ellsworth and Bangor, because lobstering is the primary business in the town of Gouldsboro.

When you're done thinking about the above, consider all the banks that have financed the homes & boats for the lobster industry. In addition to that, consider the businesses that we sell our lobsters to & to whom they sell to. Now come back to the herring boats that will have a small or no bait market to sell to & consider the ramifications of that. Now consider the effect that the potential loss of approximately 150 jobs in the town of Gouldsboro, if the Stinson Seafood Company, the last Herring cannery on the East Coast in the United States, closes as a result of a quota reduction.

In closing, I'd like to add that in the 20 plus years that I've been directly involved in the lobster industry, I've never seen a greater threat to its survival than this quota reduction!

Sincerely,



F. Dwight Rodgers III
Manager



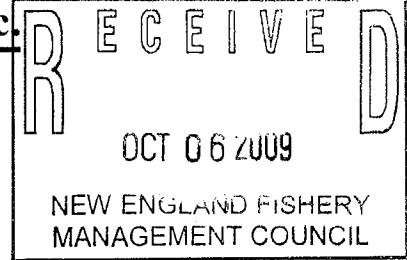
MAINE

Lobstermen's Association, Inc.

21 Western Avenue, # 1 • Kennebunk, ME 04043

Phone: 207-967-4555 • Fax: 866-407-3770

www.mainelobstermen.org



**Comments to the Joint NEFMC Herring Oversight Committee and ASMFC Herring Section
Regarding the 2010 Herring Specification Process**

October 6, 2009

The Maine Lobstermen's Association (MLA) is an industry association representing the interests of Maine's commercial lobster industry. The MLA is extremely concerned with the results of the most recent Transboundary Resources Assessment Committee (TRAC) and the resulting recommendation from the Science and Statistical Committee (SSC) to set the Allowable Biological Catch (ABC) at 90,000MT.

The recommended ABC will cripple the Maine lobster industry which has already been struggling to adjust to the 1/3 reduction in herring quota over the past two years. The recommended ABC will translate to a 20,000 MT quota for Area 1A, a full 2/3 reduction in the historic 60,000 MT quota which the lobster industry has depended on. That is a loss of one half million bushels of bait. Bait will simply not be available for many, and lobstermen cannot fish without bait.

The resulting tight bait supply will lead to increases in the cost of bait. According to a recent study, the average lobsterman spent 14% of gross revenue on bait in 2006. This year, that figure jumped to 25%, due to 30% fall in boat price and 20% increase in bait price. The MLA estimates that under the proposed ABC, 35% of an average lobsterman's gross revenue will be spent on bait. This is more than the average lobster business can absorb, and many will not be able to afford bait.

Lobstermen who fish baits other than herring will not be spared the effects of this crisis, as the demand for herring alternatives will skyrocket creating shortages and pushing the price for all bait products beyond the reach of many lobstermen.

And we are already struggling. In an effort to cope with the 1/3 cut in Area 1A quota over the past two years, the lobster industry has made strides in reducing the amount of herring used, diversifying the types of baits used, and adding storage and holding capacity for bait. The impact of holding capacity varies widely depending on size and number of fishermen serviced, and the impact ranges from providing a few days worth of bait up to a 3 week supply. Despite these efforts, the Maine lobster industry has experienced bait shortages in 2008 and 2009.

This year, with a June opening and only 2 landing days/week, 20,000 MT were landed from Area 1A before the end of August. The Maine lobster fishery operates year round, however, 83% of the landings occur over a 5 month period from July through November; and more than 20% of landings occur during October. It is difficult to conceive how there will be any herring available to fish our lucrative fall months when the lobster industry lands the majority of our product. And Downeast lobstermen could be most severely impacted because their fishery occurs later in the season when compared to other areas.

The impact of a reduction in quota will be felt far beyond the lobster industry in Maine. In 2008, Maine's 5,800 owner operator lobstermen landed a catch valued at \$245 million and contributed nearly a billion dollars to their local economy. The lobster industry is the economic backbone of many coastal communities and Downeast and island communities could be threatened as a result of the reduced quota.

We urge the management community to carefully consider the severity of the economic impacts that reduced herring quotas will have on the lobster industry and our coastal communities. The MLA recommends several actions.

1. The MLA recommends that the 2009 Atlantic Herring specifications be carried forward for one year for the 2010 season. The TRAC determined the stock is not overfished and overfishing is not occurring and fishing mortality has consistently been below F_{MSY} .
2. The MLA recommends that a new benchmark assessment be conducted as early as possible, to address the high level of uncertainty in the assessment results. The benchmark assessment should be used to revise the herring specification package for the 2011 fishing season.
3. The MLA recommends that funding be prioritized to conduct research to more accurately assess the herring stock structure and biomass, particularly the inshore stock component which is the primary bait supply for the lobster industry.

TOWN OF GOULDSBORO

Post Office Box 68, Prospect Harbor, Maine 04669-0068

Telephone: (207) 963-5589 Fax: (207) 963-2986

www.gouldsborotown.com

Town Manager, Treasurer, Town Clerk, Tax Collector

Yvonne P. Wilkinson

town.manager@gouldsborotown.com

Board of Selectmen

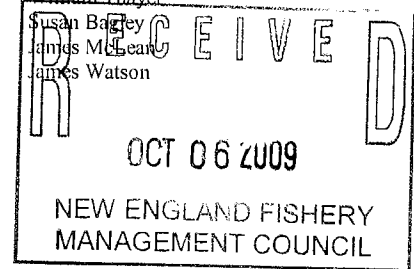
Dana Rice, Chair

William Thayer

Susan Bagley

James McLean

James Watson



October 6, 2009

In the circle of life...creating a plan that supports families, jobs, homes and communities within the boundaries and care of our environment and the welfare of our natural resources can be a delicate balance.

It can be wise and permanently useful to protect our future resources, providing we think seriously about the impact of all affected and providing we can trust the means of the data collected.

If I look at home first, the reality of lowering the TAC has the extreme potential and likelihood of devastating the one and only surviving sardine cannery in the nation. Stinson Seafood, a subsidiary of Bumble Bee Foods, is an integral part of our coastal downeast community of Gouldsboro. Stinsons employs over 100 men and women, many that depend solely on that income to feed their families and survive our Maine winters.

As a community our town officials are very concerned about the financial loss that could be overwhelming to many fishing families. No news to any of us, this is a time when many human beings are struggling to live day to day and our fishing industry has been one of the hardest hit over the past couple of years. The estimated loss of property taxes in Gouldsboro alone could be close to a quarter of a million dollars each year. These changes have the power to witness an economic and financial community disaster. They also have the strong ability to collapse an ancient American coastal trade that has been shared and passed down for many generations.

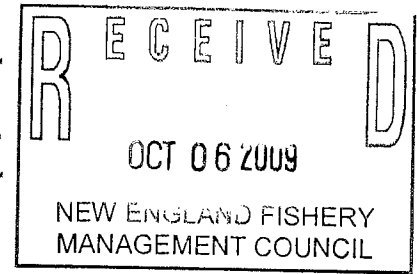
Although it appears the scientific data recommends significant amendments and limitations, before these changes are considered for implementation, couldn't there be a study to determine the economic result of all aspects of the fishing industry, being very careful not to undermine the survival of any one industry? The studies, whether they be scientific or economic, should be conducted together to consider the outcome to *all circles of life, not just one.*

Respectfully written and submitted,

Yvonne P. Wilkinson, Town Manager, Gouldsboro



MAINE
Lobstermen's Association, Inc.
21 Western Avenue, Suite 1 • Kennebunk, ME 04043
Phone: 207-967-4555 • Fax: 866-407-3770
www.maine lobstermen.org



Dr. Jane Lubchenco
Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Ave, NW
Washington, DC 20230

Dr. Nancy Thompson
Science and Research Director
New England Fisheries Science Center
166 Water St
Woods Hole, MA 02543

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

Mr. John V O'Shea
Atlantic States Marine Fisheries Commission
1444 Eye St, NW, 6th Floor
Washington, DC 20005

October 14, 2009

Dear Dr. Lubchenco, Dr. Thompson, Mr. Howard and Mr. O'Shea:

The Maine Lobstermen's Association (MLA) is an industry association representing the interests of Maine's commercial lobster industry. The MLA is extremely concerned with the results of the most recent stock assessment completed by the Transboundary Resources Assessment Committee (TRAC) as well as the resulting recommendation from the Science and Statistical Committee (SSC) to set the Acceptable Biological Catch (ABC) at 90,000MT, and proposals to greatly reduce allowable catches in the herring management areas.

We urge you to address the scientific inadequacies of the herring data and corresponding assessment because the resulting management action to reduce quota will have severe economic impacts on the lobster industry and our coastal communities. The MLA recommends several actions to allow for sound management of the herring resource while minimizing extreme economic hardships.

1. The MLA recommends that the 2009 Atlantic Herring specifications be carried forward for one year for the 2010 season. The TRAC determined the stock is not overfished and overfishing is not occurring. Fishing mortality has consistently been below F_{MSY} . National Standard 1 Guidelines allow for the ABC to be equal to the Over Fishing Limit (OFL). Setting the ABC = OFL would allow 2009 specifications to be carried forward for one year, during which time a new benchmark assessment must be completed.

2. The MLA recommends that a new benchmark assessment be conducted as early as possible, to address the high level of uncertainty in the assessment results. The benchmark assessment should be completed in time to ensure its use in revising the herring specification package for the 2011 fishing season. National Standard 2 Guidelines state that SSCs should advise their Councils regarding the best scientific information available for fishery management decisions. The SSC recommended “a new benchmark assessment should be scheduled as soon as possible to address sources of uncertainty, re-estimate MSY reference points and consider including estimates of consumption and spatial structure in the assessment.”
3. The MLA recommends that funding be prioritized to conduct research to more accurately assess the herring stock structure and biomass, particularly, to more accurately measure the proportions of spawning stocks within the herring stock complex. Of particular concern is obtaining an accurate measurement of the inshore stock component which is subject to high levels of fishing effort and has long provided the primary bait supply for the lobster industry. The Gulf of Maine Research Institute (GMRI) has proposed to conduct such research and is ready to complete this important work.
4. The MLA recommends that the U.S. engage Canada in bilateral management of the resource. The U.S. portion of the herring stock complex is highly regulated through the Area 1A TAC, while the landings from the Canadian portion of the inshore stock component occur annually without restriction. With U.S. quotas for Area 1A slated to be reduced by as much as 85% from 2006 levels, it is unacceptable for the Canadian landings to continue without regulation. This is not an equitable sharing of the resource. Furthermore, the Canadian fishery targets young fish which could adversely affect the strength of future year classes.
5. The MLA supports the Maine Department of Marine Resources proposal to develop an experimental fishery for Acadian redfish. If this fishery is put in place, it has the potential to offset at least some of the loss of herring quota.

The recommended ABC will cripple the Maine lobster industry which already has been struggling to adjust to the 1/3 reduction in herring quota since 2006. Recent discussions by the New England Fishery Management Council and Atlantic States Marine Fisheries Commission reveal that the Area 1A quota could be set as low as 9,000 MT up to 20,000 MT, far below the 60,000 MT quota on which the lobster industry has depended on. That translates into a loss of up to 1.4 million bushel of bait in 2010 as compared to 2006. This impact is massive; bait will simply not be available for many, and lobstermen cannot fish without bait.

The resulting tight bait supply will lead to corresponding increases in the cost of bait. According to a 2006 study conducted by the Gulf of Maine Research Institute¹, the average lobsterman

¹ Lobster Socioeconomic Impact Survey, Gulf of Maine Research Institute (2006)

spent 14% of gross revenue on bait in 2006. The MLA estimates that during this year, that figure increased to 25%, due to a 30% drop in boat price and a 20% increase in bait price. The MLA estimates that 35% to 40% of an average lobsterman's gross revenue will be spent on bait under the projected scenarios. Because most lobster businesses are already struggling to make a profit this year, any significant increase in the cost of bait threatens to put lobstermen out of business. Many will not be able to afford bait and, therefore, won't be able to afford to go lobstering.

Lobstermen who fish baits other than herring will not be spared the effects of this crisis, as the demand for herring alternatives will skyrocket creating shortages and pushing the price for all bait products beyond the reach of many lobstermen.

In an effort to cope with the 1/3 cut in Area 1A quota over the past two years, the lobster industry has made strides in reducing the amount of herring used, diversifying the types of baits used, and adding storage and holding capacity for bait. The impact of holding capacity varies widely depending on size and number of fishermen serviced, and the impact ranges from providing a few days worth of bait up to a three week supply. Despite these efforts, the Maine lobster industry has experienced bait shortages in 2008 and 2009.

This year, with a June opening and only two landing days per week, 20,000 MT were landed from Area 1A before the end of August; 9,000 MT were harvested by mid-July. The Maine lobster fishery operates year round, however, 83% of the landings occur over a five month period from July through November; and more than 20% of landings occur during October. It is difficult to conceive how there will be any herring available to fish our lucrative fall months when the majority of profits are earned in the lobster fishery. And Downeast lobstermen could be most severely impacted because their fishery occurs later in the season when compared to other areas.

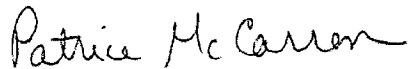
The impact of a reduction in quota will be felt far beyond the lobster industry in Maine. In 2008, Maine's 5,800 owner-operator lobstermen landed a catch valued at \$245 million and contributed nearly a billion dollars to their local economy. The lobster industry is the economic backbone of many coastal communities. If lobstermen are not able to fish due to bait shortages or inability to afford bait, the economic stability of many Downeast and island communities will be threatened.

The MLA is ardent supporter of stewardship of our precious ocean resources that allow for sustainable harvests for our fishermen today, while ensuring a sustainable future for future generations. The Maine lobster fishery is healthy and sustainable, and we support this same approach in managing the herring fishery. However, the science fueling the massive reductions in herring landings over the next three years are overwhelmed with uncertainty. Given that the resource is not overfished and overfishing is not occurring, we strongly urge you to support carrying the 2009 specification package forward by setting the ABC = OFL (as allowed under National Standard 1), and ensure that a new benchmark assessment be completed for the herring fishery in time to set new quotas in time for the 2011 fishing season.

Maine's lobster industry and our coastal communities will depend on it.

Thank you for your consideration of this urgent issue.

Sincerely,

A handwritten signature in cursive script that reads "Patrice McCarron".

Patrice McCarron
Executive Director

Senator Olympia Snowe

Senator Susan Collins

Representative Chellie Pingree

Representative Michael Michaud

New England Fishery Management Council (Herring Committee via Lori Steele)

Atlantic States Marine Fisheries Commission (Herring Section via Chris Vonderweidt)

Commissioner George Lapointe, Maine Dept of Marine Resources