



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116  
C.M. "Rip" Cunningham, Jr., *Chairman* | Paul J. Howard, *Executive Director*

Written Comments received  
for Draft Amendment 5 the Herring FMP

*These are comments received during the Council  
public comment period ending April 9, 2012*



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**From:** Earthjustice <action@earthjustice.org> on behalf of M McGillivray  
**Sent:** Monday, March 19, 2012 7:28 PM  
**To:** comments  
**Subject:** Comments on Draft Amendment 5

**UPDATED AS OF 4/23/12**  
**Example of 3047 Batch**  
**Emails Rec'd to date**

Mar 19, 2012

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

Dear Captain Howard, New England Fishery Management Council,

I am writing to express my concern about poorly managed industrial fishing and the damage it inflicts on the ocean ecosystem. Inadequate monitoring, unmanaged catch of river herring, continued killing of groundfish within closures designed to protect them, and the wasteful practice of dumping are significant and pressing concerns.

I am especially concerned about populations of river herring, which have declined by 99 percent and are so depleted that they are being considered for protection under the Endangered Species Act.

Most Atlantic states now ban the harvest of river herring in coastal waters, even to the point of prohibiting children from netting one for bait. Yet astoundingly, no protections have been extended to these fish in the open ocean, where they are taken by the millions as profitable bycatch in the industrial fishery targeting a different species, Atlantic herring.

This is unacceptable and represents a significant setback in the ongoing efforts to restore alewife and blueback herring. Every year, states and communities throughout New England invest significant time and resources to restore their river herring runs. The New England Fishery Management Council must support, not undermine, these efforts.

Your revision to the Atlantic Herring Fishery Management Plan must address these issues and bring greater accountability and oversight to the industrial trawl fleet. I strongly urge you to approve a comprehensive monitoring and bycatch-reduction program that incorporates the following management actions:

- \* A catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery (Section 3.3.5, modified to require immediate implementation of a catch cap).
- \* 100 percent at-sea monitoring on all mid-water trawl fishing trips in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life (Section 3.2.1.2 Alternative 2).
- \* An accountability system to discourage the wasteful slippage, or dumping, of catch, including a fleetwide limit of five slippage events for each herring management area, after which any slippage event would require a return to port (Section 3.2.3.4 Option 4D).
- \* A ban on herring mid-water trawling in areas established to promote rebuilding of groundfish populations (Section 3.4.4 Alternative 5).
- \* A requirement to accurately weigh and report all catch (Section 3.1.5 Option 2).

Thank you for considering my comments and for your continued commitment to improving management of the Atlantic herring fishery.

Sincerely,

M McGillivray

Eugene, OR 97401



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**From:** NRDC <nrdcinfo@nrdconline.org> on behalf of Nina Gimond  
**Sent:** Wednesday, March 28, 2012 3:34 AM  
**To:** comments  
**Subject:** Comments on Draft Amendment 5 - Reform Atlantic herring industrial fishing

Mar 28, 2012

Example of **585** Batch  
Emails Rec'd to date

Captain Paul Howard  
50 Water Street, Mill #2  
Newburyport, MA 01950

Dear Captain Howard,

I urge the New England Fishery Management Council to reform regulation of the Atlantic herring fishing industry. Unmanaged catch of river herring by industrial trawlers has contributed to a collapse of populations of these small but ecologically important fish. With river herring catch levels down 99 percent since 1970, most states have banned their harvest and the National Marine Fisheries Service is considering listing river herring under the Endangered Species Act. Yet Atlantic herring trawlers can catch millions of river herring every year without restriction or even adequate monitoring. This is unacceptable.

As the council finalizes its revision to the Atlantic Herring Fishery Management Plan, I strongly urge you to approve a comprehensive monitoring and bycatch-reduction program that incorporates the following management actions:

- \*\* a catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery (Section 3.3.5, modified to require immediate implementation of a catch cap)
- \*\* 100 percent at-sea monitoring on all mid-water trawl fishing trips in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life (Section 3.2.1.2 Alternative 2)
- \*\* an accountability system to discourage the wasteful slippage, or dumping, of catch, including a fleetwide limit of five slippage events for each herring management area, after which any slippage event would require a return to port (Section 3.2.3.4 Option 4D)
- \*\* a ban on herring mid-water trawling in areas established to promote rebuilding of groundfish populations (Section 3.4.4 Alternative 5)
- \*\* a requirement to accurately weigh and report all catch (Section 3.1.5 Option 2)

Every year, states and communities throughout New England and elsewhere on the east coast invest significant time and resources to restore their herring runs. Fishermen in inland and state coastal waters can no longer catch river herring, and instead must bide time and hope for populations to rebound. The New England Fishery Management Council must do its part and step forward to adequately regulate the Atlantic herring fishing fleet.

Sincerely,

Ms. Nina Gimond  
57 Francis St  
Waterville, ME 04901-5226



Alicia LaPorte  
1621 1st St NW  
# 1  
Washington, DC 20001-1101

Mar 8, 2012

Paul Howard  
New England Fishery Management Council

Subject: Re: Atlantic Herring Fishery Management Plan

Dear Paul Howard,

I am writing to express my concern about poorly managed industrial fishing and the damage it inflicts on the ocean ecosystem, especially to river herring. Populations of these fish have declined by 99 percent and are so depleted they are being considered for protection under the Endangered Species Act.

Most Atlantic states now prohibit the harvest of river herring in coastal waters, even to the point of prohibiting children from netting one for bait. Yet astoundingly, no protections have been extended to these fish in the open ocean, where they are taken by the millions as profitable bycatch by industrial herring ships.

This is unacceptable and represents a significant setback in the ongoing efforts to restore alewife and blueback herring. Every year, states and communities throughout New England invest significant time and resources to restore their river herring runs. Many tireless citizens carefully shepherd migrating river herring past in-river obstacles by hand. The council must support, not undermine, these efforts.

As the council finalizes its revision to the Atlantic Herring Fishery Management Plan, I strongly urge you to approve a comprehensive monitoring and bycatch reduction program that incorporates the following management actions:

- \* Immediate implementation of a catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery (Section 3.3.5).
- \* 100 percent at-sea monitoring on all midwater trawl fishing trips in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life (Section 3.2.1.2 Alternative 2).
- \* An accountability system to discourage the wasteful slippage or dumping of catch, including a fleet-wide allowance of five slippage events for each herring management area, after which any slippage event would require a return to port (Section 3.2.3.4 Option 4D).
- \* No herring midwater trawling in areas established to promote rebuilding of groundfish populations (Section 3.4.4 Alternative 5).
- \* A requirement to accurately weigh and report all catch (Section 3.1.5 Option 2).





**City and State of those 759 commenting, taken from the summary given by PEW Environmental**

<b>City</b>	<b>State</b>	<b>City</b>	<b>State</b>	<b>City</b>	<b>State</b>	<b>City</b>	<b>State</b>
Stevenson	AL	Richmond	CA	Bakersfield	CA	Santa Cruz	CA
Pleasant Grove	AL	Los Angeles	CA	Santa Barbara	CA	Los Angeles	CA
Jacksonville	AL	Fresno	CA	Sacramento	CA	Saugus	CA
North Little Rock	AR	Alamo	CA	Cupertino	CA	Santa Cruz	CA
Haskell	AR	San Lorenzo	CA	Kirkwood	CA	San Luis Obispo	CA
Cabot	AR	Foster City	CA	Walnut Creek	CA	Lodi	CA
Tonopah	AZ	Albany	CA	escondido	CA	Davis	CA
orovalley	AZ	Venice	CA	Palm Springs	CA	Los Angeles	CA
Tucson	AZ	Hayward	CA	Simi Valley	CA	Fort Collins	CO
Tucson	AZ	Sherman Oaks	CA	Lake Elsinore	CA	Lakewood	CO
Tucson	AZ	Napa	CA	Palm Springs	CA	Denver	CO
Tucson	AZ	san diego	CA	Mill Valley	CA	Lakewood	CO
Cottonwood	AZ	San Jose	CA	Santee	CA	Northglenn	CO
Phoenix	AZ	Long Beach	CA	Berkeley	CA	Denver	CO
Tucson	AZ	Sacramento	CA	Napa	CA	Longmont	CO
Tucson	AZ	San Diego	CA	Folsom	CA	Pagosa Springs	CO
Tucson	AZ	San Diego	CA	Palmdale	CA	Golden	CO
scottsdale	AZ	Temecula	CA	San Mateo	CA	Carbondale	CO
Tucson	AZ	Piedmont	CA	Santa Rosa	CA	Denver	CO
Sun City	AZ	Los Angeles	CA	Vallejo	CA	Arvada	CO
Phoenix	AZ	Berkeley	CA	Ojai	CA	Louisville	CO
Auburn	CA	Costa Mesa	CA	Palm Springs	CA	Norwalk	CT
Montara	CA	Merced	CA	Studio City	CA	North Branford	CT
Hayward	CA	Menlo Park	CA	Malibu	CA	Fairfield	CT
Toluca Lake	CA	Albany	CA	Merced	CA	Bridgeport	CT
Sacramento	CA	San Francisco	CA	Tujunga	CA	Quinebaug	CT
W Hollywood	CA	Valley Village	CA	Anaheim	CA	Cromwell	CT
W Hollywood	CA	Los Angeles	CA	Santa Cruz	CA	Pawcatuck	CT
Agoura	CA	San Francisco	CA	Stockton	CA	Storrs Mansfield	CT
Novato	CA	San Francisco	CA	San Francisco	CA	Meriden	CT
Applegate	CA	San Francisco	CA	Los Angeles	CA	Madison	CT
Los Gatos	CA	Van Nuys	CA	Lancaster	CA	East Canaan	CT
West Hills	CA	Oakland	CA	Los Angeles	CA	Berlin	CT
Escondido	CA	Los Angeles	CA	La Jolla	CA	Windham	CT
San Diego	CA	Camarillo	CA	Glendale	CA	New Haven	CT
Mount Shasta	CA	Fresno	CA	Saint Helena	CA	Stamford	CT
Fort Bragg	CA	Glendale	CA	Laguna Niguel	CA	Milford	CT
Murrieta	CA	Long Beach	CA	San Marcos	CA	Norwalk	CT
San Jose	CA	Pacific Palisades	CA	Fountain Valley	CA	Enfield	CT
La Jolla	CA	Fountain Valley	CA	Orange	CA	Mansfield Center	CT
Riverbank	CA	Aliso Viejo	CA	Hesperia	CA	Shelton	CT
Sacramento	CA	Laguna Niguel	CA	Santa Monica	CA	Meriden	CT
Hollywood	CA	Ventura	CA	Point Reyes Station	CA	Stratford	CT
Los Angeles	CA	San Francisco	CA	Riverside	CA	West Hartford	CT

Lake Elsinore	CA	Rancho Palos Verd	CA			New Haven	CT
Los Angeles	CA					Storrs	CT
Tolland	CT	Tampa	FL	Alsip	IL	Middleboro	MA
Trumbull	CT	Boca Raton	FL	Highland Park	IL	Clinton	MA
Avon	CT	Boca Raton	FL	Westmont	IL	Northfield	MA
South Glastonbury	CT	Orlando	FL	Chicago	IL	Harvard	MA
Stratford	CT	Jacksonville	FL	Chicago	IL	Arlington	MA
New London	CT	Atlantic Beach	FL	Chicago	IL	Marshfield	MA
Stamford	CT	Atlantic Beach	FL	Oak Park	IL	Dracut	MA
Milford	CT	Jacksonville	FL	Chicago	IL	Lancaster	MA
Washington	DC	Jacksonville	FL	Arlington Heights	IL	New Bedford	MA
Washington	DC	Tampa	FL	Chicago	IL	Wakefield	MA
Washington	DC	Tampa	FL	Hoffman Estates	IL	Melrose	MA
Washington	DC	Tampa	FL	Highland Park	IL	Florida	MA
Middletown	DE	Fort Myers	FL	New Douglas	IL	Wellfleet	MA
Newark	DE	Lake Mary	FL	Glen Ellyn	IL	Cambridge	MA
Lantana	FL	Smyrna	GA	Chicago	IL	Cambridge	MA
Atlantic Beach	FL	Decatur	GA	Palatine	IL	South Dennis	MA
Orlando	FL	Atlanta	GA	Lake IN The Hills	IL	Sandwich	MA
Punta Gorda	FL	Douglasville	GA	Midlothian	IL	Duxbury	MA
Cooper City	FL	Smyrna	GA	rensselaer	IN	Arlington	MA
Cocoa Beach	FL	Temple	GA	cc	IN	cohasset	MA
Miami	FL	Atlanta	GA	Fort Wayne	IN	Woods Hole	MA
Lady Lake	FL	Arnoldsville	GA	Bloomington	IN	Boston	MA
Melbourne	FL	Athens	GA	Fort Wayne	IN	North Adams	MA
St Petersburg	FL	Kailua	HI	Munster	IN	Gilbertville	MA
Apopka	FL	Lihue	HI	Newburgh	IN	Cambridge	MA
Saint Cloud	FL	Kailua	HI	Merrillville	IN	Aquinnah	MA
Port St Lucie	FL	Evansdale	IA	Manhattan	KS	Braintree	MA
miami	FL	Ames	IA	Topeka	KS	Newburyport	MA
Venice	FL	Keokuk	IA	Lawrence	KS	Plymouth	MA
Tampa	FL	Cedar Falls	IA	Frankfort	KY	Watertown	MA
Jacksonville	FL	Windsor Heights	IA	Baton Rouge	LA	Cambridge	MA
Spring Hill	FL	Iowa City	IA	River Ridge	LA	Stoneham	MA
St Petersburg	FL	Boise	ID	Duxbury	MA	Brookline	MA
Saint Petersburg	FL	New Plymouth	ID	Duxbury	MA	Cambridge	MA
Winter Garden	FL	Lewiston	ID	Ipswich	MA	Boston	MA
Venice	FL	Meridian	ID	West Tisbury	MA	North Falmouth	MA
North Port	FL	Hailey	ID	Salem	MA	Stoneham	MA
Bradenton	FL	Villa Park	IL	Concord	MA	Somerville	MA
Sanibel	FL	Elgin	IL	Somerville	MA	Winthrop	MA
Jacksonville	FL	Naperville	IL	Cambridge	MA	West Dennis	MA
Big Pine Key	FL	Chicago	IL	Boxford	MA	Westwood	MA
Cocoa Beach	FL	Mchenry	IL	Gardner	MA	New Bedford	MA
Longwood	FL	Chicago	IL	Edgartown	MA	Framingham	MA
St Petersburg	FL	Chicago	IL	Acton	MA	Pembroke	MA

Lauderhill	FL	Wilmette	IL	Cotuit	MA	Southwick	MA
Quincy	MA	Falmouth	MA	Kansas City	MO	Trenton	NJ
Amherst	MA	Cockeysville	MD	Florissant	MO	Morristown	NJ
Somerville	MA	Greenbelt	MD	Kansas City	MO	Ocean	NJ
Mendon	MA	Greenbelt	MD	Wildwood	MO	Old Bridge	NJ
Natick	MA	Hagerstown	MD	Saint Louis	MO	Weehawken	NJ
Arlington	MA	La Plata	MD	Kansas City	MO	Iselin	NJ
Worcester	MA	Buckeystown	MD	Kansas City	MO	Jersey City	NJ
Wellfleet	MA	Glen Burnie	MD	Saint Louis	MO	Carteret	NJ
Quincy	MA	Bethesda	MD	Laurel	MS	Hewitt	NJ
Framingham	MA	South Portland	ME	Jackson	MS	Montclair	NJ
Duxbury	MA	York Harbor	ME	Charlotte	NC	Williamstown	NJ
Springfield	MA	York	ME	Concord	NC	Barnegat	NJ
Haydenville	MA	Yarmouth	ME	Halifax	NC	Califon	NJ
Boston	MA	Harmony	ME	Wilmington	NC	Morganville	NJ
Upton	MA	Scarborough	ME	Asheville	NC	Bridgewater	NJ
Ayer	MA	Sanford	ME	Lenoir	NC	Santa Fe	NM
Cambridge	MA	Portland	ME	Hampstead	NC	Albuquerque	NM
Somerville	MA	Freeport	ME	Morganton	NC	Albuquerque	NM
Sheffield	MA	Lincolnton	ME	Arden	NC	Santa Fe	NM
Tewksbury	MA	Waterford	ME	Lexington	NC	Capitan	NM
Holliston	MA	Camden	ME	Beulah	ND	Barcelona, Spain	None
Norwood	MA	Limington	ME	Lincoln	NE	Reno	NV
Framingham	MA	Troy	ME	Papillion	NE	Las Vegas	NV
Quincy	MA	Lewiston	ME	Lincoln	NE	Brooklyn	NY
Jamaica Plain	MA	E. Machias	ME	Exeter	NH	New York	NY
West Falmouth	MA	Hancock	ME	Newton	NH	New York	NY
Quincy	MA	Northville	MI	Hollis	NH	Mahopac	NY
Burlington	MA	Lansing	MI	Alstead	NH	Peekskill	NY
Charlestown	MA	Sterling Heights	MI	Milton	NH	Port Washington	NY
Somerville	MA	Westland	MI	Durham	NH	Saugerties	NY
Boston	MA	Lansing	MI	Newport	NH	Kenmore	NY
Marshfield	MA	Ypsilanti	MI	Londonderry	NH	New York	NY
Boston	MA	Ypsilanti	MI	Exeter	NH	Goshen	NY
Cambridge	MA	Grand Junction	MI	Newtonville	NJ	Schenectady	NY
Colrain	MA	Bloomfield Hills	MI	Newtonville	NJ	Middletown	NY
Aquinnah	MA	Belleville	MI	Jersey City	NJ	Selden	NY
Aquinnah	MA	Belleville	MI	Hammonton	NJ	New York	NY
Duxbury	MA	Minneapolis	MN	Cherry Hill	NJ	Brooklyn	NY
Boxford	MA	Chisago City	MN	Madison	NJ	Mount Sinai	NY
Plainville	MA	Nevis	MN	Garfield	NJ	New Rochelle	NY
Amherst	MA	Hutchinson	MN	Warren	NJ	High Falls	NY
Swampscott	MA	White Bear Lake	MN	Collingswood	NJ	New York	NY
Cambridge	MA	Maple Grove	MN	Bloomington	NJ	New York	NY
Peabody	MA	Madelia	MN	Princeton Junction	NJ	New York	NY

Winchester	MA	Moorhead	MN	Milford	NJ	Brooklyn	NY
Montauk	NY	New York	NY	Williamsport	PA	Richardson	TX
Syracuse	NY	Massapequa Park	NY	Canonsburg	PA	Plano	TX
Binghamton	NY	New Rochelle	NY	Hellertown	PA	Austin	TX
New York	NY	Gloversville	NY	trevose	PA	Keller	TX
Troy	NY	Gloversville	NY	Philadelphia	PA	Austin	TX
Ossining	NY	Brooklyn	NY	Philadelphia	PA	Houston	TX
Schenectady	NY	Manlius	NY	Philadeiphia	PA	Austin	TX
Sag Harbor	NY	Ithaca	NY	West Chester	PA	Highland Village	TX
Rochester	NY	Rock Creek	OH	Horsham	PA	Arlington	TX
White Plains	NY	Union	OH	Greensburg	PA	San Antonio	TX
New York	NY	Cincinnati	OH	Hatfield	PA	Corpus Christi	TX
Massapequa	NY	Westerville	OH	Lancaster	PA	San Antonio	TX
New York	NY	Gambier	OH	Exeter	PA	Austin	TX
Cambridge	NY	Columbus	OH	Feasterville Trevose	PA	Austin	TX
Staten Island	NY	Akron	OH	York	PA	Stephenville	TX
Buffalo	NY	Ashley	OH	Feasterville Trevose	PA	San Antonio	TX
New York	NY	Cleveland	OH	Lansdale	PA	Denton	TX
New York	NY	Mayfield Hts	OH	Pittsburgh	PA	Katy	TX
New York	NY	Vienna	OH	Pittsburgh	PA	Houston	TX
Middletown	NY	Warren	OH	Selinsgrove	PA	Denton	TX
New York	NY	Clinton	OK	Philadelphia	PA	San Antonio	TX
Brooklyn	NY	Oklahoma City	OK	Cayey	PR	Houston	TX
Peekskill	NY	Stillwater	OK	Arecibo	PR	Austin	TX
Medford	NY	Broken Arrow	OK	Newport	RI	Coppell	TX
Hamilton	NY	Eugene	OR	Warwick	RI	Austin	TX
New York	NY	Klamath Falls	OR	Coventry	RI	Smithville	TX
Brooklyn	NY	Pendleton	OR	Chepachet	RI	Richardson	TX
New York	NY	Portland	OR	Barrington	RI	Dallas	TX
West Haverstraw	NY	Ashland	OR	Riverside	RI	Baytown	TX
New York	NY	Portland	OR	Warwick	RI	Layton	UT
New York	NY	Eugene	OR	North Providence	RI	Salt Lake City	UT
Port Jervis	NY	Myrtle Creek	OR	Prudence Island	RI	Salt Lake City	UT
New York	NY	Corvallis	OR	Wakefield	RI	Salt Lake City	UT
Patterson	NY	Portland	OR	Aiken	SC	Salt Lake City	UT
brooklyn	NY	Philadelphia	PA	Beaufort	SC	Ogden	UT
Albany	NY	Lansdale	PA	Seabrook	SC	Virginia Beach	VA
Brooklyn	NY	Philadelphia	PA	Clemson	SC	Richmond	VA
Corning	NY	Lancaster	PA	Memphis	TN	Burke	VA
New York	NY	New Castle	PA	Murfreesboro	TN	Arlington	VA
Brooklyn	NY	sellersville	PA	Franklin	TN	Ruther Glen	VA
ny	NY	Bethel Park	PA	Nashville	TN	Richmond	VA
Whitestone	NY	Broomall	PA	Memphis	TN	Roanoke	VA
Rego Park	NY	Canonsburg	PA	Nashville	TN	Arlington	VA
Montauk	NY	Munhall	PA	Bon Aqua	TN	Glen Allen	VA

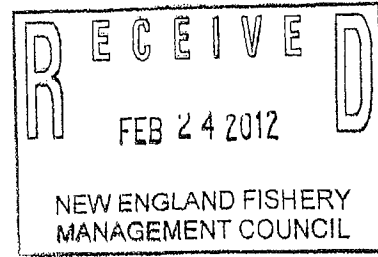
Jamaica NY Philadelphia PA Nashville TN Lynchburg VA

North Chesterfield VA  
Yorktown VA  
Broadlands VA  
Hinesburg VT  
Bristol VT  
Weston VT  
White River Junctio VT  
Marshfield VT  
Seattle WA  
Clinton WA  
Seattle WA  
Seattle WA  
Vancouver WA  
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Bellingham WA  
Renton WA  
Seattle WA  
Issaquah WA  
Clarkston WA  
Seattle WA  
Seattle WA  
Spokane WA  
Des Moines WA  
Buckley WA  
Milwaukee WI  
Mondovi WI  
Oshkosh WI  
Madison WI  
Waupaca WI  
Ripon WI  
Fitchburg WI  
Madison WI  
Madison WI  
Milwaukee WI  
Waukesha WI  
Madison WI  
Mannington WV



5

February 22, 2012



Respected members of the herring committee and council,

Thank you for this opportunity to comment on herring amendment 5, I would like to start by addressing ground fish closed areas they are very important not only to myself, but many other ground fishermen from Maine. I believe there needs to be protection for the herring from all fishing in these selected spawning and habitat closures. I think fish should have a place to reproduce undisturbed by human activity, this should bring back natural spawning behavior. If there is some fishing allowed in the closed areas there should be rules that don't allow any contact with the bottom so that spawning isn't disturbed. For example, if mid-water trawlers are allowed then we need to define what is mid-water with the use of bottom sensors to determine how far off bottom they are fishing. This should be part of the reporting of fishing activity, with 100% at sea observers on board.

That brings me to another part of this amendment. Monitoring, there is a need for 100% observers though out this fishery. This could be though the certified NMFS observer program or EMS electronic monitoring system which would lower cost for the industry. I think that if we are going to protect herring for lobster bait and forage for ground fish we shouldn't have anything less than the highest percentage of coverage this fishery.

This brings us to another part of the amendment, vessel class. This is controversial, the A/B class catches about 97% of the whole stock and without question they need to be monitored for catch and by-catch, if we add the C class vessels this makes the catch totals for all three A B C classes at 99% of the fishery. The class D vessels are about 1% of the total fishery. I think that it would save costs to the lower classes vessels; C/D classes that are smaller boats and a very small part of this fishery. If they are allowed to be exempted from the monitoring there would be a very low impact on the herring stock overall and would allow them to be active in this and other fisheries. If they were allowed this exception they would need to report their catch daily or the day the trip is landed though the EVTR program, also there could be a consideration of EMS on board if the council believes it is needed. As far as the D class vessels are concerned while fishing for groundfish or tuna there is no need for a herring observer on these trips due to their low interaction with herring.

The next subject I would like to address is something that is happening in other fisheries as well as herring. There is the crossing of stock boundaries during a tow or set, this can determine which stock area the fish is taken from, for example if a tow for herring is set in area 1B and hauled in area 3 the catch is deducted from area 3, this is problematic for tracking stock area quota. I think there shouldn't be any boundary crossing of stock areas in any fishery, if a tow is set in 1B it should be hauled in 1B.

Also a concern to me is the issue of dumping; in the amendment under closed area 1 rules I would suggest that option 4a - 4b be taken out of the document and to consider using 4c or 4d because I think they address what CA1 was meant to represent. I also think that if on a trip for herring if a high rate of slipped or dumped tows are encountered there needs to be a limit on dumping. I don't know what the

cc: LS (2/24), Council

best scientific number would be, but somewhere around 10 seems fair. The reason I think 10 is fair is that if there are 10 dumps those would be counterproductive tows. If I were fishing on these trips I would think it would be time to go in and regroup.

In closing, I would like to state again the need to monitor this fishery for catch and by-catch for all of our fisheries health and the need to protect our spawning areas for the communities and their fishing future. As an example, a steady supply of lobster bait for now and the future and the need for forage fish in groundfish, tuna, striped bass and the blue fish fisheries to name a few.

Thank you sincerely,

A handwritten signature in cursive script, appearing to read "Gary Libby". The signature is written in black ink and is positioned above the printed name.

Captain Gary Libby

F/V Leslie & Jessica



Joan O'Leary

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**From:** Philip Buzby <philip.buzby@gmail.com>  
**Sent:** Wednesday, March 14, 2012 7:11 AM  
**To:** comments  
**Subject:** Regulate the Industrial Mid Water Trawl Fleet: Comments on Draft Amendment 5

Dear Sirs,

I am a recreational fisherman mainly fishing from my own boat throughout the saltwater coast of Massachusetts wherein I target a wide variety of game fish species. Critical to the sustainable populations of fish are both the availability of bait fish plus regulation & oversight of the mid water trawl fleet. The indiscriminate and mostly unmonitored catch (target species and by-catch) by these huge vessels, some times working in pairs, with nets that can span a mile are responsible for decimating the fish resources. I am in support of the recommendations put forth by the group Honest By Catch summarized below:

#### Critical Alternatives That Must Be Approved in Amendment 5:

NEFMC must approve a comprehensive monitoring and management reform program that brings greater accountability and oversight to the industrial trawl fleet. At minimum, the following actions must be approved:

- Honest By Catch supports Section 3.2.1.2 Alternative 2  
100 percent at-sea monitoring on all midwater trawl fishing trips (i.e., Category A& B vessels) in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life
- Honest By Catch supports Section 3.2.3.4 Alternative 4D  
An accountability system to discourage the wasteful dumping of catch, including a fleet-wide allowance of five slippage events for each herring management area, after which any slippage event would require a return to port
- Honest By Catch supports Section 3.4.4 Alternative 5  
No herring mid water trawling in areas established to promote rebuilding of ground fish populations
- Honest By Catch supports Section 3.3.5, if modified to require immediate implementation of a river herring catch cap  
An immediate catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery
- Honest By Catch supports Section 3.1.5 Option 2  
A requirement to accurately weigh and report all catch is essential to any monitoring system

Additionally, something should be considered about changing the rules regulating the dogfish shark population. The massive numbers of these creatures currently widespread throughout the area are responsible for wiping out the young of the next generations of many game/ground fish, cod being the most notable in the news.

Sincerely,

Phil

--

**Philip R Buzby**

31 Harlan Drive

Brockton, MA

508-955-0070

e-mail: [philip.buzby@gmail.com](mailto:philip.buzby@gmail.com)

## Joan O'Leary

---

**From:** Earthjustice <action@earthjustice.org> on behalf of William Leavenworth  
<william.leavenworth@gmail.com>  
**Sent:** Wednesday, March 14, 2012 9:13 AM  
**To:** comments  
**Subject:** Comments on Draft Amendment 5

Mar 14, 2012

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

Dear Captain Howard, New England Fishery Management Council,

To whom it may concern:

I have graphed the inshore and offshore catch numbers for alewives for Maine, New Hampshire and Massachusetts for the years from 1887 through 1960. The Massachusetts catch fluctuated within fairly consistent parameters at 5 million pounds or less per year until 1954, when Massachusetts offshore mackerel and sea herring seiners began to land much larger numbers of alewives as bycatch. Massachusetts' offshore alewife bycatch continued to grow until 1958, when offshore mackerel and herring seiners landed over 33 million pounds of alewives as bycatch. Massachusetts' inshore targeted alewife fishery declined to near zero over the same period. The offshore alewife bycatch continued in tens of millions of pounds but in declining totals until 1968, when both the inshore and offshore alewife catch collapsed to near zero.

Meanwhile, Maine's inshore targeted inshore alewife fishery continued to land between 1 million and 4.5 million pounds of alewives, with no appreciable addition from offshore seiners. This data tells me that 1) Maine and Massachusetts alewives derive from separate spawning stocks, and 2) offshore seiners and trawlers destroyed the Massachusetts alewife spawning stock, while their absence in Maine waters allowed Maine's alewife spawning stock to continue at sustainable levels.

All data is from the fisheries' own landings figures published in annual reports.

Sincerely,

William Leavenworth

Searsmont, ME 04973-0069

## Joan O'Leary

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**From:** Michael Behot <michael.behot@gmail.com>  
**Sent:** Wednesday, March 14, 2012 8:57 AM  
**To:** comments  
**Subject:** Mid-Water Trawlers

Hello,

I am writing in reference to Amendment 5 Draft Environmental Impact Statement. River Herring and Shad have been over fished and the take needs to be cut back. These are the forage fish for many of the coastal and pelagic fish on the east coast and they must be protected for the purpose. The trawlers need to be better regulated and their take reduced. I fear if the current trend continues it will cripple the food chain for all species. Thank you for your time and consideration.

Michael S. Behot

**Joan O'Leary**

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**From:** Andy Stevenson <andy@robertsonsgmc.com>  
**Sent:** Wednesday, March 14, 2012 10:54 AM  
**To:** comments  
**Subject:** Comments on Draft Amendment 5

Attn: Comments on Draft Amendment 5  
Paul J. Howard, Executive Director  
New England Fishery Management Council  
50 Water Street Mill #2  
Newburyport MA 01950

Hello Mr. Howard,

I am writing in support of the articles proposed regarding mid water trawling and the protection of river herring and other species. I personally believe trawling of any sorts is an unfair practice, decimating not only the "target" species but all others as well. I would like to see an outright ban on pair trawling and a ban on trawling all together. I don't foresee that ever happening, personally I find the commercial operations to be greedy and uncaring of their "bycatch" . I ask that you at least support the proposed bills to monitor and regulate the trawling industry in order to preserve and protect not only river herring and other species mentioned but also the marine life that relies on these fish in order to survive.

Thank you,

Andy Stevenson  
Service Manager  
(508) 291 0044 ext. 146  
Robertson's GMC Truck  
2680 Cranberry Highway  
Wareham , MA 02571

## Joan O'Leary

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**From:** Earthjustice <action@earthjustice.org> on behalf of Marilyn Britton <mbritttons@comcast.net>  
**Sent:** Wednesday, March 14, 2012 10:26 AM  
**To:** comments  
**Subject:** Comments on Draft Amendment 5

Mar 14, 2012

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

Dear Captain Howard, New England Fishery Management Council,

It is with great concern that I'm contacting you about poorly managed industrial fishing and the damage it inflicts on the ocean ecosystem.

Inadequate monitoring, unmanaged catch of river herring, continued killing of groundfish within closures designed to protect them, and the wasteful practice of dumping are significant and pressing concerns.

WITHOUT VERY SRINDGENT RULES AND THEIR ENFORCEMENT OF THE FISHING INDUSTRY WE WILL ALL SUFFER THE CONSEQUENCES. NOW IS THE TIME TO SEVERLY LIMIT CATCHES OR THAT TIME WILL COME SOONER THAN LATER.

I am especially concerned about populations of river herring, which have declined by 99 percent and are so depleted that they are being considered for protection under the Endangered Species Act.

Most Atlantic states now ban the harvest of river herring in coastal waters, even to the point of prohibiting children from netting one for bait. Yet astoundingly, NO PROTECTIONS HAVE BEEN EXTENDED TO THESE FISH IN THE OPEN OCEAN, where they are taken by the millions as profitable bycatch in the industrial fishery targeting a different species, Atlantic herring.

This is unacceptable and represents a significant setback in the ongoing efforts to restore alewife and blueback herring. Every year, states and communities throughout New England invest significant time and resources to restore their river herring runs. The New England Fishery Management Council must support, not undermine, these efforts.

Your revision to the Atlantic Herring Fishery Management Plan must address these issues and bring greater accountability and oversight to the industrial trawl fleet.

I strongly urge you to approve a comprehensive monitoring and bycatch-reduction program that incorporates the following management actions:

- \* A catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery (Section 3.3.5, modified to require immediate implementation of a catch cap).
- \* 100 percent at-sea monitoring on all mid-water trawl fishing trips in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life (Section 3.2.1.2 Alternative 2).
- \* An accountability system to discourage the wasteful slippage, or dumping, of catch, including a fleetwide limit of five slippage events for each herring management area, after which any slippage event would require a return to port (Section 3.2.3.4 Option 4D).
- \* A ban on herring mid-water trawling in areas established to promote rebuilding of groundfish populations (Section 3.4.4 Alternative 5).
- \* A requirement to accurately weigh and report all catch (Section 3.1.5 Option 2).

Thank you for SERIOUSLY CONSIDERING MY COMMENTS and for your continued commitment to improving management of the Atlantic herring fishery.

Sincerely,

Marilyn Britton

Peterborough, NH 03458-1811

**Joan O'Leary**

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**From:** Rich <rcbuckley@verizon.net>  
**Sent:** Wednesday, March 14, 2012 2:08 PM  
**To:** comments  
**Subject:** Draft Ammendment - Mid Water Trawl Fleet

Mr. Howard,

I support the efforts of "Honest Bycatch" in regulating the Mid Water Trawl Fleet.

- Honest By Catch supports Section 3.2.1.2 Alternative 2  
100 percent at-sea monitoring on all midwater trawl fishing trips (i.e., Category A& B vessels) in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life
- Honest By Catch supports Section 3.2.3.4 Alternative 4D  
An accountability system to discourage the wasteful dumping of catch, including a fleet-wide allowance of five slippage events for each herring management area, after which any slippage event would require a return to port
- Honest By Catch supports Section 3.4.4 Alternative 5  
No herring mid water trawling in areas established to promote rebuilding of ground fish populations
- Honest By Catch supports Section 3.3.5, if modified to require immediate implementation of a river herring catch cap  
An immediate catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery
- Honest By Catch supports Section 3.1.5 Option 2  
A requirement to accurately weigh and report all catch is essential to any monitoring system

Thank you for allowing me to voice my concerns.

Richard C.Buckley  
44 Maplewood Terrace  
Braintree Ma

tel/781-843-7004

**Joan O'Leary**

---

**From:** Earthjustice <action@earthjustice.org> on behalf of jacob chachkes <jtc8@optonline.net>  
**Sent:** Wednesday, March 14, 2012 6:47 PM  
**To:** comments  
**Subject:** Comments on Draft Amendment 5

Mar 14, 2012

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

Dear Captain Howard, New England Fishery Management Council,

When are you or ANYONE going to focus on the 'dead sea' accumulation of plastics int several areas of the globe?  
Commercial fishing will be dead if the 'dead sea' areas are allowed to grow.  
And STOP indiscriminate trawling that wastes too many important food chain fish.

Sincerely,

jacob chachkes

NEW CANAAN, CT 06840



**Joan O'Leary**

---

**From:** Earthjustice <action@earthjustice.org> on behalf of Laureen Elizabeth <laureene@hotmail.com>  
**Sent:** Wednesday, March 14, 2012 11:32 PM  
**To:** comments  
**Subject:** Comments on Draft Amendment 5

Mar 14, 2012

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

Dear Captain Howard, New England Fishery Management Council,

I am writing to express my concern about poorly managed industrial fishing and the damage it inflicts on the ocean ecosystem.

I am especially concerned about populations of river herring, which have declined by 99 percent and are so depleted that they are being considered for protection under the Endangered Species Act.

Thank you for whatever you can do to improve management of the Atlantic herring fishery.

Sincerely,

Laureen Elizabeth

Clinton, CT 06413-1726

## Joan O'Leary

---

**From:** don.palladino@comcast.net  
**Sent:** Friday, March 16, 2012 10:15 AM  
**To:** comments  
**Cc:** jp wellfleet; bbrennes@wheatonma.edu; deborahfreeman1@comcast.net; rprescott@massaudubon.org; peasoupgraphics@comcast.net; jeff hughes; margofenn@gmail.com; beth chapman; j l riehl; don palladino; suffano@hotmail.com; wellflt@aol.com; dreelan102@verizon.net  
**Subject:** River herring bycatch in the Atlantic herring fishery

We wish to congratulate the NEFMC for including provisions to address river herring bycatch in Draft Amendment 5 to the Atlantic Herring and Fishery Management Plan. These provisions are long overdue, and their approval and implementation cannot be further delayed. Those of us who monitor river herring runs and strive to restore our rivers, streams and estuaries, need assurance that bycatch will no longer contribute to the declines in river herring that we have observed over the past decade.

Concerning Alternatives to address observer coverage: we urge the Council to adopt a 100% observer coverage/ monitoring program for the entire Atlantic Herring Fleet. Such a monitoring program will benefit Atlantic herring as well as river herring populations, and provide necessary data for future management decisions.

The Friends of Herring River also support Alternative 3, suboption1: the establishment of "Safe Zones," temporal and geographical areas of closure to the Atlantic herring fishery. These zones based on Northeast Fisheries Observer Program (NEFOP) data from previous years. In addition, we urge for continued monitoring of the fishery for areas where river herring bycatch is encountered so that modifications to temporal protected areas can be based on the most recent and accurate data.

Although it will be difficult to establish reasonable catch limits for river herring bycatch, a conservative threshold limit must be immediately set, based on the 2012 river herring stock assessment, and all areas closed, without delay, once the limit is reached. A mechanism must be in place to bring all catch onboard fishing vessels so that accurate sampling can be done by the independent observers and allow accountability for any "dumping" of river herring that occurs at sea.

We believe that the measures which we support will be the most effective in reducing encounters with river herring by vessels in the directed Atlantic herring fishery and are optimistic that they will be adopted in Amendment 5.

Finally, we urge that alternative 1: No Action, be eliminated from consideration.

Donald J. Palladino  
President  
Friends of Herring River, Wellfleet/Truro

**Joan O'Leary**

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**From:** jkc367@aol.com  
**Sent:** Friday, March 16, 2012 10:59 AM.  
**To:** comments  
**Subject:** herring bicatch

Please add our voice to the efforts to stop the herring bi catch...This unnecessary fishery continues to affect so much more of the health of other fish ...I'm sure you agree with the science and will get this done.. Thanks John Connors and Kathleen Connors 260 old long pond rd, wellfleet, ma. 02667

**Joan O'Leary**

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**From:** Ivan and Mimi Ace <imace@verizon.net>  
**Sent:** Friday, March 16, 2012 10:48 AM  
**To:** comments  
**Subject:** Draft Amendment #5

Anything that can be done to halt the reduction of herring river stocks, and eventually lead to an increase in the population, should be done. The volunteers of Friends of Herring River (wellfleet, MA) will continue to monitor the spawning activity of alewives and blueback herring and report on the findings thru Association for the Preservation of Cape Cod.

Ivan Ace  
Eastham

March 17, 2012

Paul J. Howard, Executive Director

New England Fishery Management Council

50 Water Street Mill #2

Newburyport MA 01950

RE: Comments on Draft Amendment 5

Dear Mr. Howard:

On behalf of the 131 members that comprise the Stellwagen Bank Charter Boat Association (SBCBA), we ask that you and the New England Fishery Management Council take action to reduce the by-catch, improve the monitoring system, and impose more effective effort controls over the Atlantic Herring Fishery.

We believe the noticeable decline in herring stocks is largely attributed to midwater trawl vessels, both single and paired. We ask that NEFMC help address the declining herring stocks by adopting the following proposed alternatives as specified in the Draft Amendment 5:

**Section 3.1.5 Option 2** Require Dealers to Accurately Weigh All Fish

**Section 3.2.1.2 Alternative 2** Require 100% Observer Coverage on Limited Access Herring Vessels

**Section 3.2.3.4 Alternative 4D** Closed Area I Provision with Trip Termination Only (5 events)

**Section 3.3.5** if modified, impose cap on the total amount of river herring landed in the Atlantic herring fishery

**Section 3.4.4 Alternative 5** Closed Areas – prohibit midwater trawl fishing in year-round closed areas

Thank you for both your consideration and time.

Respectfully Yours,

Steven James

President, SBCBA

## Joan O'Leary

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**From:** Randy Sigler <Randy@Striper.com>  
**Sent:** Saturday, March 17, 2012 3:35 PM  
**To:** comments  
**Subject:** Comments on Draft Amendment 5

Dear Mr. Howard,

My name is Randy Sigler, and I am writing to submit comment on the Draft Amendment 5 of the Herring mgt plan.

As some background, I run a very busy guide service out of Marblehead, MA. I also fish commercially for striped bass and groundfish in Massachusetts waters, as well as Bluefin tuna in State and Federal waters. Finally, I am also a MA licensed seafood dealer and run a fairly large CSF-type direct to consumer distribution program.

In my guide service, we fish from May into November. The majority of our trips target striped bass, but we also do a significant number of offshore cod and tuna trips. From June through August, we typically run 3 or 4 boats, morning and afternoon, 6-7 days a week. It is quite busy.

From guiding, to commercial fishing, to seafood distribution, our business fingers reach out and touch a great number of individuals and businesses. I am sure that you are quite familiar with the economics of all of these business endeavors. A wonderful component of these economics is that there is a significant amount of "local" spending. Monies that are spent locally (to and from our businesses) tend to stay local to be spent locally again.

As you can imagine, I am very concerned about the health of the Atlantic Herring population, as it forms much of the forage stock for the fisheries that all of my businesses are dependant upon.

It is my belief that fisheries are an industry unlike any other, in that for there to be a long term viability of a fishery, there has to be an inherent "inefficiency" built into the industry. I often cite the example of the New England lobster fishery. This fishery has survived for so long, and is relatively healthy today primarily because the fishery is so inefficient at capturing the intended quarry.

The fact that the pair trawl herring fishery is so effective at harvesting a critically important forage species has always made me uncomfortable. Over the last few years (and particularly now) as other valuable commercial and recreational stocks are showing signs of trouble, I believe it is of paramount importance to make sure that this herring fishery is not jeopardizing a far larger economic engine in the northeast.

For selfish reasons, I would prefer to see the herring industry limited to small day boat seiners. I recognize, however, that you can not simply ban an existing player in the fishing industry. I do believe, however, that it is the council's duty to assure that this fishery is being treated equally to all other fisheries in respect to fishing cleanly, responsibly, fully documenting its catch, and keeping harvest levels safe.

To this end, I would ask that the council:

- Implement 100% observer coverage within this fishery. This should be non-negotiable.
- Prohibit, and implement strong penalties for, any dumping (slippage). This is a waste of a precious resource, and it prevents the true nature of the fishery from being documented.
- Prohibit Herring trawlers from fishing in areas closed to other fisheries. This seems like a no-brainer.

- Require the boats to document the weight of their catch rather than estimating. With the incredible effort that goes into the management process, it seems ridiculous to not have accurate catch data. Sound management requires sound data ... not estimates that could be biased.
- Furthermore, if it is shown (through observer coverage and dumping prohibitions) that this fishery is having adverse bycatch, I would ask that a plan for correcting the situation be written into the amendments.

Compared to the vast array of other stakeholders who depend (directly or indirectly) on the Herring stocks for their livelihoods, it seems highly inequitable that this relatively small player (The Herring Trawl industry) can have such free and unmonitored access to such a vital component of the marine food chain.

Please do not allow the current status of the fishery to continue.

Thank you very much for the hard work that you are doing, and for your consideration of my comments in your planning.

Sincerely,

Captain Randy Sigler  
Sigler Guide Service  
Marblehead, MA 01945  
617-459-1798  
[Randy@Striper.com](mailto:Randy@Striper.com)

**Joan O'Leary**

---

**From:** Michael Saunders <msaunders2001@hotmail.com>  
**Sent:** Tuesday, March 20, 2012 9:33 AM  
**To:** comments  
**Subject:** Comments on Draft Amendment 5

Attn: Comments on Draft Amendment 5  
Paul J. Howard, Executive Director  
New England Fishery Management Council  
50 Water Street Mill #2  
Newburyport MA 01950

I am an avid recreational fisherman who is a supporter of Honest By Catch. I have witnessed first hand the decline of Herring in my local runs and Menhaden in Plymouth, Boston Harbor, and Cape Cod Bay. NEFMC must approve a comprehensive monitoring and management reform program that brings greater accountability and oversight to the industrial trawl fleet. At minimum, the following actions must be approved:

- Honest By Catch supports Section 3.2.1.2 Alternative 2  
100 percent at-sea monitoring on all midwater trawl fishing trips (i.e., Category A& B vessels) in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life
- Honest By Catch supports Section 3.2.3.4 Alternative 4D  
An accountability system to discourage the wasteful dumping of catch, including a fleet-wide allowance of five slippage events for each herring management area, after which any slippage event would require a return to port
- Honest By Catch supports Section 3.4.4 Alternative 5  
No herring mid water trawling in areas established to promote rebuilding of ground fish populations
- Honest By Catch supports Section 3.3.5, if modified to require immediate implementation of a river herring catch cap  
An immediate catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery
- Honest By Catch supports Section 3.1.5 Option 2  
A requirement to accurately weigh and report all catch is essential to any monitoring system

Thank You,  
Mike Saunders  
15 Crestwood Ave  
Marshfield, MA 02050

**Joan O'Leary**

---

**From:** Paul Howard  
**Sent:** Tuesday, March 20, 2012 9:40 AM  
**To:** Lori Steele  
**Cc:** Joan O'Leary  
**Subject:** FW: comments on Atlantic Herring Fishery Management Plan

**From:** [ravigloom@rediffmail.com](mailto:ravigloom@rediffmail.com) [<mailto:ravigloom@rediffmail.com>]  
**Sent:** Tuesday, March 20, 2012 9:37 AM  
**To:** Paul Howard  
**Subject:** comments on Atlantic Herring Fishery Management Plan

Dear Mr Howard,

The NMFS has repeatedly proven unable to enforce Atlantic herring quotas due to inadequate catch monitoring.

River herring populations remain depleted, forcing Atlantic seaboard states to close traditional fisheries and deprive recreational anglers and the public of this important resource. NMFS is now considering listing river herring under the Endangered Species Act.

Please conserve and manage these resources sustainably by approving this revision by supporting a catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery (Section 3.3.5, modified to require immediate implementation of the catch cap); 100 percent at-sea monitoring on all midwater trawl fishing trips in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life (Section 3.2.1.2 Alternative 2); an accountability system to discourage the wasteful slippage of catch, including a fleet-wide allowance of five slippage events for each herring management area, after which any slippage event would require a return to port (Section 3.2.3.4 Option 4D); no herring midwater trawling in areas established to promote rebuilding of groundfish populations (Section 3.4.4 Alternative 5); a requirement to accurately weigh and report all catch (Section 3.1.5 Option 2).

Thank you,  
Ravi Grover  
POB 802103  
Chicago IL 60680-2103

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**From:** [ravigloom@rediffmail.com](mailto:ravigloom@rediffmail.com) [<mailto:ravigloom@rediffmail.com>]

**Sent:** Tuesday, March 20, 2012 9:37 AM

**To:** Paul Howard

**Subject:** comments on Atlantic Herring Fishery Management Plan

Dear Mr Howard,

The NMFS has repeatedly proven unable to enforce Atlantic herring quotas due to inadequate catch monitoring.

River herring populations remain depleted, forcing Atlantic seaboard states to close traditional fisheries and deprive recreational anglers and the public of this important resource. NMFS is now considering listing river herring under the Endangered Species Act.

Please conserve and manage these resources sustainably by approving this revision by supporting a catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery (Section 3.3.5, modified to require immediate implementation of the catch cap); 100 percent at-sea monitoring on all midwater trawl fishing trips in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life (Section 3.2.1.2 Alternative 2); an accountability system to discourage the wasteful slippage of catch, including a fleet-wide allowance of five slippage events for each herring management area, after which any slippage event would require a return to port (Section 3.2.3.4 Option 4D); no herring midwater trawling in areas established to promote rebuilding of groundfish populations (Section 3.4.4 Alternative 5); a requirement to accurately weigh and report all catch (Section 3.1.5 Option 2).

Thank you,

Ravi Grover

POB 802103

Chicago IL 60680-2103

Joan O'Leary

---

**From:** Janice Cranshaw <captcranny1@verizon.net>  
**Sent:** Tuesday, March 20, 2012 6:07 PM  
**To:** comments  
**Subject:** Amendment V

What would make sense in the Herring fishery would be for the powers to be to step back and look at the big picture. I find it unbelievable that the government is regulating every fishery known to mankind in the name of sound conservation, yet this fishery is the least regulated. On top of that ...this fish( herring) is the foundation for just about every fishery on our coast. What do you think is going to happen to the other fish in the ocean if they can not find forage. Would we not want to protect the very species that supports the most life in the ocean? Then why do these boat get regulated so loosely? I support 200% observation, also closed areas to protect river herring( I can not net a few herring with my grandkids and these guys are killing 3000lbs on a single haul. This is insanity. I compare it too....fixing the house and letting the foundation rot. Please see the vital link these fish have to all our fishery and make the tough call . and protect the greater good. These boats are killing not only herring but a lot of fisherman,s livlyhood Thank You capt Bruce Crabshaw

## Joan O'Leary

---

**From:** Matt Patnaude <mattpatnaude@comcast.net>  
**Sent:** Tuesday, March 20, 2012 9:26 PM  
**To:** Doug Grout  
**Subject:** Comments on Draft Amendment 5

Doug Grout, Chair

NEFMC Herring Oversight Committee

Re: Herring Amendment 5 DEIS

Dear Doug,

I am writing today to offer my support for the Draft Environmental Impact Statement (DEIS) for Herring Amendment 5.

First, as a professional mariner operating on New England waters (I am a tugboat captain), I see these vessels operate first hand, year round. I see the bycatch get dumped overboard. It happens. Lest we take a history lesson of where these types of vessels have fished in the past, and what the outcome was.

As a fisherman, I am greatly impacted by the management of the herring fishery. I have seen firsthand the negative impacts created by the large midwater trawlers for myself and everyone else in the region. For too long these boats have been able to fish with rules that are totally inadequate given the size and fishing power of the fleet. The Council must ensure that these problems are finally addressed when decisions are made for Amendment 5.

At minimum, the following actions should be approved:

- 100% observer coverage on Category A and B herring vessels in order to provide reliable estimates of all catch, especially bycatch of river herring, cod, haddock, bluefin tuna, and other marine life (Section 3.2.1.2 Alternative 2). This is the most serious issue.
- Closed Area I (CAI) provisions with trip termination after 10 dumping events in order to reduce dumping on Category A and B vessels. Given the nature of the gear being used in the fishery, it is critical that rules are put in place to make sure that unsampled dumping is not occurring. (Section 3.2.3.4 Alternative 4C) Once again, the current regulations do nothing to prevent this—I see it happen first hand. They haul back until they get what they are looking for, the rest discarded.
- Prohibit herring midwater trawl vessels from fishing in Groundfish Closed Areas. These boats should have never been allowed in to begin with. (Section 3.4.4 Alternative 5) ---Once again, a large amount of what comes aboard is NOT their target species.
- Implement measures to require weighing of catch across the fishery so that managers have accurate data on how much herring is being landed in the fishery. (Section 3.5.1 Option 2)

By taking these steps, the Council will be able to fix many of the most pressing problems in this fishery. Please do what is right and approve these measures.

Thanks for your time,

Matthew Patnaude  
8 Fayette St.  
Beverly, MA 01915

## Joan O'Leary

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**From:** Lori Steele  
**Sent:** Wednesday, March 21, 2012 10:21 AM  
**To:** Joan O'Leary  
**Subject:** FW: Ammendement 5

-----Original Message-----

**From:** David Gelfman [<mailto:dagelf@aol.com>]  
**Sent:** Tuesday, March 20, 2012 9:44 PM  
**To:** Lori Steele  
**Subject:** Ammendement 5

Dear Ms. Steele

My name is David Gelfman. I operate the commercial Tuna boat Horsemackerel. I've been exasperated by the inability of the NEFMC to put some simple and effective regulations on the Mid-water trawler fleet. There are five basic requirements that I feel would be useful and effective in controlling a fishery that is partially responsible for the collapse of all other fisheries in New England. The first is a weigh master system so there can be actual weight verification for quota enforcement purposes. The pacific whiting and pollack fisheries utilize this technology successfully. Both are large volume fisheries.

The second restriction should be constant observer coverage of category A and B permit holders. These 15 or so boats catch 95% of the quota. A third rule. The boats should be required to bring their cod ends on board so that the actual catch and bycatch can be recorded.

Fourth. There should be a River herring bycatch allowance that if surpassed immediately closes the fishery for the season.

Fifth. The trawlers should be forbidden from entering the closed areas. These nursery areas should be protected from this sort of fine mesh fishery that results in huge losses of non-target juvenile ground fish. The fact that forage species are treated in such a lax manner does not reinforce the ever vanishing trust of fishermen in their regulators.

Many much older and less profitable fisheries are subject to much stricter limitations even though their overall effect on the eco-system is far less destructive.

Sincerely David Gelfman

Joan O'Leary

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**From:** james young <g-pooba@hotmail.com>  
**Sent:** Wednesday, March 21, 2012 9:10 AM  
**To:** comments  
**Subject:** comments on draft amendment 5 [ attn. paul j. howerd ]

my name is james young, and I have been a comm. fisherman for 30 years , my comment on amendment 5 , is this, I have bin to the rivers I used to ketch herring as a boy , only to find NO TAKE HERRING sine's, I have seen the rewind of the ground fishing, because of the taking of the main bait fish in the ocean, it IS CALLED THE FOOD CHAIN! the same food chain you learned about in 4th grade in school, is is the 5 ton PINK ELEPHANT IN THE ROOM, for it to have taken this long for this critical issue to finally come up for regulation , is bordering on criminal, you have chosen to ignore the CANADIAN SCIENCE ON THIS ISSUE , I have personally seen, the F/V SEA HUNTER coming into new Bedford so overloaded, that the cost gard was following them incase they sank, THERE HAS TO BE 24 HOUR OBSERVER COVREG & A LIMITED ,DUMPING, ALONG WITH THE WEIGHING OF THE FISH!

thank you for your time , JAMES YOUNG , FALL RIVER MASS

**Joan O'Leary**

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**From:** Mass. Commercial Striped Bass Assoc. <masscommbass@gmail.com>  
**Sent:** Wednesday, March 21, 2012 10:28 AM  
**To:** comments  
**Subject:** Comments on Draft Amendment 5

The Massachusetts Commercial Striped Bass Association would like to thank the NEFMC for considering measures designed to revise the Atlantic Herring Fishery Management Plan. MCSBA strongly urges you to approve a comprehensive monitoring and management reform program that brings greater accountability and oversight to the industrial trawl fleet. At minimum, the following actions must be approved:

- 100 percent at-sea monitoring on all midwater trawl fishing trips (i.e., Category A& B vessels) in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life (Section 3.2.1.2 Alternative 2).
- An accountability system to discourage the wasteful dumping of catch, including a fleet-wide allowance of five slippage events for each herring management area, after which any slippage event would require a return to port (Section 3.2.3.4 Alternative 4D).
- No herring midwater trawling in areas established to promote rebuilding of groundfish populations (Section 3.4.4 Alternative 5).
- An immediate catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery (Section 3.3.5, Modified to require immediate implementation of a river herring catch cap).
- A requirement to accurately weigh and report all catch (Section 3.1.5 Option 2).

The MCSBA consists of 125 Massachusetts resident commercial striped bass fishermen.

Thank you for your consideration,  
Darren Saletta  
MCSBA Co-Founder

Joan O'Leary

---

**From:** Lee Avery <averyret@gmail.com>  
**Sent:** Thursday, March 22, 2012 8:14 AM  
**To:** comments  
**Subject:** Amendment 5

Both anecdotal information and studies show the effects the overfishing caused by the mid water trawlers has had. The food source for fish from cod to stripers and tuna has been devastated. Bycatch of river herring and haddock is also a problem. Why have these problems been ignored while other segments of the fishery industry been forced to take all sorts of regulation?

I am just a recreational fisherman, but I care and I vote.

Please clamp down on this destructive fishery. Amendment 5 is a start.

Joan O'Leary

---

**From:** paul@portaphone.com  
**Sent:** Wednesday, March 21, 2012 3:30 PM  
**To:** comments  
**Subject:** Herring netting

Stop the killing of the bait. You stopped it in the streams now stop the trawling!



**Joan O'Leary**

---

**From:** morserentals@yahoo.com  
**Sent:** Sunday, March 25, 2012 10:19 PM  
**To:** Doug Grout  
**Subject:** Amendment 5

Doug,

I am writing to you to let you know that I'm all for amendment 5.

The time has come were we as fisherman, sportsman and any one who cares about the future of our fishing stocks to make a stand. The Atlantic herring is the number one forage food for many of our corp saltwater stocks of fish in New England. Atlantic cod, bluefin tuna, striped bass, whales and other predators of the atlantic.

The number one predator that we have to worry about is the people that fish for the Atlantic herring. Though they call themselves fisherman and yes they do have a life to live, and probably a family to support, they need regulation. They drag and drag for what to deplete the ocean of all the herring and other groundfish they can. When these boats are at work they are thinking to much of dollar signs and not about the future of what they are harvesting. If something is not done the future of the herring and the fish that hunt them will be in jeopardy. Maybe its to late and no matter what we do at this point , just might not help. But I have hope, and I want to believe that when my three sons are my age that they can still catch tuna, cod and striped bass.

These men and boats have gone to long without being regulated some of these guys might get upset sell there boats, quit fishing ,but they have no one to blame but themselves. It's time that they are regulated and they are accountable for their actions. They need to be monitored on all there catches as well as bi catches and they need to be monitored about where their fishing. If a midwater trawler drags where he is not supposed drag then he should be held accountable and fined. Fined so he'll never do it again or want to do it.

I believe that amendment 5 is a great start in starting a regulation to start protecting the future of a a great fishery, that in time could even be better.

My name is Steven Morse I have been fishing on the ocean for twelve years in and around the Portland Maine area. I was unable to make the meeting this last week and wanted to let you know that I support amendment 5.

Thank you for your time

Steve

Sent from my Verizon Wireless 4GLTE smartphone

**Joan O'Leary**

---

**From:** Lori Steele  
**Sent:** Monday, March 26, 2012 8:54 AM  
**To:** Joan O'Leary  
**Subject:** FW: Herring Amendment 5 DEIS

**From:** Stephen Migliore [[mailto:steve\\_migliore@myfairpoint.net](mailto:steve_migliore@myfairpoint.net)]  
**Sent:** Monday, March 26, 2012 7:32 AM  
**To:** Lori Steele  
**Subject:** Herring Amendment 5 DEIS

Dear Herring Oversight Committee,

I am writing today to offer my comments on the Draft Environmental Impact Statement (DEIS) for Herring Amendment 5.

As a recreational fisherman, I am greatly impacted by the management of the herring fishery. I have seen firsthand the negative impacts created by the large midwater trawlers for myself and everyone else in the region. For too long these boats have been able to fish with rules that are totally inadequate given the size and fishing power of the fleet. The Council must ensure that these problems are finally addressed when decisions are made for Amendment 5.

At minimum, the following actions should be approved:

- 100% observer coverage on Category A and B herring vessels in order to provide reliable estimates of all catch, including bycatch of river herring, cod, haddock, bluefin tuna, and other marine life (Section 3.2.1.2 Alternative 2).
- Closed Area I (CAI) provisions with trip termination after 10 dumping events in order to reduce dumping on Category A and B vessels. Given the nature of the gear being used in the fishery, it is critical that rules are put in place to make sure that unsampled dumping is not occurring. (Section 3.2.3.4 Alternative 4C)
- Prohibit herring midwater trawl vessels from fishing in Groundfish Closed Areas. These boats should have never been allowed in to begin with. (Section 3.4.4 Alternative 5)
- Implement measures to require weighing of catch across the fishery so that managers have accurate data on how much herring is being landed in the fishery. (Section 3.5.1 Option 2)

By taking these steps, the Council will be able to fix many of the most pressing problems in this fishery. Please do what is right and approve these measures.

Thanks for your time,

Steve Migliore  
603-236-6100  
[steve\\_migliore@myfairpoint.net](mailto:steve_migliore@myfairpoint.net)

**Joan O'Leary**

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**From:** Lisbeth Chapman <beth\_chapman@inkair.com>  
**Sent:** Monday, March 26, 2012 3:17 PM  
**To:** comments  
**Subject:** Comments on Amendment 5.

#1 PLEASE! You must take action. The "No Action" option cannot stand.

I count herring for the Friends of Herring River in Wellfleet as pre-research prior to our hoped for restoration of 1100 acres of impacted and degraded salt marsh. Our river is kept open by our herring warden. Our counts have fallen by 2/3rds over the last three count years.

#2 Observer Coverage:

I urge the Council to adopt a 100% observer coverage/ monitoring program for the entire Atlantic Herring Fleet.

Such a monitoring program will benefit Atlantic herring as well as river herring populations, and provide necessary data for future management decisions.

#3 Safe Zones

I also support Alternative 3, suboption1: the establishment of "Safe Zones," temporal and geographical areas of closure to the Atlantic herring fishery. These zones based on Northeast Fisheries Observer Program (NEFOP) data from previous years. In addition, I urge for continued monitoring of the fishery for areas where river herring bycatch is encountered so that modifications to temporal protected areas can be based on the most recent and accurate data.

#4 Conservative Threshold Limit

Although it will be difficult to establish reasonable catch limits for river herring bycatch, a conservative threshold limit must be immediately set, based on the 2012 river herring stock assessment, and all areas closed, without delay, once the limit is reached. A mechanism must be in place to bring all catch onboard fishing vessels so that accurate sampling can be done by the independent observers and allow accountability for any "dumping" of river herring that occurs at sea.

It is absurd to keep going the way we have been going and expect a different outcome.

**Lisbeth Wiley Chapman, Ink&Air**  
Celebrating 20 Years of Exceptional  
PR Consulting for Professional Service Firms.  
508-479-1033 [www.inkAir.com](http://www.inkAir.com)

*Author of "Get Media Smart! Build Your Reputation,  
Referrals, & Revenue with Media Marketing"*

**Joan O'Leary**

---

**From:** John Rice <john@ciifa.org>  
**Sent:** Wednesday, March 28, 2012 6:10 AM  
**To:** comments  
**Subject:** Comments on Draft Amendment 5

To: NEFMC

Re: Amendment 5, River herring protection

I attended last night's public hearing in Plymouth. I spoke briefly about the need to do more to protect river herring, than what the other people attending had said previous to me. Both CHOIR and Honest Bycatch are both calling for catch caps on river herring, but I do not feel that this is adequate to our present situation. Presently river herring are protected inshore by a long standing moratorium. Many different groups and agencies have made tremendous efforts to restore habitat and address the issues that are keeping these fish from recovering, yet the one issue that we keep overlooking is the catches of river herring by MW trawlers. I am not in favor of bycatch caps for river herring for the Atlantic herring fishery. I am in favor of Alternative 3, Option 1. To think that all the people that have toiled to bring river herring back, have done so just so a few boat owners can reap huge profits from their accidental catches of these fish is ridiculous.

Beyond this, my feelings on the rest of the proposals are;

I would like to whatever extent practicable, all trips to be weighed, not estimated.

I would like to see 100% observer coverage on all trips, to be paid for 100% by the industry, this is a nearly \$50,000,000 industry, they can afford it. With regards to the observer coverage, I feel that all hauls need to be observed, in other words, no hauling unless the observer is present (not sleeping), which may mean needing 2 observers per trip.

I would like to see a zero dumping (slippage) rule.

No access to the groundfish closed areas, year 'round.

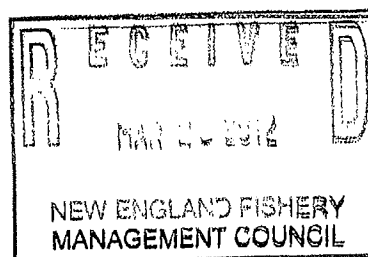
Exemptions for the shrimp fishery and also if needed for the Nantucket and Vineyard Sounds squid fishery.

Sincerely,  
John Rice

--  
John Rice - Director -><> CIIFA<><  
P.O. Box 2008  
Cotuit MA 02635  
508-428-1556  
[john@ciifa.org](mailto:john@ciifa.org)  
<http://ciifa.org>

March 19, 2012

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



More than four years ago, the public called for and the New England Fishery Management Council committed to, improving the management of industrial fishing in New England. Now, after several years of deliberation and tens of thousands of public comments, it's time to deliver on that promise of reform.

Inadequate monitoring, unmanaged catch of river herring, continued killing of groundfish within closures designed to protect them, and the wasteful practice of dumping are significant and pressing concerns. The revision to the Atlantic Herring Fishery Management Plan must address these issues and bring greater accountability and oversight to the industrial trawl fleet.

Since the initiation of Amendment 5, these problems have gotten worse. The National Marine Fisheries Service has repeatedly proved to be unable to enforce Atlantic herring quotas, the first step in fishery management, because of inadequate catch monitoring.

In addition, the practice of slipping, or dumping, catch at sea continues to undermine efforts to identify and record everything that is caught by herring vessels. Alarming interactions with groundfish also continue, to the point that mid-water trawl fishermen recently demanded and received a five-fold increase in their haddock by-catch allowance.

It is distressing that river herring populations remain depleted, forcing Atlantic seaboard states to close traditional fisheries and deprive recreational anglers and the public of this important resource. The NMFS is now considering listing river herring under the Endangered Species Act.

I urgently ask you, as a trustee of our nation's marine resources, to fulfill your duty to conserve and manage these resources sustainably by approving this long-awaited revision without further delay.

In particular, I agree with those who support:

- A catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery (Section 3.3.5, modified to require immediate implementation of the catch cap).
- 100 percent at-sea monitoring on all mid-water trawl fishing trips in order to provide reliable estimates of all catch, including by-catch of depleted river herring and other marine life (Section 3.2.1.2 Alternative 2).
- An accountability system to discourage the wasteful slippage of catch, including a fleetwide limit of five slippage events for each herring management area, after which any slippage event would require a return to port (Section 3.2.3.4 Option 4D).
- A ban on herring mid-water trawling in areas established to promote rebuilding of groundfish populations (Section 3.4.4 Alternative 5).
- A requirement to accurately weigh and report all catch (Section 3.1.5 Option 2).

Page 2

Herring trawlers are the largest fishing vessels on the East Coast. Their football-field-size nets catch and kill millions of pounds of unintended catch every year, including depleted fish such as bluefin tuna, river herring, and shad, as well as dolphins and seabirds. River herring, an essential food for such animals as striped bass and osprey, are so depleted they are being considered for protection under the Endangered Species Act.

Thank you most sincerely for the opportunity to comment and for your sustained commitment and support of these high-priority reforms. It is time for a healthy, productive and sustainable ocean environment for everyone.

Yours respectfully,



J. Capozzelli  
New York

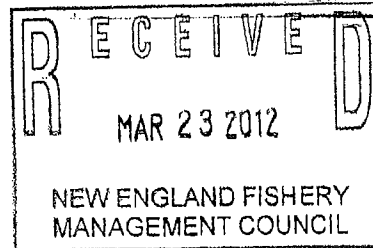


NANTUCKET ANGLERS' CLUB, INC.  
1 NEW WHALE STREET  
NANTUCKET, MASS. 02554

(508) 228-2299

March 15, 2012

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



Re: Comments of Draft Herring Amendment 5

Dear Mr. Howard:

The Nantucket Anglers Club was established in 1969. Our 500 members are recreational fishermen that fish from both the beach and boat. Over the years we have watched the number of herring decline which has had a devastating effect on the inshore fishery. Codfish that were once plentiful close to shore have disappeared. Now the fall Striped Bass run once considered one of the best in the world is in jeopardy. The schools of herring that once migrated past the island in the fall are gone, swept up by the giant nets of the midwater trawlers. With the loss of herring the Stripers no longer hang around the island. The few fish that we do catch are small and skinny. There is nothing for them to eat. Our tuna fishermen have to run over 100 miles offshore to find any amount of herring and tuna. We urge you to adopt Amendment 5 with the following policies.

100% at-sea observer coverage of A&B vessels.

No Dumping Policy.

All landing be accurately weighted and reported.

Prohibit midwater trawling in closed groundfish areas.

Improve river herring Protections.

If the midwater trawl fleet is allowed to continue at its current effort or local fishery will all but disappear. Please act now.

Sincerely,

Robert R. DeCosta  
Nantucket Anglers Club  
Vice President

Town and County of Nantucket  
Board of Selectmen • County Commissioners

Rick Atherton, Chairman  
Robert R. DeCosta  
Michael Kopko  
Patricia Roggeveen  
Whiting Willauer



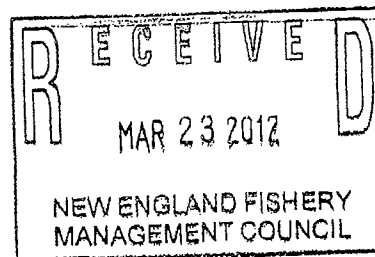
16 Broad Street  
Nantucket, Massachusetts 02554

Telephone (508) 228-7255  
Facsimile (508) 228-7272  
[www.nantucket-ma.gov](http://www.nantucket-ma.gov)

C. Elizabeth Gibson  
Town & County Manager

March 15, 2012

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



Re: Comments of Draft Amendment 5

Dear Mr. Howard:

Nantucket has a long history of fishing and it is an important part of our local economy. Herring are the major forage for Striped Bass, Bluefish, Cod and Tuna in the waters around Nantucket. The fact that the mid-water trawl fleet has been allowed to fish the inshore waters off the Cape and Islands has had a devastating effect on our local fishery. Herring have all but disappeared around the Island. We urge you to adopt Amendment 5 with emphasis on the following points.

- 100% at-sea observer coverage of A&B vessels
- No Dumping policy
- All landing be accurately weighted and reported
- Prohibit mid-water trawling in closed groundfish areas
- Improve river herring protections

If the mid-water trawl fleet is allowed to continue at its current effort our local fishery will all but disappear. Please act now. Thank you.

Sincerely,

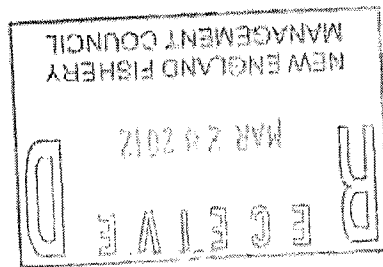
Rick Atherton  
Chairman



New England Fisheries Management Council  
50 Water Street, Mill 2  
Newburyport, MA 01950  
Comments on Draft Herring Amendment 5

Dear Sirs:

The herring trawlers need 300% observer coverage paid for by the United States Government. The Government should pay for this coverage because of the high impacts of the herring fishery has on the rest of the Northeast Fisheries. There needs to be a senior observer that is in charge of the safety and well being of two of the regular observers. The senior observer needs to make sure that the regular observers are given proper access to all the fish being taken aboard. The senior observer should be there to help the regular observer when there is more going on than one person can handle. When the mid water trawler commits a major infraction like slippage, it would be the senior observer's job to report the incident and take the necessary action required. The senior observer needs to be someone with the stature age, experience and be given the authority to handle the job. There needs to be two regular observers because the boat can fish 24 hours a day. Expecting one person to observe everything that is going on in a 150 foot boat that fishes around the clock for multiple day trips is unreasonable. I have talked to a number of people who have worked as observers on herring trawlers, one told me they were not given proper protocol for getting proper data, another told me he was told to go through the fish after they had been culled by the crew. If this kind of thing has been going on so far it is going to be necessary to be more serious about getting good data. Many consider the result of the herring fishery tragic so far, it is time to be more serious about it. Everything that comes in the net needs to come in the boat and gone through just like all the rest of the fishermen. There should be no slippage allowed. The herring fleet should have a total allowable catch for herring, for that matter they shouldn't be allowed to fish close to shore where the two species interact. The herring fleet needs to be held responsible for everything they catch. They need to have quotas for cod, pollock, hake, and what ever kind of fish they come up with. They should be required to own or buy quota for any fish they catch as most every fisherman in the Northeast has to do now. This should be no problem for the mid water fleet because we were informed by the nice man with the fish account that the herring fishery is the cleanest fishery in the Northeast with hardly any by-catch at all. The fisherman spoke at the meeting in Fairhaven late March 2012. For that matter all this crap could be cut quite simply with total recall. Everything that they catch must be brought in and sold. They need observers on deck to make sure there is no slippage. The catch is gone through and weighed by dock monitors who are independent entities of the herring business.



Theodore J. Ligensa  
134 Pleasant Street  
South Chatham, MA 02659  
FV/Pleasant Mane  
March 25, 2012

Theodore J. Ligensa

Sincerely,  
*Theodore J. Ligensa*



---

**From:** John Rice <[john@ciifa.org](mailto:john@ciifa.org)>  
**Sent:** Wednesday, March 28, 2012 6:10 AM  
**To:** comments  
**Subject:** Comments on Draft Amendment 5

To: NEFMC

Re: Amendment 5, River herring protection

I attended last night's public hearing in Plymouth. I spoke briefly about the need to do more to protect river herring, than what the other people attending had said previous to me. Both CHOIR and Honest Bycatch are both calling for catch caps on river herring, but I do not feel that this is adequate to our present situation. Presently river herring are protected inshore by a long standing moratorium. Many different groups and agencies have made tremendous efforts to restore habitat and address the issues that are keeping these fish from recovering, yet the one issue that we keep overlooking is the catches of river herring by MW trawlers. I am not in favor of bycatch caps for river herring for the Atlantic herring fishery. I am in favor of Alternative 3, Option 1. To think that all the people that have toiled to bring river herring back, have done so just so a few boat owners can reap huge profits from their accidental catches of these fish is ridiculous.

Beyond this, my feelings on the rest of the proposals are:

I would like to whatever extent practicable, all trips to be weighed, not estimated.

I would like to see 100% observer coverage on all trips, to be paid for 100% by the industry, this is a nearly \$50,000,000 industry, they can afford it. With regards to the observer coverage, I feel that all hauls need to be observed, in other words, no hauling unless the observer is present (not sleeping), which may mean needing 2 observers per trip.

I would like to see a zero dumping (slippage) rule.

No access to the groundfish closed areas, year 'round.

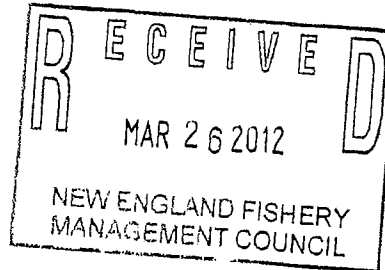
Exemptions for the shrimp fishery and also if needed for the Nantucket and Vineyard Sounds squid fishery.

Sincerely,  
John Rice

--  
John Rice - Director -><> CIIFA<><  
P.O. Box 2008  
Cotuit MA 02635  
508-428-1556  
[john@ciifa.org](mailto:john@ciifa.org)  
<http://ciifa.org>

March 17, 2012

Paul J. Howard, Executive Director  
New England Fishery Management Council  
50 Water Street Mill #2  
Newburyport MA 01950  
RE: Comments on Draft Amendment 5



Dear Mr. Howard:

On behalf of the 131 members that comprise the Stellwagen Bank Charter Boat Association (SBCBA), we ask that you and the New England Fishery Management Council take action to reduce the by-catch, improve the monitoring system, and impose more effective effort controls over the Atlantic Herring Fishery.

We believe the noticeable decline in herring stocks is largely attributed to midwater trawl vessels, both single and paired. We ask that NEFMC help address the declining herring stocks by adopting the following proposed alternatives as specified in the Draft Amendment 5:

**Section 3.1.5 Option 2** Require Dealers to Accurately Weigh All Fish

**Section 3.2.1.2 Alternative 2** Require 100% Observer Coverage on Limited Access Herring Vessels

**Section 3.2.3.4 Alternative 4D** Closed Area I Provision with Trip Termination Only (5 events)

**Section 3.3.5** if modified, impose cap on the total amount of river herring landed in the Atlantic herring fishery

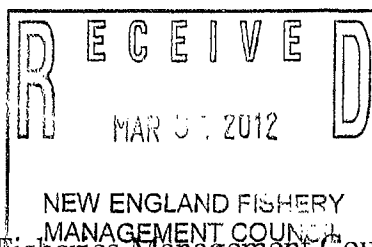
**Section 3.4.4 Alternative 5** Closed Areas – prohibit midwater trawl fishing in year-round closed areas

Thank you for both your consideration and time.

Respectfully Yours,

  
Steven James

President, SBCBA



31 March 2012

Members of the New England Fisheries Management Council;

I am not as well versed on the herring issues as I should be and that is unfortunate. However, I do remember the beginning when the stock assessment from the US side declared that there were 200,000 metric tons that could be harvested without impacting the resource. It seems to me that the Canadians reviewing the same information arrived at a much different conclusion. Scientists usually agree unless there is a political agenda or motivation which skews the math and allows for a conclusion which is not defensible.

I also know that many of the species within our continental shelf prey on herring at one stage and form or another. The large pelagics like the Atlantic bluefin which I have fished commercially since 1968 also enter the shallower areas to fatten after a highly migratory passage. The withdrawal of significant tonnages of bait (herring) stresses local stocks and leads to the continued migration of others. The dictum of the NMFS was always based on the concept of the strengthening of the stocks. This in its simplest form would suggest that taking food from a recovering resource would be an error. Fishermen dependent on healthy stocks and access have certainly been drawn into further conflict.....with the Government and controlling Agencies as well as with fellow fishermen.

In a perfect world the error would not have been made. However, after these many years this horse is well out of the barn. Usually in business one considers the consequences of a mistake and once realizing it the first and immediate correction is the best. Too late for that now.....mea culpa will not be forthcoming either.

I would suggest an overall lower quota for those "new" entrants or companies still involved in the fishery since the declaration of additional available tonnage.....and consider a relocation compensation to further discourage heavy predation. The onetime compensation would give those shoreside facilities and boats an option towards their future.....and in a fashion acknowledge that NMFS punched over their scientific weight. Hard lessons.....and I am sure that the Government will say that they have no money to do such a thing. The rebuttal to that response might be that their overestimation has caused the private industries' financial repercussion to far exceed whatever settlement might be reached.

I know there is bycatch and the observer program is flawed at many levels. However, I would insist that there be 100% coverage on the non traditional boats (pair trawlers) and a 10% coverage on the historic vessels. That is a lot of coverage but it needs to be done to assuage the common fears of bycatch. Bluefin tuna, Narragansett near shore in the winter of 2012 would be an example.

Please consider my comments as the decision making progress in regard to the Atlantic herring fishery continues. NMFS has always had the potential to do what was once considered "the right thing". It still has that ability.

Sincerely,

George Purmont  
P.O. Box 951  
Little Compton, RI 02837

**Joan O'Leary**

---

**From:** john lawless <jlawless79@gmail.com>  
**Sent:** Saturday, March 31, 2012 8:58 PM  
**To:** comments  
**Subject:** Herring Trawling -

Sirs/Madams,

I am a person who makes his living in the maritime sector and while i understand the need for fisherman to make their living by catching fish, I am concerned with the steady and substantial decline of the herring population. I live in Weymouth Ma. and have personally witnessed firsthand the decimation of the herring runs in my area. We all have ownership to be stewards of the sea for our childens sake and i am in favor of the motions below:

1. 100 percent at-sea monitoring (Section 3.2.1.2 Alternative 2 ) on all category A & B midwater trawl fishing trips in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life.
2. Discourage the wasteful dumping of catch, Section 3.2.3.4 Alternative 4D including the fleet-wide limit of five slippage events per management area. Operational discards are dumping of valuable natural resources and must be included.
3. No herring mid water trawling in areas established to promote rebuilding of ground fish populations (Section 3.4.4 Alternative 5).
4. We can not wait for new science to protect river herring. We support an immediate catch cap based on recent catch. To limit what is currently being killed as by catch is a good start. We support Section 3.3.5 only if modified to require immediate implementation of a catch cap.

John Lawless

Weymouth, MA

617.365.5003

**Joan O'Leary**

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**From:** Jgoodhart56@aol.com  
**Sent:** Tuesday, April 03, 2012 1:10 PM  
**To:** comments  
**Subject:** Herring

To Whom it May Concern:

I feel it is in the best interest of all fisheries participants, except those in the pair trawl business, to severely restrict or eliminate the pair trawl herring fleet. Their massive removal of forage fish and their enormous and indiscriminate by-catch threaten the recovery of many important fish stocks.

Thank you,

Capt. James C. Goodhart  
56 Boardman St.  
Newburyport, MA 01950

**Joan O'Leary**

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**From:** brandiellen@comcast.net  
**Sent:** Monday, April 02, 2012 10:43 AM  
**To:** comments  
**Subject:** Herring 100% coverage

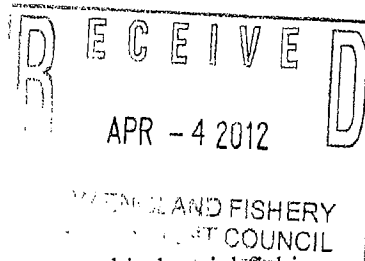
To whom it may concern

As a commercial fisherman, and a charter Capt. I think it is very important to have 100% coverage on all dragners wherever there are herring, and menhaden.

Thank you Capt. Dale Tripp



Attn.: Comments on Draft Amendment 5  
Paul J. Howard, Executive Director  
New England Fishery Management Council  
50 Water Street Mill #2  
Newburyport MA 01950



Dear Mr. Howard,

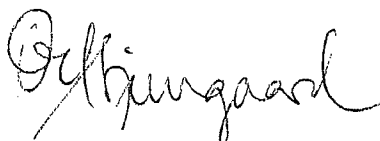
I am writing to express my concern about poorly managed industrial fishing and the damage it inflicts on the ocean ecosystem, especially to river herring. Populations of these fish have declined by 99 percent and are so depleted that they are being considered for protection under the Endangered Species Act.

As the council finalizes its revision to the Atlantic Herring Fishery Management Plan, I strongly urge you to approve a comprehensive monitoring and bycatch-reduction program that incorporates the following management actions:

- \* A catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery (Section 3.3.5, modified to require immediate implementation of a catch cap).
- \* 100 percent at-sea monitoring on all midwater trawl fishing trips in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life (Section 3.2.1.2 Alternative 2).
- \* An accountability system to discourage the wasteful slippage, or dumping, of catch, including a fleetwide limit of five slippage events for each herring management area, after which any slippage event would require a return to port (Section 3.2.3.4 Option 4D).
- \* A ban on herring mid-water trawling in areas established to promote rebuilding of groundfish populations (Section 3.4.4 Alternative 5).
- \* A requirement to accurately weigh and report all catch (Section 3.1.5 Option 2).

Thank you for considering my comments and for your continued commitment to improving management of the Atlantic herring fishery.

Sincerely,

  
\_\_\_\_\_  
Lexington, MA

April 4, 2012

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

RE: Comments on Draft Amendment 5

Dear Mr. Howard,

My name is Charlie Johnson and I am a rod and reel fisherman and operate a charter boat in Rhode Island. I attended your March 28<sup>th</sup> meeting on the herring management and although good things were proposed, I was disappointed that there was no talk of catch reduction.

For years the main focus has been to restore cod and haddock, halibut, striped bass and blue fin tuna and to increase whale population. But guess what the largest part of their diet is? Herring.

The stripers were restored because they were and are easy to raise in hatcheries. Now they're short of food and many are becoming sick because of lack of food. The haddock have started recovering because of closed spawning areas. Yet your own study has shown they have not developed properly because of lack of food. Gee, ya think maybe we took too many herring?

And River herring is a whole other issue, but our stocks are now a single digit percent of what I knew them to be 50 years ago in Rhode Island. Any protection for them at sea would be a help.

Rhode Island used to have mackerel almost year round. There were acres of mackerel on the south shore, harbors and bays all summer. Now I would challenge anyone to catch 1 mackerel in RI waters in the summer.

RI waters used to have many sand eels, but their numbers have also drastically declined over the years. The offshore halfbeaks and other baitfish that you would see on top of the water are for the most part gone, for reasons unknown.

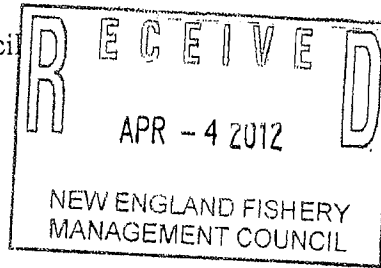
Currently whale and seal populations are on the rise. They are now eating an increased amount of herring. With the demise of other food fish, the herring catch needs to be reduced. The economic value of herring is low compared to the value of herring predators.

Lastly, I would like to see a permit class for people like myself who would only occasionally catch small quantities for bait.

Sincerely,

Capt. Charlie Johnson

Attn.: Comments on Draft Amendment 5  
Paul J. Howard, Executive Director  
New England Fishery Management Council  
50 Water Street Mill #2  
Newburyport MA 01950



Dear Mr. Howard,

I thank the NEFMC for considering measures designed to revise the Atlantic Herring Fishery Management Plan, and I strongly urge you to approve a comprehensive monitoring and management reform program that brings greater accountability and oversight to the industrial trawl fleet. At the minimum, the following actions must be approved:

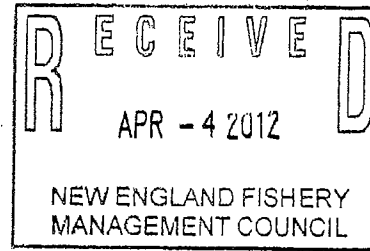
- 100 percent at-sea monitoring on all midwater trawl fishing trips (i.e., Category A& B vessels) in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life (Section 3.2.1.2 Alternative 2).
- An accountability system to discourage the wasteful dumping of catch, including a fleet-wide allowance of five slippage events for each herring management area, after which any slippage event would require a return to port (Section 3.2.3.4 Option 4D).
- No herring midwater trawling in areas established to promote rebuilding of groundfish populations (Section 3.4.4 Alternative 5).
- An immediate catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery (Section 3.3.5, Modified to require immediate implementation of a river herring catch cap).
- A requirement to accurately weigh and report all catch (Section 3.1.5 Option 2).

Sincerely,

*Carmen Lee* (CARMEN LEE)

*Gloucester, MA.*

Attn.: Comments on Draft Amendment 5  
Paul J. Howard, Executive Director  
New England Fishery Management Council  
50 Water Street Mill #2  
Newburyport MA 01950



Dear Mr. Howard,

I am writing about critical alternatives that must be approved in Amendment 5. I urge you most strongly to approve a comprehensive monitoring and management reform program that brings greater accountability and oversight to the industrial trawl fleet. These actions must be approved:

- 100 percent at-sea monitoring on all midwater trawl fishing trips (i.e., Category A & B vessels) in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life (Section 3.2.1.2 Alternative 2).
- An accountability system to discourage the wasteful dumping of catch, including a fleet-wide allowance of five slippage events for each herring management area, after which any slippage event would require a return to port (Section 3.2.3.4 Option 4D).
- No herring midwater trawling in areas established to promote rebuilding of groundfish populations (Section 3.4.4 Alternative 5).
- An immediate catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery (Section 3.3.5, Modified to require immediate implementation of a river herring catch cap).
- A requirement to accurately weigh and report all catch (Section 3.1.5 Option 2).

Thank you for considering measures designed to revise the Atlantic Herring Fishery Management Plan.

Sincerely,

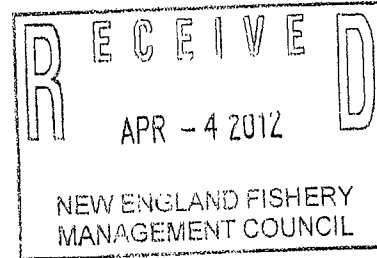


ANN WOLL

BAY VIEW, GLOUCESTER, MA  
and

CAMBRIDGE, MA

Attn.: Comments on Draft Amendment 5  
Paul J. Howard, Executive Director  
New England Fishery Management Council  
50 Water Street Mill #2  
Newburyport MA 01950



Dear Mr. Howard,

I am writing to express my concern about poorly managed industrial fishing and the damage it inflicts on the ocean ecosystem, especially to river herring.

Every year, states and communities throughout New England invest significant time and resources to restore their river herring runs. Many tireless citizens carefully shepherd migrating river herring by hand past obstacles in rivers. The New England Fishery Management Council must support, not undermine, these efforts.

When the council finalizes its revision to the Atlantic Herring Fishery Management Plan, it is critical that it approves a comprehensive monitoring and bycatch-reduction program that incorporates the following management actions:

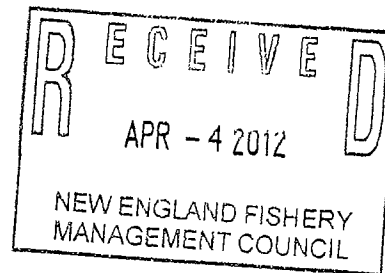
- A catch limit or cap on the total amount of river herring caught in the Atlantic herring fishery .
- 100 percent at-sea monitoring on all midwater trawl fishing trips in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life.
- An accountability system to discourage the wasteful slippage, or dumping, of catch, including a fleetwide limit of five slippage events for each herring management area, after which any slippage event would require a return to port.
- A ban on herring mid-water trawling in areas established to promote rebuilding of groundfish populations.
- A requirement to accurately weigh and report all catch.

Thank you for considering my comments and for your continued commitment to improving management of the Atlantic herring fishery.

Sincerely,

Jane Little  
Cambridge, MA.

Attn.: Comments on Draft Amendment 5  
Paul J. Howard, Executive Director  
New England Fishery Management Council  
50 Water Street Mill #2  
Newburyport MA 01950



Dear Mr. Howard,

I am most concerned about the badly managed industrial fishing, especially with regard to the herring population. Most Atlantic states now ban the harvest of river herring in coastal waters, even to the point of prohibiting children from netting one for bait. Yet astoundingly, no protections have been extended to these fish in the open ocean, where they are taken by the millions as profitable bycatch in the industrial fishery targeting a different species, Atlantic herring.

This is unacceptable and represents a significant setback in the ongoing efforts to restore alewife and blueback herring. Every year, states and communities throughout New England invest significant time and resources to restore their river herring runs. The New England Fishery Management Council must support, not undermine, these efforts.

As the council finalizes its revision to the Atlantic Herring Fishery Management Plan, I strongly urge you to approve a comprehensive monitoring and bycatch-reduction program that incorporates the following management actions:

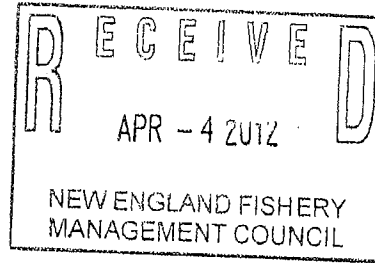
- \* A catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery (Section 3.3.5, modified to require immediate implementation of a catch cap).
- \* 100 percent at-sea monitoring on all midwater trawl fishing trips in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life (Section 3.2.1.2 Alternative 2).
- \* An accountability system to discourage the wasteful slippage, or dumping, of catch, including a fleetwide limit of five slippage events for each herring management area, after which any slippage event would require a return to port (Section 3.2.3.4 Option 4D).
- \* A ban on herring mid-water trawling in areas established to promote rebuilding of groundfish populations (Section 3.4.4 Alternative 5).
- \* A requirement to accurately weigh and report all catch (Section 3.1.5 Option 2).

Thank you for considering my comments.

Sincerely,

*Paul J. Howard*  
Paul J. Howard  
Salem, MA 01974

Attn.: Comments on Draft Amendment 5  
Paul J. Howard, Executive Director  
New England Fishery Management Council  
50 Water Street Mill #2  
Newburyport MA 01950



Dear Mr. Howard,

As a concerned citizen, I humbly urge the NEFMC to approve a comprehensive monitoring and management reform that brings greater accountability and oversight to the industrial trawl fleet.

Please approve:

- 100% at-sea monitoring on all midwater trawl fishing trips;
- an accountability system to discourage wasteful dumping of catch;
- no herring midwater trawling in areas that promote rebuilding of groundfish
- an immediate catch limit or cap on the total amount of river herring caught
- a requirement to accurately weigh and report all catch.

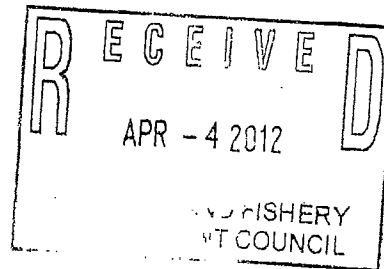
Thank you for your attention.

Sincerely,

*Dr. Robert Chew*

*9 Dornell St., Cambridge, MA 02138*

Attn.: Comments on Draft Amendment 5  
Paul J. Howard, Executive Director  
New England Fishery Management Council  
50 Water Street Mill #2  
Newburyport MA 01950



Dear Mr. Howard,

I am very concerned about the New England Fisheries Management Council Amendment 5, and I urge the NEFMC to approve at the minimum:

1. 100% at-sea monitoring on all midwater trawl fishing trips
2. an accountability system to discourage wasteful dumping of catch;
3. no herring midwater trawling in areas established to promote rebuilding of groundfish populations;
4. an immediate catch limit or cap on the total amount of river herring caught in the Atlantic herring fishery;
5. a requirement to accurately weigh and report all catch.

Thank you for your attention.

Sincerely,

A handwritten signature in cursive script, appearing to read "George Y. Cha".

George Y. Cha  
5 Willow Crescent  
Brookline, MA 02445



**F/V DARANA R**

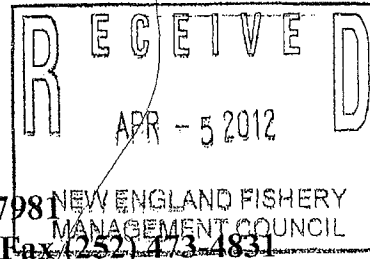
**James A. Ruhle**

**P.O.Box 302**

**Wanchese, North Carolina 27981**

**Telephone: (252) 473-3210**

Email [FVDaranar@aol.com](mailto:FVDaranar@aol.com)



Mr. Paul Howard  
New England Fishery Management Council  
50 Water Street  
Newburyport, MA 01550

March 27, 2012

Mr. Howard:

As long term participants in the traditional single boat bottom trawl Herring Fishery, we offer the following comments on Amendment 5 to the Atlantic Herring FMP.

3.1.5 Management Measurers-FMP Adjustments

Option 2 Require Dealers to accurately weigh all fish.

The majority of Herring landed are pumped out of vessels into tanker trucks or vat, (tub) trucks. Water is necessary to pump fish and will always vary in amount depending on many variables. Simply weighing a truck empty and then full will not provide an accurate fish weight.

The Council and NMFS should accept the calculation used by dealers and processing plants to determine weight of fish purchased. Regardless of type or size of trucks, a calculation from pounds to dollars is applied. i.e. 22 vat truck at 1800 lbs. per vat equals 39,600 lbs.

Processing plants and bait distributors randomly after removing water, weigh any number of vats on each truck and average the weight to calculate weight of fish being purchased.

Once there is acceptance to the above calculation then sub-option 2C becomes the next required action.

We do not support increasing the frequency of VTR and Dealer Reports.

The new requirement implemented in late 2012 requires all vessels to electrically report Herring catches and discards by area the day the fish are caught. This new reporting requirement should be sufficient to maintain weekly VTR and Dealer Report submissions. This new law was not yet in effect when Amend 5 document was created.

### 3.2.1 Catch Monitoring at Sea

The Pate/Touchtone Report clearly states that management actions implemented by the council and the agency have lacked sufficient review as to their effectiveness, and intended or unintended results.

Considering that beginning with the development of Amend 4 to the Herring FMP in 2008 the level both at sea observer coverage and dockside monitoring increased significantly for the Herring fishery, we recommend that the Herring Committee and the Council request the Herring P.D.T. to do a technical analysis on a vessel by vessel basis to determine the performance of each vessel in the fishery. We believe that the number of observed trips and the level of dockside monitoring combined with improved species identification protocols will provide data that would be superior to earlier years of observations and better determination of how the fishery currently performs.

Our rationale for this analysis would be to provide current, accurate data that would be used in the decision making process for Amend. 5.

From personal experience over many years of fishing we are confident that the Herring Fishery is the second cleanest fishery in New England behind only the lobster fishery.

It is our belief that significant by catch events occur NOT across the fleet, but with only a small number of vessels and often times the same vessels.

We suggest that the Council and the Agency utilize this analysis to provide an incentive to the fleet to fish responsibly and recognize those that consistently perform well with a level of observer coverage that meets the NEFSC recommended coverage.

Those vessels that have been identified with higher and more frequent by catch interactions would be required a higher level of Observer coverage until such time that they can demonstrate reduced by catch interactions.

#### 3.3.2.2.4 River Herring Monitoring/ Avoidance

We support Alternative 2-Option 4

Rationale-This winters mild conditions and above average sea temperature would have resulted in all options in AMED 5 with monitoring /avoidance areas missing

the mark by 1,000%. The only way to have a successful by-catch avoidance program is in real time. This seasons MADMF and SMAST Program will provide data to support long term by catch avoidance strategies in real time that can be extremely effective.

#### OTHER RECOMMENDATIONS

- 1- Separate by catch data prior to amendment 4 by increasing the threshold for directed herring trips from 1,000lbs. to 10,000 lbs (minimum) .

The current threshold of 1,000 lbs. does not differentiate between a mixed small mesh trip and a directed herring trip.

2. Require observers on directed herring trips to ask the Captain before sailing if there are any herring aboard and how many.

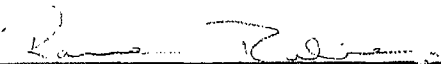
Rational-Herring that have been reported and landed, then taken back to sea to be discarded would have an explanation for discarding. i.e. poor quality, size, no market for sale.

It should be noted that herring vessels may take fish back to sea if trucks for off loading are not available when needed. As trucks become available, the fish carried over as well additional fish would be off-loaded.



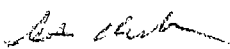
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James Ruhle



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Robert Ruhle



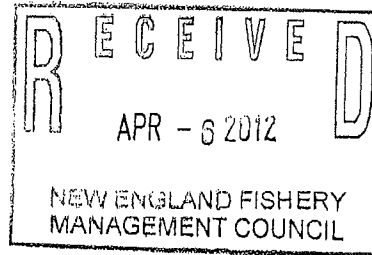
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Steven Ruhle



To: Mr. Paul J. Howard, Executive Director  
New England Fishery Management Council

From: Roger (Bo) Adams  
59 Crown Point Rd.  
Rochester, NH 03867



Mr. Howard,

I have held a federal tuna permit since 1992 in either the Harpoon Category or the General Category with the exception of one season in the late 90's. The purpose for my letter is to encourage your consideration of several critical alternatives in Amendment 5.

As you know this Amendment was initiated about 5 years ago as a result of fishermen and others whose livelihood depends on the various fisheries and tourism opportunities in the Gulf of Maine and Georges Bank. I can personally attest to how grim things were in the Gulf of Maine from 2002 through 2007. It was an empty ocean with very few whales or tuna to be seen. The steps taken 5 years ago have produced some very favorable results. Frankly the past three years have been much like the "good old days" back in the late seventies, though the eighties and into the 90's. It is of the utmost importance that we not take our eye off the ball and realize that the time is now for NEFMC to seriously consider and enact improved procedures in order to prevent losing any of the valuable ground that has been gained.

I believe these huge herring trawlers are the largest fishing vessels on the east coast. They are nothing short of an enormous vacuum cleaner that literally sucks up everything in its or their path. It is an indiscriminant fishery that kills millions of pound of unintended catch including haddock, cod, river herring and occasionally tuna. Their intended catch of ocean herring is without a doubt the major forage fish for the vast majority of all commercial fisheries as well as our ocean going mammals. These trawlers are terribly efficient. These traits demand more than self-reported weight estimations and I believe that the current observer time allotments on the sea are insufficient; leading to dramatic inaccuracies and it is unacceptable that in most areas dumping catches before they are sampled is still allowed. There are simply too many opportunities to bend the facts in favor of the

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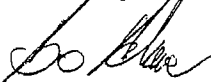
mid water trawlers. Lastly it is not conscionable to allow these trawlers to fish on the same grounds that the ground fishing fleet has been shut out of.

To these aforementioned points I ask that you approve management reform that will bring more and improved accountability and oversight on all large herring trawlers, specifically:

1. Implement 100% observer coverage regardless of the time of day for all Category A and B herring trawlers to ensure reliable data of intended catch and by catch (Section 3.2.1.2).
2. Institute a trip termination provision after 10 dumping events in Closed Area 1. There needs to be a disincentive so that the legitimate exceptions are not abused as I believe they have in the past (Section 3.2.3.4 Alternative 4C).
3. Prohibit midwater trawlers in the herring fishery from accessing the Closed Groundfish Areas (Section 3.4.4 Alternative 5). These trawlers were allowed in under the mistaken assumption that they could not or would not catch groundfish, how wrong we all were! It is incomprehensible that these mid water trawlers are allowed to tow their tiny mesh gear through grounds that are now off limits to the ground fish fleet. (Section 3.4.4 Alternative 5).
4. Implement acceptable procedures that will require weighing of all catch across the fishery (Section 3.5.1 Option 2). I cannot understand how this important fishery of a stock that the ocean fishermen and tourism based businesses depend on is not already required to weigh its' catch. Again this practice is incomprehensible to have landing data based on unverifiable estimations by boat captains and fish dealers!

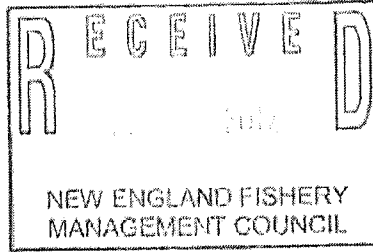
Thank you Mr. Howard for your time and anticipated assistance on this crucial subject,

Sincerely,



Bo Adams  
F/V Cindy K

Paul J. Howard  
Executive Director  
50 Water Street, Mill #2  
Newburyport, MA 01950



April 6, 2012

Dear Paul,

My name is Raymond W. Kane and wish to submit written comment on Sea Herring Draft Amendment 5.

1. Catch Weighing Section 3.1.5
  - a. Primary Decision
    - i. Support Option 2: Dealers must accurately weigh all landed fish
  - b. Secondary Decisions
    - i. Support Sub-Option 2A: annual documentation of catch composition estimation methodology
    - ii. Support Sub-Option 2B : Weekly\*\* reporting of catch composition estimation for each individual landing
    - iii. Support sub Option 2C: Dealer participation in SAFIS with vessel error-checking through Fish-on-Line
2. At-Sea Observer Coverage Section 3.2.1
  - a. Primary Decision
    - i. Support alternative 2: 100% At-Sea Observer coverage on Limited Access Herring Vessels ( Amended to include Category A and B only )
  - b. Secondary Decisions
    - i. Support Funding Option 2: Federal and Industry Funds
    - ii. Support Service Provider Option 1: ( No Action )
3. Measures to Address Net slippage Section 3.2.3
  - a. Primary Decision
    - i. Support Option 4 C: Dumping prohibition with limited exceptions and accountability measures applied when exceptions are exercised and catch is dumped

4. Measures to Address River Herring by catch Section 3.3
  - a. Primary Decision
    - i. Support Modification of Section 3.3.5 to require immediate implementation of a river herring catch cap
    - ii. Support Alternative 3, Option 1: Closed Areas
  
5. Measures to Address MWT Access to Groundfish closed Areas Section 3.4
  - a. Primary Decision
    - i. Support Alternative 5: Closed Areas
  - b. Secondary Decisions
    - i. Support bottom-contact prohibition and bottom-contact monitoring as Required parameters of any EFP allowing experimental access to GFCA's
    - ii. Support full observer coverage (>100% if necessary) and onboard catch weighing as required parameters of any EFP
    - iii. Support ground fish by catch triggers or EFP-specific caps on ground fish as required parameters of any EFP

In closing, I question whether this highly efficient gear type would have ever been permitted by NEFMC after the NEFSC down graded the herring assessment from 1.2 million metric ton to 660,000 metric ton. Furthermore, I ask the NEFMC implement a herring management plan, something it has lacked in the past 12 years, that is amenable to thousands of stake holders and the entire marine ecosystem.

Sincerely,

*Raymond W Kane*

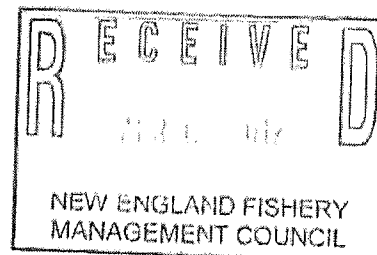
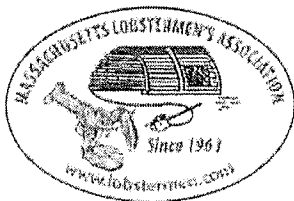


Massachusetts Lobstermen's Association, Inc.

8 Otis Place

Scituate, MA 02066-1323

Bus. (781) 545-6984 Fax (781) 545-7837



April 5, 2012

Paul J. Howard, Executive Director  
50 Water Street, Mill #2  
Newburyport, MA 01950

Re: Comments on Draft Amendment 5

Dear Paul,

The 1300 member Massachusetts Lobstermen's Association would like to submit the following comments regarding Amendment 5 to the Fishery Management Plan for Atlantic Herring.

Our Massachusetts lobster fishermen depend heavily on having enough Atlantic Herring in order to conduct their fishing operations. Most of their access to supply comes from vessels based in Massachusetts. This means that they depend on mid-water and pair trawlers. While we are not enamored with these types of operations, we nevertheless understand that these boats are our main lifeline when it comes to herring bait. Little if any of Purse seine herring bait, which are mostly from Maine, gets down to supply our boats. We therefore, first of all want to insist that these vessels be allowed to continue to fish, certainly, within the bounds of the quotas set by NMFS but also without the trappings of too difficult a set of restrictions. If the rules or restrictions push these vessels too far, the cost factor increases and in turn the cost of buying the product gets pushed higher, and our fishermen get hurt even more. We therefore ask you during your deliberations on the Amendment, to take these thoughts into consideration.

Our further comments are as follows:

**Carrier Vessels sec. 3.1.3.2**

No Comment

**Transfer of Herring At Sea sec 3.1.3.3**

Option 1- We **support** this option to ensure proper documentation of what is being caught is reported.

Option 2- We **oppose** limits as to what herring vessels can transfer at sea. If any herring vessel has bait, it should be allowed to transfer those fish, at sea, if necessary but should keep records of what has been transferred.

Option 3- We **oppose** this option in that it states that "Non permitted vessels (lobster boats?) would be prohibited from receiving herring at-sea for bait"

**Trip Notification sec 3.1.4**

No Comment

**Reporting for Permitted Herring Dealers sec 3.1.5**

Option 1 - We **support** this option. Dealers should report haddock landings as they should but we also support being able to sell them. The fish are dead and to waste them would be a shame.

**Changes to Open Access Permits in Mackerel Vessels sec 3.1.6**

No Comment

**Alternatives to Allocate Observer Coverage of Limited Access Herring Vessels sec 3.2.1**

Alternative 2- We **support** this alternative only if the observer coverage is at a reasonable cost. Remember here, that this cost will be added to the cost of bait sold to our fishermen. We actually believe that if the NMFS wants this much observer coverage then the NMFS should pay for it. How about making those who are so adamant that this be done pay for this. If the Herring fleet must pay or even NMFS, it should be similar to what is paid on the West Coast such as under \$400 per day! Do we really need 100% observer coverage? Are we putting more precise information on this fishery than NMFS does for other fisheries, noting that nothing is ever perfect? For example, do we observe what is taken by the recreational fishery?

**Improving Sea Sampling sec 3.2.2**

Option 1- We **support** no further action on this because it is adequate as is now.

**Net Slippage sec 3.2.3**

No comment – This is “picky” to the extreme!

**Maximized Retention Alternative sec 3.2.4**

No comment

**River Herring Monitoring/Avoidance sec 3.3.2**

Alternative 2 – We support this but only to a degree. The Herring fleet has indicated that it is willing to stay away from River Herring “hot spots” if NMFS can adequately identify those areas. This is the attempt by the Herring fleet to cooperate in avoiding a River Herring by-catch. Work with them on this. We all know that the River Herring problem is not and has never been the fault of the Atlantic Herring fleet but rather the fault of river passageways, water quality issues and predation by other species. The Atlantic Herring fleet should not be blamed or persecuted by other fishing sectors (Recreational, Tuna, Environmental interests) who claim these vessels are the cause. Still, the Atlantic Herring boats should be allowed to do their part for restoring the River Herring stock but the entire focus for restoration should not be loaded on these fishermen.

**Monitoring and Avoidance sec 3.3.2.2**

See above comments 3.3.2

**Options still Under By-Catch Avoidance for River Herring sec 3.3.2.2.4, 3.3.3**

See above comments 3.3.2

**More Options on By-Catch sec 3.3.3.2**

See above. We **oppose** closed Areas unless the Atlantic Herring fleet agrees to some temporary closed areas.

**Alternative For Herring Fishermen in Groundfish Closed Areas sec 3.4.1**

We **support** Alternative 1. No Action. Allow these boats to fish in these areas but then they should report all fish taken. They are not targeting other species and if NMFS closes these areas to Herring boats and then closes other Areas to them for other reasons and quotas, where can they fish? We still need the bait!!

**Alternative 100% Observer Coverage sec 3.4.2**

See above comments 3.2.1 comments on observer coverage

**Alternative Closed Areas sec 3.4.4**

See above comments 3.4.1

**Other**

We **support** the proper weighing provisions to better provide for accountability of what has been landed. The Herring industry/buyers agree with this as do we.

In summation, the Massachusetts Lobstermen's Association must reiterate that the herring bait must be made available to our fishermen and any provisions that would restrict our supply beyond the limits which we feel are already limited with the quota management system, will be vigorously opposed by our lobster industry. We must admit that we feel much of this Amendment is aimed at "bashing" the Herring boats that provide us with our herring bait. We also believe that these other sectors that are so opposed to these operations do not care if they cause a severe hardship in availability or costs for our Massachusetts lobster fishermen.

We sincerely hope and trust that you, the Federal Fishery Council and the Federal Fisheries Service will weigh all the alternatives and options and will make recommendations or decisions which will allow our Herring lobster bait to be available to our lobster fishermen.

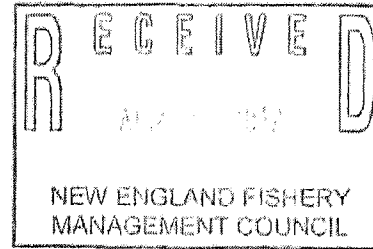
Respectfully yours,

*William Adler*  
Executive Director



April 4, 2012

**RE: Comments on Draft Herring Amendment 5**



**A. Background Information**

I am a husband/father/grandfather, veteran and American citizen, 77 years young. I am also a world wide recognized PhD. ( tree physiology( Cornell University, 1964). I have worked for the US and Canadian governments in the areas of pollution effects on plants and been an independent consultant saving trees across this country and around the world ( one at a time) for the past 35 years. I do know and support the value of proper science appropriately applied.

I have been involved with the fishing industry on Cape Cod since the early 1950's to the present moment and plan to be involved until I can no longer function. I know the industry from the eyes of a child, commercial long lining, long raking, jigging for cod, steamer and sea worm digging, and scalloping. I know the recreation end of fishing, being an avid fly fisherman pursuing Stripers, blues, tuna, scup, silver perch, to name a few species.

I write today from a perspective that touches on *all* of these facets of my life to date. Mainly though, as it relates to my grandchildren and the well being of our Planet Earth and how we are currently inappropriately manipulating the available data ( some accurate and some suspect).

**B. DEFINITION: MONSTER MID WATER TANDEM TRAWLERS/ MONSTER NETS TECHNOLOGY (MMWTT/MNT) – Is that REALLY “fishing” as it has been defined for EONS??**

*I strongly state NO!* I have no problem with *appropriate* hand- set nets which have been used to catch fish to feed the world's population since before biblical times. The use of boats and even huge boats is also appropriate when kept in check. The use of electronic methods to identify fish? Again appropriately utilized I have no problem.

So what is my argument with the monster tandem trawler technique? The operative words are *Monster Mid Water Trawlers and Monster Nets* hooked together as a TWOSOME. The net which is towed between the vessels which are the largest and most advanced on the East Coast being up to 165 feet in length, is 300 hundred feet ( the size of a football field and of small mesh size.) It can be set at any depth the very intelligent captain chooses. The net combined with electronic gear in the hands of these captains can almost identify the type scale on a fish they are so sensitive. This technology is being employed to butcher unsuspecting fish with the single goal of MONEY!

Why is this harmful you ask?? I will tell you why. The HUGE volume ( often 500,000 pounds of sea life per tow and they make MANY Tows ) of Sea and River herring, Striped Bass and any other form of sea life caught or destroyed by the immense negative effects of such a HUGE and alien NET intrusion into an otherwise BALANCED ecosystem. This act totally devastates and creates IMBALANCE in that system with long term effects yet to be determined. They do not leave any stock behind as forage or for reproduction. We are only just now experiencing the short term lethal effects of this technology. The “NET” does not discriminate it kills and maims all of the fish in it. The industry has developed this made up word called “Bycatch”! “By-catch” is defined as those fish that “got in the way” of this Monster small mesh net. The MMWTT owners, you know, treat them like “collateral damage” likened to civilians killed in a war. Or like “clear cutting a forest “ and leaving no seedlings for regrowth. We can see the immediate effect but have no clue to the long term

negative effects on our Planet Earth. They "shoot" these still live fish back into the ocean out of these "water cannons" with great pressure, as "bycatch i.e.trash". They have no reverence or respect for the sea life or Planet Ocean upon which they depend on for their VERY livelihood. They do not recognize that in the process of the MMWTT they are rapidly destroying that very part of Nature, Ocean Planet which is necessary to the long term survival of all humankind on Planet Earth!

I want you all to realize this simple fact. It is that the technology is ahead of the legislation process. We need time to evaluate it. We KNOW the short term effects. These people have every right to "make a living". They do NOT have a right to destroy that which supports them and all of humanity in the process!! Just as in the auto industry ( a very important section of our economy), if they have a "bad component". A recall is ordered and a "fix" is incorporated. In other words, they are being accountable for their actions. This is more difficult with a component of Nature as so little is truly known. It is very hard to "prove" a point especially when suspect data is being manipulated by all sides. The Monster Trawler's Industry know and utilize this factor as a stalling technique.

The reason that the 2008 fish stock data was so inaccurate is simple- the "human scientific assumption" fed into the computer was inaccurate. It did not take into account the debilitating effect of this Monster technology on fish stocks. To err is human. But not to correct that error is indefensible. We know how to "fix" it. Let's get on with it. I give a broad outline of how to achieve those changes in the following section (C ) of this document.

People wake up - we are in a war for the survival of life as we have known it. The good news is that we CAN and must do something about this NOW!! Do we need another "Silent Spring" authored by Rachel Carson in the 50's but this new one would be entitled "Silent Oceans" by Who Cares?? I do!! We, the people, have an opportunity to truly be positive shepherds of Planet Ocean upon which all life on Planet Earth is dependent!!

There is a direct link to the sharp decline of ALL sea life with the introduction of this MONSTER MID WATER TRAWLING TECHNIQUE (MMWTT in the late 1990's). Everyone involved in the production of sea food acknowledges that all of the fish stocks are in severe decline. That data is available and irrefutable. Let's utilize it in a positive effort.

### ***C. PROTOCOL to determine the effects of the MONSTER MID WATER TRAWLING TECHNIQUE (MMTT) on the health of Fish Stocks***

***The null hypothesis: The Monster Mid Water Trawling Technique (MMTT) is a major immediate cause for the decline of all fish stocks in the East Coast fishery***

1. **Immediately** place a moratorium on this technique for three years in the USA.
2. Using available proven methods and valid data, tabulate the stocks now available concentrating on the Sea and River herring, Striper, haddock, Cod, squid.
3. In the interim, pass Amendment 5 in its entirety as currently written.
4. After 3 years of data evaluation the scientific community will be able to define the role of MMTT on the fish stocks. With these data they can then more closely monitor them or ban the technology completely which I advocate.
5. Consult ( by means of a scientific questionnaire) with the real fishermen in the field *initially* ( not after the fact) to evaluate any anecdotal data they will have which can be substantiated by actual scientific testing which will provide some immediate answers or lead the way to further valid research

directed at preserving and enhancing fish stocks into the far future by also studying the micro fauna and flora in the ocean and the estuaries which are the nurturers of all sea life.

I thank you for allowing me to state my position and for allowing transparency to this most important issue which will have immediate ( we know them) and long range effects ( yet to be determined) on our well being as humankind.

Arthur C. Costonis, PhD.  
PO 458  
West Chatham,MA 02669

(508) 945 - 3611





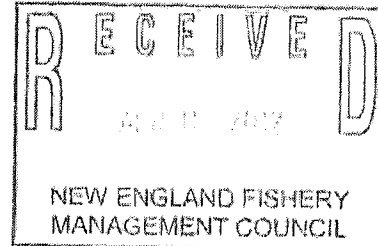


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April 6, 2012

Capt. Paul J. Howard  
Executive Director  
50 Water Street, Mill #2  
Newburyport, MA 01950  
By Email to: [comments@nefmc.org](mailto:comments@nefmc.org)



Re: **Comments on Draft Amendment 5**

Dear Captain Howard:

On behalf of the 150 employees of our family-owned business, Lund's Fisheries, Inc., and the independent fishermen who also supply Atlantic herring to our processing facility in Cape May, New Jersey, we thank you for the opportunity to comment on Draft Amendment 5 (A5) to the Fishery Management Plan (FMP) for Atlantic Herring.

We understand that the National Marine Fisheries Service (NMFS) will be publishing a Draft Environmental Impact Statement (DEIS) on A5, on April 20, 2012, and that we will have an additional opportunity to comment on that document, which may be different than the Public Hearing Document (PHD); the source of these comments. We reserve the right to provide additional or amended comments to the Council and NMFS once we have the opportunity to review the DEIS.

Our comments follow the order of issues and options outlined in the PHD:

**Sec. 3.1 PROPOSED ADJUSTMENTS TO THE FISHERY MANAGEMENT PROGRAM**

**Sec. 3.1.1 Regulatory Definitions (Transfer at Sea and Offload)**

We support the establishment of regulatory definitions for *transfer at sea* and *offload* as an intent to clarify the regulatory definition of existing fishing operations, including clarifying that pair trawling does not represent a transfer at sea, increase the potential for accurate reporting in the fishery and minimize the potential for catch to be double-counted.

**Sec. 3.1.2 Administrative/General Provisions**

We support the proposed regulatory change that would clarify that vessels working cooperatively in the herring fishery are subject to the most restrictive possession limit associated with any of the vessels.

The amendment refers to “paired purse seine operations”, which is a description that we are not familiar with in the Atlantic herring fishery; traditionally, any purse seine skiff being used to set a purse seine has been considered part of the purse seiner itself and not a “paired vessel.”

We support the amendment’s intent to make VMS power-down provisions consistent with the multispecies, scallop and surf clam/ocean quahog fleet and allow VMS units to be powered down after the issuance of a Letter of Exemption (LOE), if the vessel is expected to be out of the water or not fishing for an extended period of time.

We support the establishment of a new Federal At-Sea Herring Dealer permit for carrier vessels or other vessels selling Atlantic herring to any entity since the intent is to improve reporting in the fishery. We encourage the agency to ensure that double-counting of landings is minimized through this change.

### **Sec. 3.1.3 Measures to Address Carrier Vessels and Transfers of Atlantic Herring At-Sea**

We support 3.1.3.2 Option 3, which would provide flexibility for herring carriers to either utilize a VMS for declaration, thereby eliminating the minimum seven-day enrollment period and allow for engagement in other activities, or maintain the status quo (minimum seven day enrollment period with LOA restrictions), which would accommodate smaller carrier vessels that do not utilize VMS.

We support 3.1.3.3 Option 1, which would make no changes to current provisions regarding the transfer of fish at sea. It is our understanding that current reporting requirements are adequate to determine and segregate catches and allow for the transfer of herring at sea to vessels without a herring permit, for personal use as bait.

### **Sec. 3.1.4 Trip Notification Requirements**

We support a combination of 3.1.4.2 Option 2 and 3.1.4.3 Option 3, which would expand and standardize current trip notification requirements throughout the herring fishery, as we understand the proposal. We understand that Option 2 would not reach Category D vessels fishing in Area 2 (because the current language stems from that implementing the haddock catch cap) and, therefore, why Option 2 is limited only to fishing for herring with midwater trawl gear. For the purposes of this amendment, however, all areas and gear types should be considered as part of these notification requirements.

Option 3, however, seems to include all fishing activity in Area 2, and in other herring management areas, and require both observer and enforcement notifications regardless of gear type used. It is our understanding that the small mesh bottom trawl fleet can also take river herring as an incidental catch, not only in the Gulf of Maine but also in Area 2 during the winter months, so it only makes sense that all vessels working in the directed herring fishery, whether it be with an A, B, C or D permit, be required to both call for observers before fishing and notify NMFS law enforcement before landing, so that monitoring activities, both at sea and shoreside, can provide the most complete picture of what is being caught and landed in the fishery.

Based upon herring fishery landings and other data that has been reviewed during the development of Amendment 5, our understanding is that the number of Category D vessels that would be regulated under this change, and others proposed in this amendment, would be less than 10% of the number Category D permits issued.

Specifically, Page 6 of the PHD tells us that 2,258 Category D herring permits were issued in 2010 while Table 49, at page 200 of the Council's DEIS tells us that less than 100 of these permit holders landed herring in recent years.

There seems to be a clear need to rationalize the number of Category D herring permits that are being issued by the agency. We strongly support a requirement that all Category D permit holders have VMS on board, when engaged in the directed fishery for herring, and we anticipate that the number of herring Category D permits applied for would likely drop dramatically if this requirement were imposed. We do not see a VMS requirement as a significant economic burden on a vessel today and expect that most of these 100 Category D permitted vessels landing herring may already be required to have VMS on board through other permit requirements.

### **Sec. 3.1.5 Reporting Requirements for Federally Permitted Herring Dealers**

We support 3.1.5.2 Option 2, which would require dealers to accurately weigh all fish, and *Sub-Option 2B*, requiring dealers who do not sort by species to document, for individual landing submissions, how they estimated the relative composition of a mixed catch, to facilitate both quota monitoring, incidental catch analysis and cross-checking with other data sources.

We are opposed to 3.1.5.2, *Sub-Option 2C*, which would require dealers to obtain vessel confirmation of SAFIS transaction records to minimize data entry errors at the first point of sale. This proposal seems to be focused on minimizing discrepancies between vessel hails (an estimate of what is on board) and actual amounts of herring that is purchased by dealers. It places fishermen and dealers in a potentially adversarial, competitive regulatory posture that should be reserved for the Agency, as we understand what is being proposed.

If catch is weighed and sorted after landing, dealer reports should become the primary data source for quota monitoring by the Agency, as we understand to already be the case today. Weighing and sorting will make dealer reports more accurate than they are today and eliminate the need for fishermen and dealers to compare their reports, and put fishermen in a position so that they could be penalized if estimates and actual weights vary, which they will certainly continue to do.

### **Sec. 3.1.6 Changes to Open Access Permit Provisions for Limited Access Mackerel Vessels in Area 2/3**

We support 3.1.6.2 Option 2, which would establish a new open access herring permit for limited access mackerel fishery participants, in Areas 2/3 only, who do not have a limited access herring permit. This permit would be associated with a 20,000 pound possession limit for herring and would assist these vessels by providing a reasonable incidental catch allowance of herring to allow them to be able to fish for mackerel and may reduce discards of herring. This amount equates roughly to the 25,000 pound mackerel incidental catch allowance, provided by the MAFMC for vessels fishing for herring, in all herring management areas, which was established in Amendment 11, the mackerel limited access amendment.

We also urge the Council to begin now to plan for allocating a significant set-aside of Atlantic herring, and explore other options during the upcoming specifications process, such as taking days out of the herring fishery, to facilitate an Atlantic mackerel fishery in the future that is not severely limited by lack of availability of Atlantic herring, as is the case this year.

This year, the expiration of the Area 2 herring quota will keep more than 50 million pounds of mackerel from being harvested, at the same time that herring continue to be widely available in Area 2, according to accounts we have received from vessel captains. Many vessels are tied up today due to this fact and millions of dollars of wasted mackerel quota will not be taken due to the failure of the Agency and the NEFMC to set-aside herring quota for this purpose, as we requested when the current specifications were established.

We estimate that a 10,000 metric ton set-aside may be adequate for this purpose, given the size of the current mackerel quota, and since the herring-to-mackerel mixing ratio can often be as much as 30%. It is our hope that the ongoing assessment will provide an opportunity to return the Area 2 quota to a level exceeding 30,000 metric tons, as has been the case in the past, to facilitate a mackerel fishery in the future.

### **Sec. 3.2 CATCH MONITORING: AT-SEA**

#### **3.2.1 Alternatives to Allocate Observer Coverage on Limited Access Herring Vessels**

Throughout the development of Amendment 5, we have argued that the herring fishery should not be singled out as being required to pay for excessive levels of observer coverage, beyond what the Agency and Council may prioritize through the SBRM process; a treatment similar to other fisheries managed by the Council.

We have taken this position because we believe that the herring fishery is one of the 'cleanest' fisheries in the region, and that this fact continues to be borne out by the data coming out of both the at-sea observer program and the shoreside monitoring program, a program that we believe should be continued in the region.

We have heard herring PDT members say that there is a limit as to the precision and accuracy of catch data accumulated through the observer program, even if the coverage level were to be at 100%, and have heard members of the scallop PDT state that observer coverage levels of about 30% in that fishery are adequate and that 100% observer coverage is unnecessary to satisfactorily monitor the scallop fishery, another regional fishery that we are active in.

Even so, we and the majority of other Category A-permitted herring vessels owners are willing to support observer coverage levels of 100 per cent in the herring fishery, for a limited period of time, because we remain convinced that the data will continue to show that incidental catches in this fishery are not of significant biological concern to haddock, shad, river herring or any other regional fishery stocks. We are taking this position as a challenge to our detractors, who so far have shown no interest in the actual data coming from current monitoring programs and who continue to make unsubstantiated claims about how the herring fishery operates. We will take observers at a 100% rate to continue to demonstrate that the herring fishery is a responsible fishery.

We take this position with a couple of caveats, however. First, we do not support maintaining 100% observer coverage levels in the herring fishery forever since we do not believe this coverage rate is necessary and because the expense can be significant. We suggest that a 100% requirement be temporary and only last two years, after which time the PDT should be tasked to analyze the data and report to the Council as to whether or not this level of coverage is necessary to adequately monitor the herring fishery in the future.

Second, we are only willing to purchase observer coverage, beyond those levels that may be allocated through the SBRM process and up to 100%, if the daily cost can equate to the \$325 a day rate paid by the West Coast H&G fleet, a fleet whose observer coverage rates have been suggested as a model for the herring fishery during the development of Amendment 5 by those who argue that we are under regulated and operating unsustainably. We are opposed to paying the \$1200 a day rate calculated by the observer program since this represents a cost that would not be sustainable in the low value Atlantic herring fishery.

Third, we only support a temporary, 100% observer program in the herring fishery if the program would authorize the Agency to provide a vessel with a waiver if a Federal observer, or an observer from an approved observer service provider, is not available for a particular trip. We simply cannot afford to have our vessels tied up if an observer is not available to us for some reason and we are willing to both take and pay for an observer on that trip.

### **Sec. 3.2.2 Management Measures to Improve/Maximize Sampling At-Sea**

We support the addition of the provisions listed in Sec. 3.2.2.2, which are intended to improve sampling by observers at-sea and we understand that many of these provisions are already in place; these include requirements for a safe sampling station, requirements for 'Reasonable Assistance', requirements to provide notice, requirements for trips with multiple vessels, improving communication on pair trawl vessels and providing visual access to the net and codend. It is our understanding that the relationship between the Federal observers that have been on our vessels over the past few years and our fishing captains is excellent and we have attempted to cooperate with every request made to us by the observer program throughout this period of time.

### **Sec. 3.2.3 Measures to Address Net Slippage**

We support Sec. 3.2.3.2 Option 2 requiring the use of a released catch affidavit for 'slippage events' and understand that these affidavits are already in use, with the support of vessel owners and captains.

We are opposed, however, to the continued application of the Closed Area 1 Sampling Provisions (Sec. 3.2.3.3), either within Closed Area 1 or elsewhere, because of the requirement that all fish be brought on board for sampling and inspection by the observer. As we have repeatedly pointed out during the development of Amendment 5 there are significant operational restrictions that make it impossible, or dangerous, to bring the pump and codend or brailer over the rail during fishing activities on midwater trawl fishing vessels. Our captains tell us that the observers have no problem seeing what remains in the net after pumping, while the net remains alongside the vessel and, as we indicate above, our captains have no problem providing visual access to the net and codend so that the observer can do his or her job.

We are strongly opposed, however, to all of the options listed in Sec. 3.2.3.4, Options 4A through 4D (proposing catch reduction and trip termination), as being simply punitive in nature and not being constructive to the ongoing cooperation between our captains and the observers on our vessels. In addition, we urge the Council and the Agency to repeal the Closed Area I regulations since there is no indication that incidental catches in Closed Area I differ significantly from those in other areas where the herring fishery operates and due to the fact that there is no data to indicate that the herring fishery is having any significant mortality effect on any groundfish species, either inside or outside of Closed Area I.

It is important, however, to retain in regulation that fish can be released throughout the herring fishery if the vessel operator finds that:

1. Pumping the catch could compromise the safety of the vessel;
2. Mechanical failure precludes bringing some or all of the catch aboard the vessel; or
3. Spiny dogfish have clogged the pump and consequently prevent pumping of the rest of the catch.

Finally, as we all know, the Council's habitat and groundfish committees are moving towards either eliminating Closed Area I or modifying the area due to its lack of relevance today as either a groundfish protection or habitat protection area, making regulations specific to the area equally irrelevant to managing the herring fishery today or in the future.

#### **Sec. 3.2.4 Maximized Retention Alternative (Experimental Fishery)**

We support Sec. 3.2.4.1, the no action alternative. Herring vessels would continue to operate under the regulations and possession limits for any fisheries for which they possess permits. Amendment 5 would add other regulatory changes, which we could support consistent with our comments, and would aid observers in their responsibility to see and sample catches.

The herring fishery has taken place in this region for more than 100 years and was the first fishery to agree to hard quotas, more than a decade ago, with the approval of the Federal FMP by the Council and Agency, in 2001. The idea that the herring fishery should be operated as an experimental fishery has been suggested by advocates who clearly would like to eliminate the majority of the fishery and the vessels in it. This proposal only has punitive value and should be summarily rejected by the Council.

### **Sec. 3.3 MANAGEMENT MEASURES TO ADDRESS RIVER HERRING BYCATCH**

#### **Sec. 3.3.2 River Herring Monitoring/Avoidance**

The public hearing document tells us that the long-term goal of this section of the proposed amendment is to adopt river herring bycatch avoidance strategies in the time and areas where interactions with the herring fishery are observed or anticipated.

At the same time, the Magnuson-Stevens Fishery Conservation and Management Act's National Standard Nine requires that "*conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.*" National Standard One requires that "*conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield (OY) from each fishery for the United States fishing industry.*" The Atlantic herring fishery is not considered overfished, nor is overfishing occurring, so maintaining OY in the fishery must be a Council priority.

We agree with the amendment's goal, since it has now become clear to us that minimizing the incidental catch of alosine species has recently become both a public and a Council interest and we recognize our duty under the law to reduce the incidental catch of these fish.

As this amendment has developed over the last few years, however, we have come to the realization that most of the river herring monitoring and avoidance strategies proposed by the Council in the amendment do not recognize the temporal and spatial variations dictating where river herring will be from year to year, or even from day to day, and that the extensive areas that are proposed to be closed threaten our ability to continue to catch herring, either to provide an important baitfish for the region's lobster and crab fisheries or to export high quality, nutritional herring for human consumption when international markets are available to us under favorable terms.

Consequently, during the past two years, we have been working with other boat owners, organized as the Sustainable Fisheries Coalition (SFC), and in partnership with the Massachusetts Division of Marine Fisheries (DMF) and the UMASS Dartmouth School of Marine Science and Technology (SMAST), to replicate a bycatch avoidance project already in use in the scallop fishery, to reduce the incidental catch of yellowtail flounder; an approach recognized as effective by this Council.

Our project, funded for the past two years through the National Fish and Wildlife Foundation, and with recent financial support from the Nature Conservancy to allow for the participation in the project by small mesh bottom trawl fishermen, is already working to create awareness of the issue within the fleet and direct effort away from where river herring species are known to be on a daily, real time basis. At this time, we are seeking additional funding through the MAFMC RSA program, so that this low cost, real time program can continue into the next fishing year. This program includes a goal of monitoring 50% of trips that are landed, so that incidental catches can be identified and quantified.

Within this context, we support Sec. 3.3.2.2.4 Option 4, a two-phase bycatch avoidance approach based on the SFC/SMAST/DMF project, as the only option that will work to reduce the incidental catch of river herring in the herring fishery and allow for the continued production of optimum yield from the Atlantic herring resource. The project should involve all vessels directing on Atlantic herring, including Category A, B, C and D permit holders. VMS is essential to the success of this project and therefore, all Category D permitted vessels directing on Atlantic herring should be required to have VMS on board.

#### **Sec. 3.3.5 River Herring Catch Caps**

We do not support the Council considering a biologically-based river herring catch cap through a framework adjustment to the herring FMP or the herring specifications process with this amendment. It is our understanding that the PDT has not made a recommendation for a catch cap because there is insufficient information upon which to base one. The relative mortality effects of incidental catches in the herring fishing, and would be critically important to understand before setting a biologically-based catch cap.

#### **Sec. 3.4 MANAGEMENT MEASURES TO ADDRESS MIDWATER TRAWL ACCESS TO GROUND FISH CLOSED AREAS**

As stated above, we believe that there is no relationship between incidental catches in the Atlantic herring fishery and the groundfish closed areas. The GFCAI provisions (CFR §648.80) should be repealed upon implementation of this amendment for this reason and access to the groundfish closed areas should be retained for both herring midwater trawlers and purse seiners, through a LOA issued by the agency, as had been the case for many years.

In response to a previous legal challenge to midwater trawlers' rational access to GFCAI and other mortality closures, in a brief to a Federal court in June 2009, Agency attorneys wrote, "*even if bycatch in the herring fishery (was) hundreds of times the level suggested by the data, then there would be no compelling reason to suspect that haddock or other groundfish stocks (are) imperiled.*" The Agency also clarified in its brief that, "*by contrast, the directed groundfish fishery's total allowable catch of haddock is... 500 times the (existing) herring bycatch cap*" and "*for those stocks that are undergoing overfishing, the bycatch in the herring fishery is so miniscule that the measures sought (evicting herring vessels) could not prevent overfishing of these stocks.*"

In conclusion we strongly support Sec. 3.4.1 *Alternative 2 – Pre-Closed Area I provisions*, which would reestablish criteria for midwater trawl vessel access to the groundfish closed areas based on provisions prior to the implementation of the Closed Area I rule.

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Thank you for your attention to and your consideration of our comments. We look forward to continuing to work with you and the members of the Council towards the implementation of reasonable, additional monitoring requirements in the Atlantic herring fishery, through the implementation of Amendment 5, to ensure a sustainable Atlantic herring resource and fishery for many years into the future.

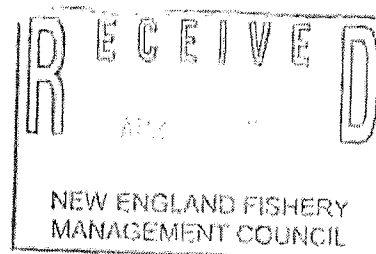
With best regards,

*Jeff Reichle*

Jeffrey B. Reichle  
President



Mr. Paul Howard  
New England Fishery Management Council  
50 Water Street  
Newburyport, MA 01550



March 27, 2012

Mr. Howard:

We the undersigned representing the traditional single boat bottom trawl Herring Fishery, offer the following comments on Amendment 5 to the Atlantic Herring FMP.

### 3.1.5 Management Measurers-FMP Adjustments

#### Option 2 Require Dealers to accurately weigh all fish

The majority of Herring landed are pumped out of vessels into tanker trucks or vat, (tub) trucks. Water is necessary to pump fish and will always vary in amount depending on many variables. Simply weighing a truck empty and then full will not provide an accurate fish weight.

The Council and NMFS should accept the calculation used by dealers and processing plants to determine weight of fish purchased. Regardless of type or size of trucks, a calculation from pounds to dollars is applied. i.e. 22 vat truck at 1800 lbs. per vat equals 39,600 lbs.

Processing plants and bait distributors randomly after removing water, weigh any number of vats on each truck and average the weight to calculate weight of fish being purchased.

Once there is acceptance to the above calculation then sub-option 2C becomes the next required action.

We do not support increasing the frequency of VTR and Dealer Reports.

The new requirement implemented in late 2012 requires all vessels to electrically report Herring catches and discards by area the day the fish are caught. This new reporting requirement should be sufficient to maintain weekly VTR and Dealer Report submissions. This new law was not yet in effect when Amend 5 document was created.

### 3.2.1 Catch Monitoring at Sea

The Pate/Touchtone Report clearly states that management actions implemented by the council and the agency have lacked sufficient review as to their effectiveness, and intended or unintended results.

Considering that beginning with the development of Amend 4 to the Herring FMP in 2008 the level both at sea observer coverage and dockside monitoring increased significantly for the Herring fishery, we recommend that the Herring Committee and the Council request the Herring P.D.T. to do a technical analysis on a vessel by vessel basis to determine the performance of each vessel in the fishery. We believe that the number of observed trips and the level of dockside monitoring combined with improved species identification protocols will provide data that would be superior to earlier years of observations and better determination of how the fishery currently performs.

Our rationale for this analysis would be to provide current, accurate data that would be used in the decision making process for Amend. 5.

From personal experience over many years of fishing we are confident that the Herring Fishery is the second cleanest fishery in New England behind only the lobster fishery.

It is our belief that significant by catch events occur NOT across the fleet, but with only a small number of vessels and often times the same vessels.

We suggest that the Council and the Agency utilize this analysis to provide an incentive to the fleet to fish responsively and recognize those that consistently perform well with a level of observer coverage that meets the NEFSC recommended coverage.

Those vessels that have been identified with higher and more frequent by catch interactions would be required a higher level of Observer coverage until such time that they can demonstrate reduced by catch interactions.

#### 3.3.2.2.4 River Herring Monitoring/ Avoidance

We support Alternative 2-Option 4

Rationale-This winters mild conditions and above average sea temperature would have resulted in all options in AMED 5 with monitoring /avoidance areas missing the mark by 1,000%. The only way to have a successful by-catch avoidance program is in real time. This seasons MADMF and SMAST Program will provide data to support long term by catch avoidance strategies in real time that can be extremely effective.

## OTHER RECOMMENDATIONS

- 1- Separate by catch data prior to amendment 4 by increasing the threshold for directed herring trips from 1,000lbs. to 10,000 lbs (minimum) .

The current threshold of 1,000 lbs. does not differentiate between a mixed small mesh trip and a directed herring trip.

2. Require observers on directed herring trips to ask the Captain before sailing if there are any herring aboard and how many.

Rational-Herring that have been reported and landed, then taken back to sea to be discarded would have an explanation for discarding. i.e. poor quality, size, no market for sale.

It should be noted that herring vessels may take fish back to sea if trucks for off loading are not available when needed. As trucks become available, the fish carried over as well additional fish would be off-loaded.





Signature:	Print Name:	Address:
<i>Robert Westcott</i>	ROBERT WESTCOTT	POINT JUDITH, R.I. 02882
<i>Glenn Westcott</i>	Glenn Westcott	Point Judith, R.I. 02882
<i>Joshua Westcott</i>	Joshua Westcott	Point Judith, RI 02882
<i>Michael Westcott</i>	Michael Westcott	Point Judith, RI 02882
<i>Thomas Mitchell</i>	THOMAS MITCHELL	POINT JUDITH, R.I. 02882
<i>Jonathan Knutill</i>	Jonathan Knutill	Wakefield Rd, 02879
<i>Barry Klapp</i>	BARRY KLAPP	710 GRAVELLY HILL RD.
<i>Louise Macey</i>	Louise Macey	17 Bicknell St, RI 02882
<i>Rebecca Monahan</i>	Rebecca Monahan	West Kingston, R.I. 02892
<i>Fred Mattera</i>	Fred Mattera	113 Lewiston Ave, W. Kingston, R.I. 02892
<i>Donald Houli</i>	DONALD HOULIE	THE BAIT CO.
<i>Michael Hail</i>	Michael Hail	Turn Duck
<i>Timothy Carroll</i>	Timothy Carroll	22 Harcourt Ave, Wakefield, RI
<i>Donald Fox</i>	Donald Fox	615 Smith Point, Wakefield, RI 02879
<i>Shawn Champlin</i>	Shawn Champlin	18 Lehigh Ave, Narragansett, RI 02882
<i>Deborah Chadplin</i>	DEBORAH CHADPLIN	556 Pt. Judith Rd, Narragansett, RI 02882
<i>Paul Champlin</i>	PAUL CHAMPLIN	556 Pt. Judith Road, Narragansett, RI 02882
<i>Robert Hubbard</i>	Robert Hubbard	811 Ocean Rd, Narragansett, RI 02882
<i>Robert R. Ferraro</i>	ROBERT R. FERRARO	55 LAMBERT ST, NARRA, RI 02882
<i>Robert R. Ferraro Jr.</i>	Robert R. Ferraro Jr.	255 Old North Rd, Kingston, RI 02881
<i>Janice C Sevegnny</i>	JANICE C SEVEGNY	119 Faddering Farm Rd, Narragansett, RI
<i>Joseph A. Murphy</i>	JOSEPH A. MURPHY	2 STEVENSON WAY, NARRA, RI 02882
<i>Philip R. Hubie Jr.</i>	Philip R. Hubie Jr.	28 Serenity Way, Peace Dale, RI
<i>Judith A. Prodnick</i>	JUDITH A. PRODNICK	ESQ, 66 MAIN ST #3, WAKEFIELD, RI
<i>MARA J. MALEY</i>	MARA J. MALEY	#3 30 Sweetmeadows, Narragansett, RI
<i>Jerry Sullivan</i>	Jerry Sullivan	86 Conch Rd, Narragansett, RI
<i>James Hague</i>	JAMES HAGUE	35 WOODWARD AVE, NARRA, RI
<i>James Fox</i>	James Fox	25 Bicknell St, RI 02882

**Joan O'Leary**

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**From:** Chris Lish <lishchris@yahoo.com>  
**Sent:** Sunday, April 08, 2012 11:32 AM  
**To:** comments  
**Subject:** Comments on Draft Amendment 5

Sunday, April 8, 2012

Paul J. Howard, Executive Director

50 Water Street, Mill #2

Newburyport, MA 01950

Subject: Comments on Draft Amendment 5

Dear Capt. Howard, New England Fishery Management Council,

I am writing to express my concern about poorly managed industrial fishing and the damage it inflicts on the ocean ecosystem. Over four years ago, the public called for--and the New England Fishery Management Council (NEFMC) committed to--improving the management of industrial fishing in New England. Now, after several years of deliberation and tens of thousands of public comments, it's time to deliver on that promise of reform.

"As we peer into society's future, we--you and I, and our government--must avoid the impulse to live only for today, plundering for our own ease and convenience the precious resources of tomorrow. We cannot mortgage the material assets of our grandchildren without risking the loss also of their political and spiritual heritage. We want democracy to survive for all generations to come, not to become the insolvent phantom of tomorrow."

-- Dwight D. Eisenhower

I am especially concerned about populations of river herring, which have declined by 99 percent and are so depleted that Atlantic seaboard states are forced to close traditional fisheries and deprive recreational anglers and the public of this important resource. Most Atlantic states now ban the harvest of river herring in coastal waters, even to the point of prohibiting children from netting one for bait and the NMFS is now considering listing river herring under the Endangered Species Act. Yet astoundingly, no protections have been extended to these fish in the open ocean, where they are taken by the millions as profitable bycatch in the industrial fishery

targeting a different species, Atlantic herring.

"For in my experience it seems well-nigh impossible to obtain a hearing on behalf of Nature from any other standpoint than that of human use."

-- John Muir

Since the initiation of Amendment 5, these problems have continued to get worse. The National Marine Fisheries Service (NMFS) has repeatedly proven unable to enforce Atlantic herring quotas, the first step in fishery management, due to inadequate catch monitoring. In addition, the practice of slipping catch at sea continues to undermine efforts to identify and record everything that is caught by herring vessels. Alarming interactions with groundfish also continue, as midwater trawl fishermen recently demanded and received a five-fold increase in their haddock bycatch allowance.

"Our duty to the whole, including to the unborn generations, bids us to restrain an unprincipled present-day minority from wasting the heritage of these unborn generations. The movement for the conservation of wildlife and the larger movement for the conservation of all our natural resources are essentially democratic in spirit, purpose and method."

-- Theodore Roosevelt

This is unacceptable and represents a significant setback in the ongoing efforts to restore alewife and blueback herring. Every year, states and communities throughout New England invest significant time and resources to restore their river herring runs. The New England Fishery Management Council must support, not undermine, these efforts.

"Only after the last tree has been cut down, only after the last river has been poisoned, only after the last fish has been caught, only then will you realize that money cannot be eaten."

-- The Cree People

Inadequate monitoring, unmanaged catch of river herring, continued killing of groundfish within closures designed to protect them, and the wasteful practice of dumping are significant and pressing concerns. Your revision to the Atlantic Herring Fishery Management Plan must address these issues and bring greater accountability and oversight to the industrial trawl fleet. I strongly urge you to approve a comprehensive monitoring and bycatch-reduction program that incorporates the following management actions:



- A catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery (Section 3.3.5, modified to require immediate implementation of a catch cap).
- 100 percent at-sea monitoring on all mid-water trawl fishing trips in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life (Section 3.2.1.2 Alternative 2).
- An accountability system to discourage the wasteful slippage, or dumping, of catch, including a fleet-wide limit of five slippage events for each herring management area, after which any slippage event would require a return to port (Section 3.2.3.4 Option 4D).
- A ban on herring mid-water trawling in areas established to promote rebuilding of groundfish populations (Section 3.4.4 Alternative 5).
- A requirement to accurately weigh and report all catch (Section 3.1.5 Option 2).

"Every man who appreciates the majesty and beauty of the wilderness and of wild life, should strike hands with the farsighted men who wish to preserve our material resources, in the effort to keep our forests and our game beasts, game-birds, and game-fish--indeed, all the living creatures of prairie and woodland and seashore--from wanton destruction. Above all, we should realize that the effort toward this end is essentially a democratic movement."

-- Theodore Roosevelt

I urge you, as trustees of our nation's marine resources, to fulfill your duty to conserve and manage these resources sustainably by approving this long-awaited revision without further delay.

"A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise."

-- Aldo Leopold

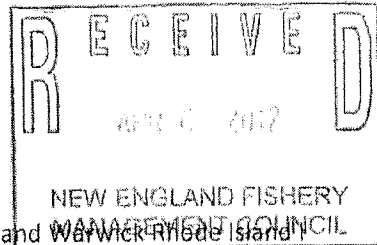
Thank you for considering my comments and for your continued commitment to improving management of the Atlantic herring fishery. Please do NOT add my name to your mailing list. I will learn about future developments on this issue from other sources.

Sincerely,

Christopher Lish

Olema, CA





Comments from Norpel an American company on Amendment 5

Having attended the public comment sessions at Fairhaven Massachusetts and Warwick Rhode Island I was appalled at the audience comments. Comments included "foreign boats fishing", "pair trawling catching everything in their path including whales seals and dolphins", "catching all the groundfish", "over fishing", "the reason the River Herring declined", "smoking guns etc." This is a result of PEW propoganda started before Amendment 1 and has continued to date. PEW through numerous organizations CHOIR, CCHFA, CLF, the Herring Alliance and Midcoast Fishermen's Association to name a few, have avoided the facts generate by government and state agencies generating hatred for mid-watering and advocating racial discrimination. I haven't heard one coherent argument from PEW that warrants 100% observer coverage.

Mid-water fishing is described as a small mesh fishery by NMFS and NEFMC. This is very misleading because a mid-water net has 15 to 20 foot mesh at the mouth and back the net until we get to the next sheet. Each sheet back the net halves the mesh size until we get to four inch mesh at the back of the net. The brailler is attached to this part of the net which has two inch mesh to hold the fish the net guided back to it. The opening in the brailler is less than 100 square feet and usually less than 60 square feet hardly the size of a football field regardless of net size. A groundfish net has only 6 inch mesh at the mouth by comparison. Because the mid-water net has such large mesh at the mouth Ground fish with the will not recognize the twine pattern and will not be guided to the Brailler.

Haddock are defined as a groundfish by NMFS and NEFMC. This is very misleading because people now believe haddock to be on the bottom. Haddock are rarely if ever on the bottom and could better be described as a Mezzanine fish (up off the ground floor). For haddock to get caught by a mid-water net they need to be swimming in line with the direction of the tow and in the middle of the net so that they get back to where the 12" mesh is. This mesh can then guide them to the brailler. If the fish swim off line to the tow, they will swim out through the big mesh. The observer data from 2010 can attest to this in that there were three large incidences and a fourth would have closed the fishery. The overabundance of Haddock and their behavior I described resulted in this anomaly.

Demanding 100% observer coverage where industry pays for it, is spiteful and intended to bankrupt the industry. Unlike the public NEFMC, I would hope, would look at observer data, dockside data and see if 100% coverage is warranted. PEW and their minions can lie and slander themselves at public comment, generate hatred and racism. I would hope council, having the facts available to them that show the fishery to be the cleanest fishery with respect to by catch (with the exception of lobster fishing) can view 100% observer coverage as needless and cost burdensome.

100% observer coverage will eliminate the smaller boats in the directed herring fishery and the larger boat will initially absorb the cost which will in turn be passed on to the end user: the lobster fisherman primarily. After Amendment 1 came in in 2006, there were 6 plants freezing Herring for food in New England, The Atlantic Frost, Marrs, Dumstine, Stinson, Cape Seafoods and Norpel. The latter two survived Amendment 1. There were 15 boats full time herring fishing with category A permits when Amendment 1 came to pass. Now there are only nine due to bankruptcies caused by gear restrictions

and unrealistic catch caps. Norpel had three designated herring boats and for financial reasons caused by gear restrictions and unrealistic haddock catch caps, had to stop fishing them.

Norpel and Cape Seafoods freeze herring for food consumption primarily and ship this food to Africa and South America. The people who eat our product in these countries are the poorest in these countries and this is the cheapest protein they can afford. Norpel is 100% American owned and operated. It operates under federal and state regulations. It abides by FDA, Massachusetts department of Health, EPA, DEM, NMFS, NOAA, OSHA, ICE, IRS and Homeland Security to name but a few state and federal organizations. The company employs up to 70 people withholding taxes for state and federal government as well as paying taxes. We have to adhere to minimum wage laws and under these burdens can operate competitively in a world market. This should be commended when many American companies are floundering with high operating cost and higher energy cost. Instead, we are vilified by PEW minions in public comments like "too efficient industrial trawlers". Norpel cannot pass on the cost of 100% observer coverage to these poor people, all we will do is price ourselves out of the market and go bankrupt.

If NEFMC insists 100% observer coverage necessary it employs Massachusetts Department of Fisheries (Paul Dodoti), the federal observer program, Massachusetts DEM, NMFS, NOAA enforcement and the USCG are not doing their job. This requires that NEFMC recommend to NMFS and the Secretary of Commerce for a forensic investigation as to why they would allow a fishery to catch everything in their path with such oversight. My feeling is PEW has bought and paid for seats on the NEFMC as a vote for 100% coverage would suggest.

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River herring declined dramatically 40 years ago. Mid-watering for herring didn't start until the late 90's and realistically until after 2001. There has been no appreciable increase or decrease in the river population since then. EDF sponsored a study of the river herring hot spots which indicated just about all of New England waters. This would mean banning herring fishing with mid-water (small mesh) net in New England waters in the winter months. After the discrimination of gear type Amendment 1 instituted, it is unlikely PEW minions can sell this "snake oil" again.

Option 4 is a real time avoidance program and promises the best possibility of river herring avoidance going forward. Because the mid-water boats didn't get rid of the river herring, getting rid of the mid-water boats cannot possibly bring them back.

Slippage is a term all too familiar to CHOIR. It is where a tuna boat catches one fish, remain fishing and if they catch a second, they then slip the least valuable over the side to comply with the law. This term has then been manifested on mid-water fishing. The only reason a mid-water herring boat would slip or trip a bag of fish is (1) If he cannot pump them aboard due to dog fish in them

(2) Mechanical difficulty or compromising the stability of the boat whereby the observer, crew or boat maybe jeopardized.

Any restriction more than having the skipper sign an affidavit explaining his action would be vindictive and capricious.

Sincerely

Eoin Rochford

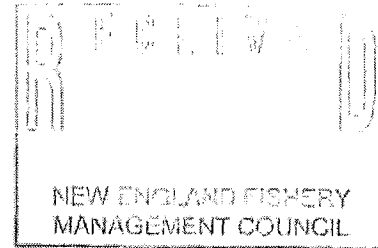
Plant manager Norpel



# Town of Wellfleet

## Shellfish Advisory Board ~ Natural Resources Advisory Board

April 5, 2012  
Paul J. Howard - Executive Director  
New England Fishery Management Council  
50 Water Street, Mill #2  
Newburyport, MA 01950



Re: Comments on Draft Amendment 5

Dear Mr. Howard,

We're writing to commend the New England Fishery Management Council for taking some bold steps in the form of draft Amendment 5 to address issues regarding the monitoring, and regulating of the mid-water fishery for Atlantic Herring.

In Wellfleet, we've observed a steady decline in our inshore fish populations, which we believe has occurred in large part due to overfishing at the bottom of the food chain. Atlantic Herring, River Herring, Menhaden, Mackerel and various other well known forage species make up the bulk of the forage base for those fish higher up the food chain inhabiting our waters. These predators and prey provide recreational and commercial fishing opportunities that draw tourists and fishermen to our area in pursuit of them. A robust inshore fishery drives a healthy local economy for which all of our residents are highly dependent upon.

River Herring have a storied history throughout coastal New England. Unfortunately, for the past 7 years a ban on their possession has been in effect for much of the Atlantic seaboard due to a collapse in their population. Since 2009, we've been documenting river herring as they ascend the Herring River through a well coordinated effort of local volunteers. Observed numbers have steadily declined each year. Despite these facts, large mid-water trawlers often catch more river herring in one tow as bycatch than we see in our Wellfleet run in an entire year. This depletion of a common resource must stop now.

In response to your request for comments on the draft amendment, we note that there are many references to monitoring bycatch, and to eliminating to the extent possible the wasteful practice of dumping (slippage). Accordingly, we request the following be included in the final document:

- 100% observer coverage (*Section 3.2.1 Alternative 2*) on every mid-water trawl boat in the herring fishery to assure accurate accounting of all bycatch and slippage.
- Immediate implementation of a river herring catch cap based on recent catch, until a biologically based limit can be established (*Section 3.3.5, modified to require immediate implementation*).
- A system to discourage wasteful dumping of catch (*Section 3.2.3.4 Option 4D*), including a fleet-wide allowance of five slippage events for each herring management area, after which any slippage event would require a return to port.
- No mid-water trawling for herring in areas closed to groundfishing (*section 3.4.4 Alternative 5*).
- Acknowledgement that Atlantic Herring provide key ecological functions, and will be managed accordingly.
- Assurance that the ecological services, and ecosystem benefits provided by Atlantic herring and river herring will be considered as taking priority over any commercial interests when determining future management strategies.

Thank you for considering our comments. We appreciate the immense amount of work that has gone into preparing this draft document. We're hopeful that fisheries managers will continue to embrace a sensible, ecosystem based approach to fisheries management - to the ultimate benefit of our local fish populations, and all those groups dependent upon them.

Sincerely,

John Duane, on behalf of:

Town of Wellfleet Natural Resources Advisory Board:  
*John Riehl, John Duane, Ned Hitchcock*

Town of Wellfleet Shellfish Advisory Board:  
*Barbara Austin, Barbara Brennessel, John Duane, Joel Fox  
James O'Connell, Rebecca Taylor, Helen Miranda Wilson*





I would like to take this opportunity to comment on the different proposals in amendment 5

NEW ENGLAND FISHERY  
MANAGEMENT COUNCIL

To address the issues in amendment 5, I want to first point out that PEW Charitable Trust, through different organizations has launched a multimillion dollar campaign against mid water fishing for Herring in New England waters. As a former fisherman and processor, my expertise is in catching and processing fish and not in Legislation, Media manipulation and Political manipulation.

When amendment 1 went in to effect in 2006, the fishing industry had 30 days to sue NMFS for the discrimination of gear type and if not it could not be revisited. While we were considering what were our alternatives the deadline passed and the decision was a moot point.

We felt that we could survive fishing on Georges Bank , which is area 3. The Haddock population on Georges was enormous at this time. An interesting think about Haddock is even though the NMFS and the NEFMC call Haddock ground fish they are seldom if ever on the ground. The net that effectively catches Haddock is a high rise bottom net where the head rope slightly leads the foot rope. The reason for this is the fish are off the bottom 1 to 2 fathom typically and they can detect the foot rope of the net coming along the bottom to catch them. So they try to swim ahead of it but tire quickly because they are poor swimmers and swim up in the water column. This is why the head rope has to lead the foot rope slightly (to prevent them escaping over the top of the net) so they can now be caught by the net.

Now let us look at a mid-water net and how this fishes. The mid water nets are considered and discussed in public and at council as a small mesh fishery. Again this is very misleading. A herring mid water net has minimum 15 foot mesh size at the mouth some have even bigger mesh 21 foot.

Each sheet back the net the mesh size halves until we get to the brailier at the back of the net which has 2 inch mesh to retain the fish caught by the net. PEW and their minions keep telling the public about the 2" mesh and never mention the 15' or 21' mesh at the front of the net. Regardless of how big the net is the brailier opening is less the 100 square feet and usually less than 60 square feet.

The reason the net catches herring is very interesting. The schooling nature of the fish is critical to fishing with these big meshes. If one watches schooling fish swim they appear to swim randomly but all turn in unison without bumping into one another. 2 or 3 decades ago a marine biologist explained to me that schooling fish can sense the fish next to it by the vibrations in the water.

When the mid water net is towed it is like towing a very leaky funnel. However the twine vibrated as it is being towed and some of the fish get funneled to the brailier at the back. To catch a haddock who do not recognize this big twine pattern the fish need to be exactly swimming in the middle of the water and are aligned with the direction the net is being towed so they can get back were the mesh is small enough to catch them.

If they swim any little bit off line to the direction of the tow they will swim out through the big mesh at the front of the net. In 2010 there were three large random incidences in about 100 tows. One more incidence would have closed the herring fishery for everyone including seiners until May of 2011. So

industry got together and decided not to pursue any more herring in area 3 where there were vast quantities of haddock. NMFS and council were asked to address and unreasonably low Haddock quota based on their biomass. Industry was again ignored even though any normal individual analyzing the facts would agree it to be a reasonable request. That year the observers were carried at 85% of the time on the mid-water boats going to Area3.

When Demersal fish (with the exception of haddock who are too high in the water column) come into the mouth of a mid-water net assuming they go over the foot rope there is no reason why they would go back to the brail since the bottom sheet behind the foot rope elevates at about 12 degrees from the horizontal so there is no guidance to get them to the brail hence the very low level of by catch in the observer data. The mid water nets are expensive to build and to tow because the drag resistance in the water. If the mesh were smaller they would be more expensive to build and harder to tow resulting in a far greater fuel bill.

Fuel for a mid-water boat is usually between 800 and 1200 gallons per day or \$3200 to \$5000 per day for the bigger boats. Fishing in area 1A before 2006 a boat could get to the fishing grounds and back every day keeping fuel expenses to a minimum. When the boats were forced to go to Area 3 to fish there was one day to the grounds one day back and one to two days fishing at a cost of \$12,000 to \$20,000 just in fuel. So from a commercial point of view let us look at how much fish requires to pay the fuel bill. At \$0.10 per lb. 200,000 lbs. of fish or 133,000 lbs. @ \$0.15 per lb.

Commercial fishing requires you make money so the cost to fish cannot be greater than the value of the fish caught or if it is for any period of time the cost exceeds the catch the fisherman goes bankrupt. Sport fishing does not have this fiscal burden to deal with.

The argument is made that these huge boats with enormous nets can catch every fish in their path and I feel I have described why the net cannot do this and the cost to fish mid watering is so great if there isn't an overabundance of the target species (Herring) the boats cannot afford to go fishing. The way these boats fish is they find the fish in a dense enough school to fish on their sounders and sonar and then shoot the net towing until they get a sensor or two to trigger or else they haul back and look again. They cannot afford to tow and dump fish as the NGO's are saying.

These boats are burning maybe 50 gals. of fuel steaming but this figure increases to 80 or 90 gals. per hour for the tow period. To fish effectively you first find a dense enough concentration of fish so your tow time is minimized and make a profit.

In 2008 or 2009 a Michael Fogarthy from the fish science center in Woods Hole made a presentation to the NEFMC explaining that the overabundance of Herring in Georges Banks directly impacted the Right Whale population in the area (by eating too much of the zoo plankton in the water so the whales had to find another area with greater density of plankton) and indirectly impacted the Cod fish recovery because of the Herring carnivorous habits devouring Cod larvae.

The Cod roe hatches and the hatchlings are called larvae and their only food source is the chloro plankton in the top few feet of the water column. When there is an overabundance of herring in the

area they feast on these Cod larvae and we then get a poor recruitment of Cod. No sooner had Dr Fogarthy finished his presentation to the council the herring quota was cut "on a precautionary measure". The study did take place on Georges over a number of years. Recently the Cod fish in the GOM is deemed in trouble from over fishing. The most logical answer to the collapse of the cod fish in the GOM is probably in Fogarthy's study on the overabundance of Herring but again the council due to political pressure or selective amnesia didn't even consider this.

The herring in New England Waters has small size and low body fat for age and year class because they are too many fish for the food source in the area. This is documented fact so my understanding is other species in the eco system have to suffer eg the Cod fish in the GOM.

To regulate a fishery correctly you need to understand how it is operated and the natural driving habits of the fishery. Bait is the main driving force in the Herring fishery. Food quality fish is the secondary one. Stinson seafood in Maine was a food processor for over 100 years and was put out of business by amendment 1.

A seine boat can catch 1000 ton in a single set when the fish are behaving correctly and nothing when they are not. Mid water fishing for herring started in the 1990's because it was more consistent at catching fish even though it couldn't catch as much as a seiner. The market was primarily bait but Stinson soon realized that mid-water boats didn't catch a lot but would catch fairly consistently. Soon the bigger seiners changed to mid-watering to ensure they kept their market. Seiners require carriers because when they do catch they cannot possible hold the huge quantity of fish they catch.

Herring gorge themselves on krill April to June and the fish have their stomachs distended and extremely high enzymes in them. The fish tend to blow open their bellies in the RSW tank and the smaller fish break down in the water as if being digested. These fish have very limited market value and are use as bait. Few if any boats fish at this time of the year because limited ability to sell this poor quality of fish.

During July, August and September the Bait market in Maine buys most of the fish. August and September we can buy excess fish that the bait market will not absorb. In area 1A the states have certain landing days that the boats can land. This causes a race to fish when the mid-water boats are allowed to fish in the middle of October. They go out a few days before the landing days to ensure they fill up and the end result is the fish are only suitable for bait due to age.

Area 3 fish cannot safely be caught after November because of inclement weather. The fiscal responsibility on the skipper to make the trip pay isn't worth the risk of the trip. Most years the boats cannot fish November or December because the fish are usually not in Area 2 and the quota is caught in 1A and 1B. The boats are realistically fishing about 7 months of the year. Herring are not sedentary like scallops they migrate from the GOM and George to area 2 which is southern New England water in the winter normally. This year a large body of fish stayed in the GOM all winter because of unusually warm conditions. In the spring the fish normally migrate to the GOM and Georges.

Since Herring amendment 1 went into effect in 2006 there were 15 boats mid-watering in the New England states primarily fishing for herring most of the year. There are only 9 left actively fishing primarily for Herring. There were 6 plants that bought and process Herring and now there are 2 left operating. I clearly remember reading amendment 1 would have no appreciable effect on the community. I can assure council I witnessed millions of dollars being lost by the boats being bankrupted and plant not get a steady supply of fish. The communities that worked in these plants also lost their incomes. The question I have to ask is

Is the Herring stock more or less robust as a result of amendment 1?

Is the community better off as a result of amendment 1?

The cutting the Herring quota on the precautionary measure would suggest NO to the first question.

Seeing the depletion of boats in the directed fishery, the lack of competitors buying the fish and the number of bankruptcies. The communities are being economically devastated by this.

The reason it was such a failure is it was driven by a multimillion dollar campaign funded by PEW through Cape Cod Hook and Line, the Conservation Law Foundation, Earth Justice and the Herring Alliance etc. These people had no vested interested in Herring fishing yet they convinced everyone we were the greatest evil on New England waters manipulating facts, political contributions and controlling the New England Management council.

I read an article in the Harvard Business Review about these tax free charitable organizations. It stated that when they were founded they had great aspirations and did some good but now they exist just to exist. I cannot say I agree with the last part when I witnessed the destruction they have perpetrated in New England fisheries.

When Amendment 5 was being developed the PEW minions proposed several different scenarios all of which would put tremendous financial pressure on the boats bankrupting some, so we would then have less boats getting more of the resource. When less people have the resource the community gets less benefit from the resource.

PEW have developed their own science making Herring the main food source for all species in the New England Waters coming up with the catch phrases fodder species, local depletion, industrial trawlers and net slippage almost like a game show. This is not a game show and people have invested lot money creating numerous jobs in an underutilized fishery on NMFS recommendations.

The proposal to carry 100% observer coverage is not a problem for us so long as the government or PEW pays 100% of it. The cost to the smaller boats that carry 40 or 60 tons would bankrupt them or force them out of the fishery. Sometimes the boats go to Georges and do a broker (not catch enough fish to cover their expenses) and if they had to pay for an observer this would make it impossible to pursue the fishery. This is not scalloping where the product off the boat is worth \$10 per lb. as this fish is worth

between \$0.07 per lb. and \$0.15 per lb. The recreational fishermen keep reiterating at the meetings the fishing is modified when an observer is aboard. This is not financially viable because of the cost of doing a trip is so great we have to stay focused on being profitable so it isn't reasonable to assume you can modify your fishing habits when you have an observer 85% of the time on Georges because of the possibility of towing in the ground fish closed area. The shore side observer data can attest to this statement.

When a Herring boat leaves to go on a fishing trip on Georges because of the present rule - having to have an observer to fish in the GFCA - he has to take an observer in case the herring are in the closed area. When this measure was introduced industry naively welcomed it. We felt this measure would emphatically vindicate us. The scary reality is nobody looks at the observer data except to manipulate it and say we catch everything in the path of the net.

The decision to fish in the closed area is based on the skipper seeing enough fish there to warrant setting on the fish. The skipper usually traverses the GFCA on the way to the Cultivator shoals which is traditionally a good area to fish Herring. If there is an Observer aboard he can now set the net in the GFCA if he sees enough fish there. Herring are very migratory and tend to move a lot over the course of a year.

The fiscal pressure on these boats each trip to catch a full boat load each trip is enormous particularly since the mackerel aren't showing up in New England waters this last two years and the fact they are banned from fishing inshore-GOM. The additional expense these boats are under because of fuel prices and the added steaming time to and from the ground will bankrupt or force some of the smaller boats out of the fishery.

Maybe this is the intension of amendment 5. Assuming a boat left to fish on Georges without an observer because none was available and the only fish he saw was in the ground fish closed area he would have to go ashore without any fish and his next trip would have to cover the \$40K or \$50K fuel bill the pair of boats burned on the previous trip. Any idea of terminating a boats trip as a punitive measure would be draconian and a malicious intent to bankrupt the boats in the fishery.

Slippage is a term I find very offensive. I heard in use in the 1990's in Gloucester. I was talking to a rod and reel tuna fisherman who told me he hooked up early in the morning and caught a 400 lb. fish. The term slip was used toying with the intent of the law. He told me he was trying for a bigger fish and he could "slip" the smaller fish over the side. Why would a mid-water boat go to the trouble of catching fish and let them go? Or as the document suggests slippage.

There needs to be a very good reason why a skipper would dump a bag of fish. The idea that the skipper knows there is by catch in the net without pumping it aboard to deceive an observer is asinine. If you get into the scourge of the ocean (Dogfish) you will not be able to pump the dog fish. It is actually very difficult to dump them sometime because their coarse skin hangs up in one another and in the brailler, sometimes tearing the brailler. The other reason the skipper might need to dump the bag is because of mechanical difficulty or the seas picking up where he may endanger the lives of the crew or the stability of the boat. Mid water fishing is a commercial enterprise not a catch and release as the discussion on

the slippage implies. Option 2 a release catch affidavit should be the only option considered under slippage.

River Herring by catch is being studied by SMAST at the moment. The program is watching the River herring incidence by rigorous dock side monitoring. When they discover higher levels of river herring they report to the boats the area such incidents occurred so they can avoid the area for the next week or so. By closing down further areas there is no proof that it will avoid catching river herring unless you bankrupt the fleet. River herring populations dropped dramatically in the 1970's and 1980's long before the mid water boats showed up.

The mid-water boat and pair trawlers weren't operating in any numbers until the late 90's and after 2000. The river herring didn't change population appreciably up or down in this period so there is no need for council to make any rulings on the river herring at this point in time. The SMAST study (option 4) should be allowed to continue and after it is finished see has it held reduce the by catch appreciable. With proper data and not hearsay an anecdotal evidence the council can implement stricter measures which may put the boats out of business.

Having attended numerous meetings on the development of this document what I find scary is the ignorance of the public that are commenting on the document. They didn't take the time to read any of the data with the exception of the CHOIR and Herring Alliance propaganda and my greatest worry is the council will rule in the same manner. Comments like overfish were used when it isn't occurring and hasn't occurred in the last 30 years catching everything in the way of the net yet the observer data proves otherwise. Pew through their minions have educated the public with lies anecdotal information and racial hatred as was heard at Fairhaven public comment session.

The mid-water boats are said to be too efficient. If they weren't efficient they wouldn't be in business. The demand to carry 100% observer coverage is driven by Pew to bankrupt the fishery. Only the biggest boats will survive and the cost is going to be push on the consumer the Maine lobsterman primarily. Since 2006 when amendment 1 went into effect the cost of bait has trebled in price yet the document mention only a slight increase may occur.

The other end users are the Nigerians and Egyptians in Africa. These people are the poor people in these country and herring and mackerel are the only protein they can afford. The increased cost cannot be pushed on to them because they don't have the money. The result will be closing the last two plants Norpel and Cape Seafoods. Last year because of the high cost of operating fishing vessels in this fishery and the unyielding nature of council to alleviate a miniscule Haddock catch cap the owners of Norpel sent one vessel to the west coast and the other vessel is up for sale and hasn't fished in over a year.

Cape Seafoods is in a similar dilemma with the Voyager up for sale and hasn't fished for over two years. The Western Venture is also for sale. When I viewed the shorten version of the document pages 77 to 83 that Lori Steel wrote, she is more than aware of the impact these measures will have on industry from the VEC5 column on section 3.4.1. Unfortunately subconsciously she put status quo as a positive for industry. This leads me to believe the intent of Amendment 5 is to cripple the industry; status quo

would normally be view as neutral. The question is do council care? Predicated on how they dealt with the Haddock issue I think not.

When I look at the goals and objectives page 13 item 5 optimum yield which will provide the greatest overall benefit to the nation. Amendment 5 is contrary to all of this. Item 7 minimize race to fish. The states got together to make landing days from area 1A. This forces a race to fish which has not been addressed in the document.

Eoin Rochford





**Joan O'Leary**

---

**From:** John Hanley <john.hanley@innovativestone.com>  
**Sent:** Wednesday, April 11, 2012 1:44 PM  
**To:** comments  
**Subject:** Herring limits

Dear Mr. Howard,

I was elated to read about the limitations that were recently enacted on herring limits for the Atlantic Herring Mid Water Trawl Fleet. However, active enforcement is needed to stop the basic instincts of the commercial fishing industry – to catch until there is nothing left to catch.

I am a relatively recent convert to catch and release fly fishing for striped bass in coastal Maine estuaries. The fish populating has been steadily and rapidly declining for the past five years at least, according to my own experience as well as that of the local salts who frequent the areas that I do. My own investment in equipment and lodging is easily in the tens of thousand of dollars, and I plan to keep fishing for stripers as long as they keep showing up. Despite having caught many hundred, if not thousands of these fish over the years, I have released every fish back into the waters. As do most of my colleagues, I fish for the thrill, not for subsistence. If I need fish, I go to the supermarket for farm raised fish. The natural stocks need to recover from chronic overfishing, and it all starts with the herring.

Please register my support for the initiatives outlined below by Patrick Paquette of the Massachusetts Striped Bass Association to help the herring recover, and thereby helping the stocks of stripers, tuna and herring recover to more sustainable levels.

1. 100 percent at-sea monitoring (Section 3.2.1.2 Alternative 2 ) on all category A & B midwater trawl fishing trips in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life.
2. Discourage the wasteful dumping of catch, Section 3.2.3.4 Alternative 4D including the fleet-wide limit of five slippage events per management area. Operational discards are dumping of valuable natural resources and must be included.
3. No herring mid water trawling in areas established to promote rebuilding of ground fish populations (Section 3.4.4 Alternative 5).
4. We cannot wait for new science to protect river herring. We support an immediate catch cap based on recent catch. To limit what is currently being killed as by catch is a good start. We support Section 3.3.5 only if modified to require immediate implementation of a catch cap. Managers will soon vote on a new set of rules to regulate industrial trawlers, vessels which scoop up tons of baitfish off our coast each year.

Thank you for hearing my concerns.

John E. Hanley  
CHIEF FINANCIAL OFFICER



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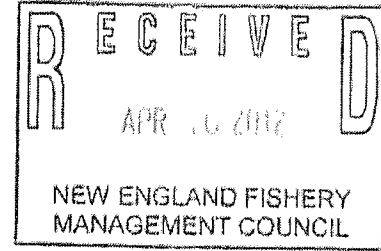




THE  
**PEW**  
ENVIRONMENT GROUP

April 16, 2012

Paul J. Howard  
New England Fishery Management Council  
50 Water Street, Mill #2  
Newburyport, MA 01950



Dear Mr. Howard,

The Pew Environment Group has collected 36,544 comments from individuals asking the New England Fishery Management Council to take specific steps to manage the Atlantic herring fishery through Amendment 5 to the Atlantic Herring Fishery Management Plan.

The enclosed CD includes copies of many of the letters, and a spreadsheet listing all the signers. Please note that many of these letters have been personalized or include additional comments.

Below you will find a summary the responses from Atlantic states (18,395), and on subsequent pages there is a table of all comments received by state. Please include a summary of these comments for the April NEFMC meeting.

Connecticut: 921  
District of Columbia: 79  
Delaware: 149  
Florida: 1,859  
Georgia: 389  
Massachusetts: 2,266  
Maryland: 911  
Maine: 452  
North Carolina: 1,237  
New Hampshire: 411  
New Jersey: 1,605  
New York: 4,461  
Pennsylvania: 2,112  
Rhode Island: 262  
South Carolina: 187  
Virginia: 1,094

Thank you,

Greg Wells  
Associate, Northeast Fisheries Program



State	Comments collected
Alaska:	75
Alabama:	140
Arkansas:	97
Arizona:	702
California:	5051
Colorado:	683
Connecticut:	921
District of Columbia:	79
Delaware:	149
Florida:	1859
Georgia:	389
Hawaii:	172
Iowa:	172
Idaho:	103
Illinois:	1029
Indiana:	394
Kansas:	154
Kentucky:	196
Louisiana:	135
Massachusetts:	2266
Maryland:	911
Maine:	452
Michigan:	691
Minnesota:	447
Missouri:	340
Mississippi:	78
Montana:	108
North Carolina:	1237
North Dakota:	22
Nebraska:	79
New Hampshire:	411
New Jersey:	1605
New Mexico:	352
Nevada:	251
New York:	4461
Ohio:	700
Oklahoma:	132
Oregon:	691



Pennsylvania:	2112
Rhode Island:	262
South Carolina:	187
South Dakota:	35
Tennessee:	332
Texas:	1213
Utah:	154
Virginia:	1094
Vermont:	111
Washington:	1050
Wisconsin:	526
West Virginia:	87
Wyoming:	32
<b>TOTAL</b>	<b>36544</b>
<b>TOTAL US ONLY</b>	<b>34990</b>
<b>Atlantic States</b>	<b>18395</b>





Mr. P Henry  
300 Park Terrace Dr  
Stoneham, MA 02180-4438

Mar 16, 2012

Paul Howard  
New England Fishery Management Council

Subject: Re: Atlantic Herring Fishery Management Plan

Dear Paul Howard,

Over four years ago, the public called for and the New England Fishery Management Council (NEFMC) committed to improving the management of industrial fishing in New England. Now, after several years of deliberation and tens of thousands of public comments, it's time to deliver on that promise of reform.

Inadequate monitoring, unmanaged catch of river herring, continued killing of groundfish within closures designed to protect them, and the wasteful practice of dumping are significant and pressing concerns. Your revision to the Atlantic Herring Fishery Management Plan must address these issues and bring greater accountability and oversight to the industrial trawl fleet.

Since the initiation of Amendment 5, these problems have continued to get worse. The National Marine Fisheries Service (NMFS) has repeatedly proven unable to enforce Atlantic herring quotas, the first step in fishery management, due to inadequate catch monitoring. In addition, the practice of slipping catch at sea continues to undermine efforts to identify and record everything that is caught by herring vessels. Alarming interactions with groundfish also continue, as midwater trawl fishermen recently demanded and received a five-fold increase in their haddock bycatch allowance.

Moreover, river herring populations remain depleted, forcing Atlantic seaboard states to close traditional fisheries and deprive recreational anglers and the public of this important resource. NMFS is now considering listing river herring under the Endangered Species Act.

I urge you, as trustees of our nation's marine resources, to fulfill your duty to conserve and manage these resources sustainably by approving this long-awaited revision without further delay. In particular, I strongly support:

- \* A catch limit, or cap, on the total amount of river herring caught in the Atlantic herring fishery (Section 3.3.5, modified to require immediate implementation of the catch cap).
- \* 100 percent at-sea monitoring on all midwater trawl fishing trips in order to provide reliable estimates of all catch, including bycatch of depleted river herring and other marine life (Section 3.2.1.2 Alternative 2).
- \* An accountability system to discourage the wasteful slippage of catch, including a fleet-wide allowance of five slippage events for

each herring management area, after which any slippage event would require a return to port (Section 3.2.3.4 Option 4D).

\* No herring midwater trawling in areas established to promote rebuilding of groundfish populations (Section 3.4.4 Alternative 5).

\* A requirement to accurately weigh and report all catch (Section 3.1.5 Option 2).

Thank you for the opportunity to comment and for your sustained commitment and support of these priority reforms.

Sincerely,  
Mr. P Henry

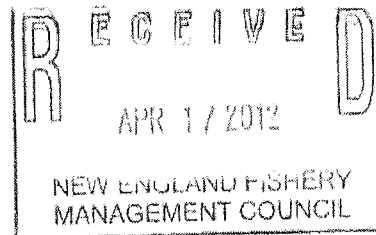


Cape Cod  
Conservation  
District

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02630

tel: (508) 771-8757 • fax: (508) 771-6509 • e mail: cccd@capecodcd.org

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



March 8, 2012

Dear Mr. Howard,

The Cape Cod Conservation District is writing to comment on the draft of Amendment 5 to the Atlantic Herring Fishery Management Plan.

The District has been engaged in activities for the past 42 years to improve passage for river herring to their spawning grounds. River herring play an important cultural and ecological role on Cape Cod and their arrival every spring marks the end of a long winter. The District is currently working on the Cape Cod Water Resources Restoration Project – a partnership with the USDA Natural Resources Conservation Service to restore tidal flow to restricted salt marshes, improve water quality on shellfish beds, and improve passage for river herring. In 2012 we will build five new fish ladders and restore tidal flow to four salt marsh systems.

We applaud your efforts to address the bycatch of river herring in the Atlantic Herring fishery. We believe that Amendment 5 to the Atlantic Herring Fishery Management Plan should include provisions that require observers to be present on all vessels that target Atlantic Herring, that the entire catch of these vessels should be provided to the observers for inspection, and that an overall limit or “catch cap” of river herring should be established for each fishing year.

The District will continue to work on projects that protect and increase the populations of river herring in the fresh and brackish waters of Cape Cod. We look forward to knowing that efforts are being made to conserve river herring in their saltwater environment as well. We hope that by working together the moratorium on harvest from Massachusetts rivers can be lifted.

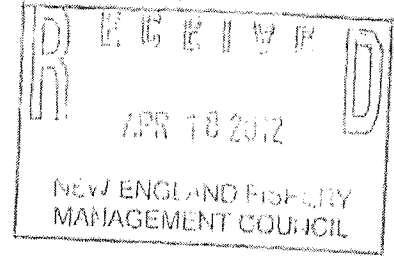
Sincerely,

Lee Davis

Chair, Board of Supervisors, Cape Cod Conservation District



Alan J Evelyn  
326 East Dover Street  
Valley Stream, NY 11580-4749  
capt.al@fishtaxiny.com



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

April 13th, 2012

Re: Herring Amendment 5 DEIS

Dear Chair Grout,

I am writing today to offer my comments on the Draft Environmental Impact Statement (DEIS) for Herring Amendment 5.

The mismanagement the herring fishery must stop. The large mid water trawlers are depleting this resource at an unacceptable rate. The Council must address the serious destructive practices of this gear type/practice when decisions are made for Amendment 5.

At minimum, the following actions should be approved:

- 100% observer coverage on Category A and B herring vessels in order to provide reliable estimates of all catch, including bycatch of river herring, cod, haddock, bluefin tuna, and other marine life (Section 3.2.1.2 Alternative 2).
- Closed Area 1 (CA1) provisions with trip termination after 10 dumping events in order to reduce dumping on Category A and B vessels. Given the nature of the gear being used in the fishery, it is critical that rules are put in place to make sure that unsampled dumping is not occurring. (Section 3.2.3.4 Alternative 4C)
- Prohibit herring midwater trawl vessels from fishing in Groundfish Closed Areas. These boats should have never been allowed in to begin with. (Section 3.4.4 Alternative 5)
- Implement measures to require weighing of catch across the fishery so that managers have accurate data on how much herring is being landed in the fishery. (Section 3.5.1 Option 2)

By implementing the above practices/policies, the Council will begin to address the most critical problems in this fishery. Please protect this valuable fishery from the destructive mid water trawls and approve these measures.

Thank you for listening to my opinion.

Alan J Evelyn



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STAFF

Niaz Dorry  
Coordinating Director

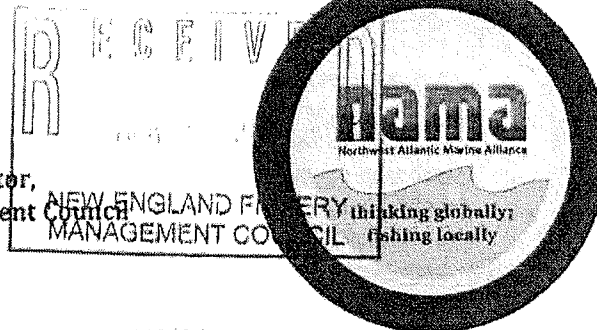
Boyce Thorne Miller  
Science Coordinator

Brett Tolley  
Community Organizer

Cynthia Bush  
Finance Coordinator & Program Assistant

April 18, 2012

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



The Northwest Atlantic Marine Alliance (NAMA) is a regional organization supporting the community-based commercial fishermen of New England and the coastal communities in which they live, consistent with our mission to restore and enhance an enduring marine ecosystem. NAMA's history of weighing in on the herring fishery dates back to the discussions that led to the creation of the first herring fishery management plan in 2000. As you know, we were also party to a 2005 joint legal petition (with the Midcoast Fishermen's Association of Maine) asking the Department of Commerce to ban the herring midwater trawl fleet from groundfish closed areas.

Herring are critical to a healthy marine food chain and ecosystem. As such it is unclear that fishing them at all is justifiable, but certainly the fishery should be seriously restricted. Traditional fixed gear herring fisheries – which consisted of appropriately scaled purse seines and stop seine/weirs – did not appear to have a dramatic impact on the ecosystem, but more modern industrial scale trawl and purse seine fisheries do. Not only is the loss of herring available to the food chain important, but we now know that the herring fishery continues to catch significant groundfish bycatch – especially haddock. This is very important to the groundfishery which is experiencing lean years. In a recent report, an international group of marine scientists has called for cuts in commercial fishing for sardines, herring and other so-called forage fish whose use as food for fish farms is soaring (*Too Many Small Fish Are Caught, Report Says*, NY Times, 4-2-12). The report suggests that catch should be cut in half for some fisheries to protect populations of both the fish and the natural predators that depend on them.

Given the evidence of damaging impacts of industrial fishing of forage fish worldwide, herring Amendment 5 comes none too soon to help alleviate some of that impact in New England. Therefore, NAMA supports the strongest measures be adopted in Amendment 5 and we welcome their application to purse seine vessels as well as trawl vessels. NAMA would like to express its support for the following measures to be included in Amendment 5:

- 1) Relevant to Section 3.2.1, the Council should implement 100% observer coverage on A&B herring vessels, which account for 97-98% of the landings. We therefore support alternative #2.
- 2) Relative to Section 3.1.2, we support the expansion of possession limits to include purse seine operations; the elimination of the VMS

power-down provision; and in requirement for dealer permits at-sea.

- 3) Relative to Section 3.2.2.2, we generally support measures that improve sampling and the increased information that may be generated, and we are supportive of application of these measures to purse seine as well as trawl vessels.
- 4) Relative to section 3.2.3.4, the Council should implement Closed Area 1 provisions with termination of trips after five dumping events have been reported. This provision should reduce the dumping of catch and bycatch by category A and B vessels. We support alternative 4D.
- 5) Relative to Section 3.4.4, as we have continued to say for over a decade, the Council should prohibit vessels participating in herring fishing from fishing in groundfish closed areas. The proposal addresses only midwater trawlers, however, and we believe industrial scale purse seiners should be explicitly included. Midwater trawl vessels were given access to the closed areas based on the assumption that their nets remain high in the water so they do not catch any groundfish. Now this has been demonstrated to be untrue, and in fact, they agree they do catch groundfish, sometimes in significant numbers. Therefore they should be subject to groundfish closures. And without an explicit direction for the depth of purse seine vessels' gears, purse seines with nets designed to fish in deeper fathoms can have interaction with groundfish. We support alternative 5.
- 6) Relative to section 3.3 – measures to address river herring bycatch – we prefer the closed area approach in Alternative 3, as it is more protective of river herring and is more likely to be effectively enforced.

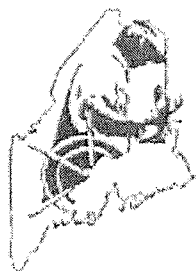
Thank you for the opportunity to comment on Amendment 5. While we don't believe the amendment addresses the core problem of impacts on the marine ecosystem by industrial scale fishing, we believe the right decisions for Amendment 5 will go a long way toward making sure the impacts are no greater than regulations allow.

Yours truly,

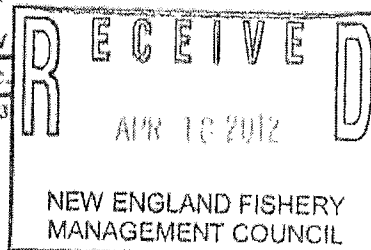


Boyce Thorne Miller  
Science Coordinator





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



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

April 19, 2012

Dear Mr. Howard:

The Maine Lobstermen's Association (MLA) is providing comments on the proposals under consideration for Amendment 5 to the Fishery Management Plan for Atlantic Herring. The MLA is an industry-based fishing organization whose mission is to advocate for a sustainable lobster resource and the fishermen and communities that depend on it.

One of MLA's primary areas of focus in recent years has been on ensuring a steady and sustainable bait supply for Maine lobstermen. In 2011, Maine lobstermen hauled in a record harvest of nearly 104 million pounds with an ex-vessel value of approximately \$331 million, generating an estimated near billion dollars in economic activity for the state. Maine's lobster industry is the economic backbone of Maine's coastal communities because it is an owner-operated fishery which ensures that revenue generated from landings is spent locally.

The fate of the herring management plan is extremely important to the Maine lobster industry because it is highly dependent upon herring as bait for our fishery. Data from Maine Department of Marine Resources Port Sampling program shows that herring was used in 59% of trap hauls by Maine lobstermen in 2011. The Maine lobster industry has diversified its bait supply following the cuts to the Area 1A herring quota beginning in 2007 when herring was used in 83% of traps hauled. Despite the reduction since then, herring is still the primary source of bait use by Maine lobstermen.

The MLA strongly supports sustainable management of the herring resource, based on the best scientific information, and supports the Council's efforts to improve catch monitoring in the commercial fishery through Amendment 5. The MLA offers the following input to the Council:

- The MLA supports implementing measures to weigh the catch across the fishery to improve the accounting of all fish landed.

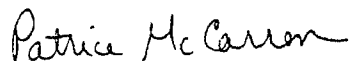
- The MLA supports 100% observer coverage for Category A and B vessels which account for 97%-98% of the landings, with no sunset provision. The cost of observer coverage should be carefully monitored and controlled. The observer rates for the Atlantic fleet must be on par with other regions of the US. Given the importance of sustainably managing the herring fishery, government funds should be secured to help pay for this comprehensive observer coverage.

As the primary consumer of herring, any cost incurred by the herring fleet will inevitably be passed onto the lobster industry. The MLA's weekly monitoring of bait prices shows that the lobster industry has already absorbed a 28% increase in the cost of bait during the peak fishing months of July through November over the three years from 2007 (\$21/bushel) to 2010 (\$27/bushel). With the tightening of profit margins in the lobster industry due to soft boat price and increased operating expenses, the lobster industry cannot afford to absorb the cost of implementing comprehensive observer coverage in the herring industry. Controlling the cost of observer coverage and securing government funding will be critical to ensure successful implementation of 100% observer coverage.

- The MLA supports the sampling of all catch with trip termination after ten dumping events per area. These measures are similar to what has been successfully implemented in Closed Area 1.
- The MLA is concerned about midwater trawl vessel access to groundfish closed areas. These vessels should only be allowed access with 100% observer coverage with a full accounting of all fish caught in order to strictly adhere to bycatch limits.

Thank you for your consideration of our comments.

Sincerely,

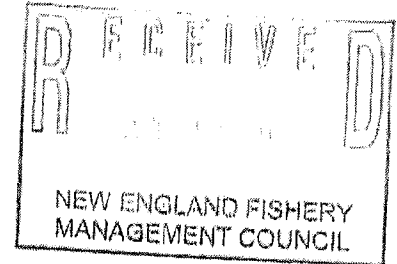


Patrice McCarron  
Executive Director

CAPE SEAFOODS, INC.  
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Tel: 978-283-8522; Fax: 978-283-3133  
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and

WESTERN SEA FISHING COMPANY  
3 STATE PIER, GLOUCESTER, MA 01930  
Tel: 978-283-7996



April 10th, 2012

Capt. Paul J. Howard  
Executive Director  
50 Water Street, Mill #2  
Newburyport, MA 01950  
By Email to: [comments@nefmc.org](mailto:comments@nefmc.org)

**Re: Comments on Draft Amendment 5**

Dear Captain Howard:

Cape Seafoods Inc is a processing facility, based in Gloucester Massachusetts, capable of handling, grading, packing, freezing and storing Atlantic Herring. The Company is a major supplier of fresh, salted and frozen herring to the Massachusetts and Maine lobster fisheries. Western Sea Fishing Company owns and operates three purpose built mid-water trawlers which land their herring catches to Cape Seafoods. These vessels are equipped with refrigerated sea water tanks ensuring landings of top quality fresh herring. At the height of the fishing season approximately 60 people are working for one or other of the companies.

Please accept these comments on Draft Amendment 5 (A5) to the Fishery Management Plan (FMP) for Atlantic Herring.

We understand that the National Marine Fisheries Service (NMFS) will be publishing a Draft Environmental Impact Statement (DEIS) on A5, on April 20, 2012, and that we will have an additional opportunity to comment on that document, which may be different than the Public Hearing Document (PHD); the source of these comments. We reserve the right to provide additional or amended comments to the Council and NMFS once we have the opportunity to review the DEIS.

Our comments follow the order of issues and options outlined in the PHD:

**Sec. 3.1 PROPOSED ADJUSTMENTS TO THE FISHERY MANAGEMENT PROGRAM**

### **Sec. 3.1.1 Regulatory Definitions (Transfer at Sea and Offload)**

We support the establishment of regulatory definitions for *transfer at sea* and *offload* as an intent to clarify the regulatory definition of existing fishing operations, including clarifying that pair trawling does not represent a transfer at sea, increase the potential for accurate reporting in the fishery and minimize the potential for catch to be double-counted.

We request that a definition of “*Localized Depletion*” be included in this Amendment as it does not appear in the plan at the moment.

### **Sec. 3.1.2 Administrative/General Provisions**

We support the proposed regulatory change that would clarify that vessels working cooperatively in the herring fishery are subject to the most restrictive possession limit associated with any of the vessels.

The amendment refers to “paired purse seine operations”, which is a description that we are not familiar with in the Atlantic herring fishery; traditionally, any purse seine skiff being used to set a purse seine has been considered part of the purse seiner itself and not a “paired vessel.”

We support the amendment’s intent to make VMS power-down provisions consistent with the multispecies, scallop and surf clam/ocean quahog fleet and allow VMS units to be powered down after the issuance of a Letter of Exemption (LOE), if the vessel is expected to be out of the water or not fishing for an extended period of time.

We support the establishment of a new Federal At-Sea Herring Dealer permit for carrier vessels or other vessels selling Atlantic herring to any entity since the intent is to improve reporting in the fishery. We encourage the agency to ensure that double-counting of landings is minimized through this change.

### **Sec. 3.1.3 Measures to Address Carrier Vessels and Transfers of Atlantic Herring At-Sea**

We support 3.1.3.2 Option 3, which would provide flexibility for herring carriers to either utilize a VMS for declaration, thereby eliminating the minimum seven-day enrollment period and allow for engagement in other activities, or maintain the status quo (minimum seven day enrollment period with LOA restrictions), which would accommodate smaller carrier vessels that do not utilize VMS.

We support 3.1.3.3 Option 1, which would make no changes to current provisions regarding the transfer of fish at sea. It is our understanding that current reporting requirements are adequate to determine and segregate catches and allow for the transfer of herring at sea to vessels without a herring permit, for personal use as bait.

### **Sec. 3.1.4 Trip Notification Requirements**

We support a combination of 3.1.4.2 Option 2 and 3.1.4.3 Option 3, which would expand and standardize current trip notification requirements throughout the herring fishery, as we understand the proposal. We understand that Option 2 would not reach Category D vessels fishing in Area 2 (because the current language stems from that implementing the haddock catch cap) and, therefore, why Option 2 is limited only to fishing for herring with midwater trawl gear.

For the purposes of this amendment, however, all areas and gear types should be considered as part of these notification requirements.

Option 3, however, seems to include all fishing activity in Area 2, and in other herring management areas, and require both observer and enforcement notifications regardless of gear type used. It is our understanding that the small mesh bottom trawl fleet can also take river herring as an incidental catch, not only in the Gulf of Maine but also in Area 2 during the winter months, so it only makes sense that all vessels working in the directed herring fishery, whether it be with an A, B, C or D permit, be required to both call for observers before fishing and notify NMFS law enforcement before landing, so that monitoring activities, both at sea and shoreside, can provide the most complete picture of what is being caught and landed in the fishery.

Based upon herring fishery landings and other data that has been reviewed during the development of Amendment 5, our understanding is that the number of Category D vessels that would be regulated under this change, and others proposed in this amendment, would be less than 10% of the number Category D permits issued.

Specifically, Page 6 of the PHD tells us that 2,258 Category D herring permits were issued in 2010 while Table 49, at page 200 of the Council's DEIS tells us that less than 100 of these permit holders landed herring in recent years.

There seems to be a clear need to rationalize the number of Category D herring permits that are being issued by the agency. We strongly support a requirement that all Category D permit holders have VMS on board, when engaged in the directed fishery for herring, and we anticipate that the number of herring Category D permits applied for would likely drop dramatically if this requirement were imposed. We do not see a VMS requirement as a significant economic burden on a vessel today and expect that most of these 100 Category D permitted vessels landing herring may already be required to have VMS on board through other permit requirements.

### **Sec. 3.1.5 Reporting Requirements for Federally Permitted Herring Dealers**

We support 3.1.5.2 Option 2, which would require dealers to accurately weigh all fish, and *Sub-Option 2B*, requiring dealers who do not sort by species to document, for individual landing submissions, how they estimated the relative composition of a mixed catch, to facilitate both quota monitoring, incidental catch analysis and cross-checking with other data sources.

We are opposed to 3.1.5.2, *Sub-Option 2C*, which would require dealers to obtain vessel confirmation of SAFIS transaction records to minimize data entry errors at the first point of sale. This proposal seems to be focused on minimizing discrepancies between vessel hails (an estimate of what is on board) and actual amounts of herring that is purchased by dealers. It places fishermen and dealers in a potentially adversarial, competitive regulatory posture that should be reserved for the Agency, as we understand what is being proposed.

If catch is weighed and sorted after landing, dealer reports should become the primary data source for quota monitoring by the Agency, as we understand to already be the case today. Weighing and sorting will make dealer reports more accurate than they are today and eliminate the need for fishermen and dealers to compare their reports, and put fishermen in a position so that they could be penalized if estimates and actual weights vary, which they will certainly continue to do.

### **Sec. 3.1.6 Changes to Open Access Permit Provisions for Limited Access Mackerel Vessels in Area 2/3**

We support 3.1.6.2 Option 2, which would establish a new open access herring permit for limited access mackerel fishery participants, in Areas 2/3 only, who do not have a limited access herring permit. This permit would be associated with a 20,000 pound possession limit for herring and would assist these vessels by providing a reasonable incidental catch allowance of herring to allow them to be able to fish for mackerel and may reduce discards of herring. This amount equates roughly to the 25,000 pound mackerel incidental catch allowance, provided by the MAFMC for vessels fishing for herring, in all herring management areas, which was established in Amendment 11, the mackerel limited access amendment.

We also urge the Council to begin now to plan for allocating a significant set-aside of Atlantic herring, and explore other options during the upcoming specifications process, such as taking days out of the herring fishery, to facilitate an Atlantic mackerel fishery in the future that is not severely limited by lack of availability of Atlantic herring, as is the case this year. This year, the expiration of the Area 2 herring quota will keep potentially more than 50 million pounds of mackerel from being harvested, at the same time that herring continue to be widely available in Area 2, according to accounts we have received from vessel captains. Many vessels are tied up today due to this fact and millions of dollars of wasted mackerel quota will not be taken due to the failure of the Agency and the NEFMC to set-aside herring quota for this purpose, as we requested when the current specifications were established.

We estimate that a 10,000 metric ton set-aside may be adequate for this purpose, given the size of the current mackerel quota, and since the herring-to-mackerel mixing ratio can often be as much as 30%. It is our hope that the ongoing assessment will provide an opportunity to return the Area 2 quota to a level exceeding 30,000 metric tons, as has been the case in the past, to facilitate a mackerel fishery in the future.

### **Sec. 3.2 CATCH MONITORING: AT-SEA**

#### **3.2.1 Alternatives to Allocate Observer Coverage on Limited Access Herring Vessels**

Throughout the development of Amendment 5, we have argued that the herring fishery should not be singled out as being required to pay for excessive levels of observer coverage, beyond what the Agency and Council may prioritize through the SBRM process; a treatment similar to other fisheries managed by the Council.

We have taken this position because we believe that the herring fishery is one of the 'cleanest' fisheries in the region, and that this fact continues to be borne out by the data coming out of both the at-sea observer program and the shoreside monitoring program, a program that we believe should be continued in the region.

We have heard herring PDT members say that there is a limit as to the precision and accuracy of catch data accumulated through the observer program, even if the coverage level were to be at 100%.

Even so, we and the majority of other Category A-permitted herring vessels owners are willing to support observer coverage levels of 100 per cent in the herring fishery, for a limited period of time, because we remain convinced that the data will continue to show that incidental catches in

this fishery are not of significant biological concern to haddock, shad, river herring or any other regional fishery stocks. We are taking this position as a challenge to our detractors, who so far have shown no interest in the actual data coming from current monitoring programs and who continue to make unsubstantiated claims about how the herring fishery operates. We will take observers at a 100% rate to continue to demonstrate that the herring fishery is a responsible fishery.

We take this position with a couple of caveats, however. First, we do not support maintaining 100% observer coverage levels in the herring fishery forever since we do not believe this coverage rate is necessary and because the expense can be significant. We suggest that a 100% requirement be temporary and only last two years, after which time the PDT should be tasked to analyze the data and report to the Council as to whether or not this level of coverage is necessary to adequately monitor the herring fishery in the future.

Second, we are only willing to purchase observer coverage, beyond those levels that may be allocated through the SBRM process and up to 100%, if the daily cost can equate to the \$325 a day rate paid by the West Coast H&G fleet, a fleet whose observer coverage rates have been suggested as a model for the herring fishery during the development of Amendment 5 by those who argue that we are under regulated and operating unsustainably. We are opposed to paying any higher daily rate since this represents a cost that would not be sustainable in the low value Atlantic herring fishery.

Third, we only support a temporary, 100% observer program in the herring fishery if the program would authorize the Agency to provide a vessel with a waiver if a Federal observer, or an observer from an approved observer service provider, is not available for a particular trip. We simply cannot afford to have our vessels tied up if an observer is not available to us for some reason and we are willing to both take and pay for an observer on that trip.

### **Sec. 3.2.2 Management Measures to Improve/Maximize Sampling At-Sea**

We support the addition of the provisions listed in Sec. 3.2.2.2, which are intended to improve sampling by observers at-sea and we understand that many of these provisions are already in place; these include requirements for a safe sampling station, requirements for 'Reasonable Assistance', requirements to provide notice, requirements for trips with multiple vessels, improving communication on pair trawl vessels and providing visual access to the net and codend. It is our understanding that the relationship between the Federal observers that have been on our vessels over the past few years and our fishing captains is excellent and we have attempted to cooperate with every request made to us by the observer program throughout this period of time.

### **Sec. 3.2.3 Measures to Address Net Slippage**

We support Sec. 3.2.3.2 Option 2 requiring the use of a released catch affidavit for 'slippage events' and understand that these affidavits are already in use, with the support of vessel owners and captains.

We are opposed, however, to the continued application of the Closed Area 1 Sampling Provisions (Sec. 3.2.3.3), either within Closed Area 1 or elsewhere, because of the requirement that all fish be brought on board for sampling and inspection by the observer. As we have repeatedly pointed out during the development of Amendment 5 there are significant operational

restrictions that make it impossible, or dangerous, to bring the pump and codend or brailer over the rail during fishing activities on midwater trawl fishing vessels. Our captains tell us that the observers have no problem seeing what remains in the net after pumping, while the net remains alongside the vessel and, as we indicate above, our captains have no problem providing visual access to the net and codend so that the observer can do his or her job.

We are strongly opposed, however, to all of the options listed in Sec. 3.2.3.4, Options 4A through 4D (proposing catch reduction and trip termination), as being simply punitive in nature and not being constructive to the ongoing cooperation between our captains and the observers on our vessels. In addition, we urge the Council and the Agency to repeal the Closed Area I regulations since there is no indication that incidental catches in Closed Area I differ significantly from those in other areas where the herring fishery operates and due to the fact that there is no data to indicate that the herring fishery is having any significant mortality effect on any groundfish species, either inside or outside of Closed Area I.

It is important, however, to retain in regulation that fish can be released throughout the herring fishery if the vessel operator finds that:

1. Pumping the catch could compromise the safety of the vessel;
2. Mechanical failure precludes bringing some or all of the catch aboard the vessel; or
3. Spiny dogfish have clogged the pump and consequently prevent pumping of the rest of the catch.

Finally, as we all know, the Council's habitat and groundfish committees are moving towards either eliminating Closed Area I or modifying the area due to its lack of relevance today as either a groundfish protection or habitat protection area, making regulations specific to the area equally irrelevant to managing the herring fishery today or in the future.

#### **Sec. 3.2.4 Maximized Retention Alternative (Experimental Fishery)**

We support Sec. 3.2.4.1, the no action alternative. Herring vessels would continue to operate under the regulations and possession limits for any fisheries for which they possess permits. Amendment 5 would add other regulatory changes, which we could support consistent with our comments, and would aid observers in their responsibility to see and sample catches.

The herring fishery has taken place in this region for more than 100 years and was the first fishery to agree to hard quotas, more than a decade ago, with the approval of the Federal FMP by the Council and Agency, in 2001. The idea that the herring fishery should be operated as an experimental fishery has been suggested by advocates who clearly would like to eliminate the majority of the fishery and the vessels in it. This proposal only has punitive value and should be summarily rejected by the Council.

### **Sec. 3.3 MANAGEMENT MEASURES TO ADDRESS RIVER HERRING BYCATCH**

#### **Sec. 3.3.2 River Herring Monitoring/Avoidance**

The public hearing document tells us that the long-term goal of this section of the proposed amendment is to adopt river herring bycatch avoidance strategies in the time and areas where interactions with the herring fishery are observed or anticipated.



At the same time, the Magnuson-Stevens Fishery Conservation and Management Act's National Standard Nine requires that "*conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.*" National Standard One requires that "*conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield (OY) from each fishery for the United States fishing industry.*" The Atlantic herring fishery is not considered overfished, nor is overfishing occurring, so maintaining OY in the fishery must be a Council priority.

We agree with the amendment's goal, since it has now become clear to us that minimizing the incidental catch of alosine species has recently become both a public and a Council interest and we recognize our duty under the law to reduce the incidental catch of these fish.

As this amendment has developed over the last few years, however, we have come to the realization that most of the river herring monitoring and avoidance strategies proposed by the Council in the amendment do not recognize the temporal and spatial variations dictating where river herring will be from year to year, or even from day to day, and that the extensive areas that are proposed to be closed threaten our ability to continue to catch herring to provide an important baitfish for the region's lobster fisheries and other markets.

Consequently, during the past two years, we have been working with other boat owners, organized as the Sustainable Fisheries Coalition (SFC), and in partnership with the Massachusetts Division of Marine Fisheries (DMF) and the UMASS Dartmouth School of Marine Science and Technology (SMAST), to replicate a bycatch avoidance project already in use in the scallop fishery, to reduce the incidental catch of yellowtail flounder; an approach recognized as effective by this Council.

Our project, funded for the past two years through the National Fish and Wildlife Foundation, and with recent financial support from the Nature Conservancy to allow for the participation in the project by small mesh bottom trawl fishermen, is already working to create awareness of the issue within the fleet and direct effort away from where river herring species are known to be on a daily, real time basis. At this time, we are seeking additional funding through the MAFMC RSA program, so that this low cost, real time program can continue into the next fishing year. This program includes a goal of monitoring 50% of trips that are landed, so that incidental catches can be identified and quantified.

Within this context, we support Sec. 3.3.2.2.4 Option 4, a two-phase bycatch avoidance approach based on the SFC/SMAST/DMF project, as the only option that will work to reduce the incidental catch of river herring in the herring fishery and allow for the continued production of optimum yield from the Atlantic herring resource. The project should involve all vessels directing on Atlantic herring, including Category A, B, C and D permit holders. VMS is essential to the success of this project and therefore, all Category D permitted vessels directing on Atlantic herring should be required to have VMS on board.

### **Sec. 3.3.5 River Herring Catch Caps**

We do not support the Council considering a biologically-based river herring catch cap through a framework adjustment to the herring FMP or the herring specifications process with this amendment. It is our understanding that the PDT has not made a recommendation for a catch cap because there is insufficient information upon which to base one. The relative mortality

effects of incidental catches in the herring fishing, and would be critically important to understand before setting a biologically-based catch cap.

**Sec. 3.4 MANAGEMENT MEASURES TO ADDRESS MIDWATER TRAWL ACCESS TO GROUND FISH CLOSED AREAS**

As stated above, we believe that there is no relationship between incidental catches in the Atlantic herring fishery and the groundfish closed areas. The GFCAI provisions (CFR §648.80) should be repealed upon implementation of this amendment for this reason and access to the groundfish closed areas should be retained for both herring midwater trawlers and purse seiners, through a LOA issued by the agency, as had been the case for many years.

In response to a previous legal challenge to midwater trawlers' rational access to GFCAI and other mortality closures, in a brief to a Federal court in June 2009, Agency attorneys wrote, *"even if bycatch in the herring fishery (was) hundreds of times the level suggested by the data, then there would be no compelling reason to suspect that haddock or other groundfish stocks (are) imperiled."* The Agency also clarified in its brief that, *"by contrast, the directed groundfish fishery's total allowable catch of haddock is...500 times the (existing) herring bycatch cap"* and *"for those stocks that are undergoing overfishing, the bycatch in the herring fishery is so miniscule that the measures sought (evicting herring vessels) could not prevent overfishing of these stocks."*

In conclusion we strongly support Sec. 3.4.1 *Alternative 2 – Pre-Closed Area I provisions*, which would reestablish criteria for midwater trawl vessel access to the groundfish closed areas based on provisions prior to the implementation of the Closed Area I rule.

Thank you for your consideration of our comments. We look forward to continuing to work with you and the members of the Council towards the implementation of reasonable, additional monitoring requirements in the Atlantic herring fishery, through the implementation of Amendment 5, to ensure a sustainable Atlantic herring resource and fishery for many years to come.

With best regards,

*Dave Ellenton*

General Manager / VP Cape Seafoods Inc  
V/P Western Sea Fishing Company