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November 8, 2011

Mr. Rip Cunningham, Chairman  
 New England Fishery Management Council  
 50 Water Street  
 Newburyport, Massachusetts 01950



**RE: Catch Cap for River Herring**

Dear Mr. Cunningham:

I am writing to you today on behalf of the Herring Alliance, and all of its 42 member organizations, to ask you to **include a river herring catch cap alternative in Amendment 5 to the Atlantic herring plan.** We have written to the Council previously on this important issue.<sup>1</sup>

The New England Fishery Management Council (NEFMC) has an opportunity to work cooperatively with the Mid Atlantic Fishery Management Council (MAFMC) to limit the at-sea catch of river herring through a catch cap. **A cap is the most effective way to ensure that the catch of these imperiled fish is constrained within appropriate limits.**

The NEFMC, through Amendment 5 to the Atlantic Herring fishery management plan (FMP), and the MAFMC, through Amendment 14 to the Mackerel, Squid, Butterfish FMP, have an unusual opportunity to take an integrated approach to the river herring bycatch issue that will be more effective than anything either Council can do independently. The two Councils are dealing with the same fleet of vessels that pursue both Atlantic herring and mackerel opportunistically. **It only makes sense to address this management challenge in a coordinated fashion.**

On October 17, 2011, MAFMC Chair Rick Robins wrote to you requesting that the NEFMC include a river herring catch cap in Amendment 5 for public comment to **allow for alignment between the two Councils on the river herring bycatch issue:**

*In order to facilitate public comment on alternatives that would allow alignment between these important amendments, and since both plans in part manage the same fleet, we request that the New England Fishery Management Council include alternatives for these incidental catch caps in Amendment 5.<sup>2</sup>*

<sup>1</sup> Letter to Paul Howard, dated January 21, 2011: *Capping River Herring Catch in the Atlantic Sea Herring Fishery*

<sup>2</sup> Letter from Richard Robins to Rip Cunningham, dated October 17, 2011.

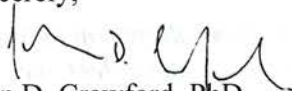
This is a critical opportunity for the two Councils to work cooperatively to reduce the capture of river herring at-sea. Catch caps for bycatch reduction are effective and used in many fisheries both in the region (e.g., haddock cap for Atlantic herring fishery, yellowtail cap for scallop fishery) and in other regions (e.g., salmon cap in the Bering Sea Pollock fishery).

NOAA has long identified these fish as *species of concern*, and on November 2 this year (2011), announced that it had initiated a review of these fish for **listing under the Endangered Species Act (ESA)** after completing a 90-day review of a petition with a determination that consideration of threatened status under the ESA was warranted.<sup>3</sup> River herring populations have plummeted to historic lows and many states imposed moratoria on fishing for river herring in rivers and in state waters years ago, and the ASMFC now requires that states demonstrate sustainable populations to continue fishing next year. It is time for the managers of the at-sea fisheries to do their part by establishing a catch cap to limit river herring mortality in federal waters.

The NEFMC has had extensive deliberations about establishing a catch cap for river herring, and has completed considerable technical analysis of various approaches to establishing a catch cap.<sup>4</sup> During the September 2010 meeting of the NEFMC, the full Council passed a motion (motion 10b, September 28, 2010) to establish two options in Amendment 5 for a river herring catch cap (passed 12:3:0). In a subsequent motion (motion 11) the Council voted to charge the Atlantic herring committee to develop a river herring catch cap option (14:1:0). Thus the Council has debated and analyzed a catch cap as an option for controlling the bycatch and incidental catch of river herring, although the current draft of Amendment 5 does not yet include an alternative for a catch cap.<sup>5</sup>

The MAFMC has conducted a comprehensive analysis of various approaches to addressing river herring catch in the mackerel fishery, including monitoring, time-area closures, and an incidental catch cap. Their analysis indicates that the best approach is a catch cap, but a catch cap cannot succeed unless the two Councils work together to apply a cap to the combined Atlantic herring and mackerel fisheries. **We strongly urge the New England Council to include an alternative for a river herring catch cap in the Amendment 5 draft for public comment.** The specifics of the alternative should be developed in cooperation with the Mid-Atlantic Council to ensure that there is an opportunity for coordinated action if this is supported through public comment and selected by the respective Councils.

Sincerely,



John D. Crawford, PhD  
Science and Policy Manager

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<sup>3</sup> **Federal Register** / Vol. 76, No. 212 / Wednesday, November 2, 2011 / Proposed Rules, p 67652

<sup>4</sup> Cournane J, Cieri M, and Correia S (2010) Developing River Herring Catch Cap Options in the Directed Atlantic Herring Fishery - Prepared for the Atlantic Herring PDT December 2010; see Appendix D, p 36, on *Possible Approaches to Setting a Catch Cap*.

<sup>5</sup> Concerns were raised by the Plan Development Team about using a cap in the Atlantic herring fishery without having a coast-wide stock assessment for river herring as a basis for the cap amount.