

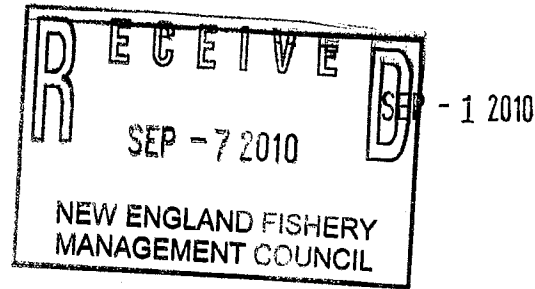
Correspondence

Ma



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

John Pappalardo, Chairman
 New England Fishery Management Council
 50 Water Street, Mill 2
 Newburyport, MA 01950



Dear John:

NOAA's National Marine Fisheries Service (NMFS) recently received a list of possible sector exemption requests for fishing year (FY) 2011. I am writing to seek input from the New England Fishery Management Council (Council) on some of these requests, as well as to inform the Council of how NMFS is interpreting several sector provisions.

I. EXEMPTIONS PROHIBITED TO SECTORS

Amendment 16 prohibits certain exemptions for vessels enrolled in a sector and operating under an approved operations plan. The list of management measures that sectors are prohibited from asking for an exemption from is limited to: Year-round closed areas; permitting restrictions (vessel upgrades, etc...); gear restrictions designed to minimize habitat impacts (roller gear restrictions, etc...); and reporting requirements (not including DAS reporting requirements).

I request that the Council further define which groundfish regulations sectors may not be exempted from, particularly with regard to reporting requirements. Several sectors have inquired about exemptions for FY 2011 from certain reporting requirements, such as dockside monitoring or certain aspects of the dockside monitoring program. For example, an exemption from dockside monitoring for trips below a certain threshold of catch or for trips using jig gear. Because there appears to be some confusion within industry as to which regulations are included in the reporting requirement exemption prohibition, this letter informs you that NMFS interprets the reporting requirement exemption prohibition broadly to apply to all monitoring requirements, including at-sea monitoring, dockside monitoring, annual catch entitlement (ACE) monitoring, and the counting of discards against sector ACE. Based on this, NMFS intends to use this interpretation in reviewing sector exemption requests for FY 2011.

II. SOUTHERN BOUNDARY FOR DOCKSIDE MONITORING

The question of whether a southern boundary exists for dockside monitoring has come up several times during this past year and one of the potential exemption requests for FY 2011 is an exemption from dockside monitoring for vessels fishing west of 72° 30' when



targeting dogfish, skates or monkfish. Amendment 16 did not set a geographic boundary for this requirement. As a result, a vessel enrolled in a sector (or the common pool starting in FY 2012) is required to have dockside monitoring on a trip where potentially very little, if any, groundfish are normally caught.

Amendment 16 specifies that sectors must develop and implement a dockside monitoring system that is "satisfactory to NMFS for monitoring landings and utilization of ACE." This could be interpreted to allow an individual sector to propose a geographic boundary for its dockside monitoring program. However, having each sector develop a dockside monitoring program with different geographic boundaries would be problematic. Accordingly, I request that the Council consider establishing a geographic boundary to prescribe where the dockside monitoring requirements apply.

III. EXEMPTION FROM OTHER SECTOR REQUIREMENTS

Amendment 16 allows any groundfish measures that are not specified in the prohibited exemption list to be exempted through a sector's operations plan if approved by NMFS. However, there are certain regulatory requirements for sectors that raise larger concerns than the direct impact of granting the exemption to a particular sector. For example, Amendment 16 redefines "sector" to mean "a group of persons (three or more persons, none of whom have an ownership interest in the other two persons in the sector) holding limited access vessel permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time..." At least one sector, a private permit bank with zero active vessels, is considering requesting an exemption from the minimum size (ownership rule of three) for sectors. NMFS believes the definition of a sector is a fundamental aspect of sector administration. Therefore, given that the Council did not include an exemption from the ownership rule of three, I request that the Council specifically consider this issue.

IV. DISTRIBUTION OF CATCH HISTORY OF CANCELLED PERMITS

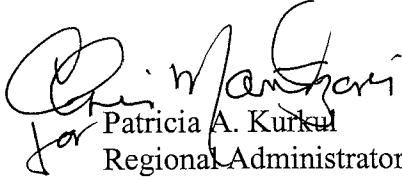
Lastly, I also wish to remind you of my April 2, 2010, letter regarding the distribution of landings history of cancelled permits. Since May 1, 2008, a small number of permits eligible to join sectors have been permanently cancelled, either through voluntary relinquishment by the permit holder or under the renew-or-lose provision. My previous letter notified the Council that NMFS interprets Amendment 16 to allocate history associated with cancelled permits to the common pool for FY 2010.

The scope of this issue is very small at this time. However, with increased discussion of a potential buy-back of groundfish permits, the Council may wish to consider whether, in future years, it would be better to recalculate PSCs annually (prior to the start of the next fishing year), removing cancelled permits from the pool of eligible permits. Thus, the

history of the cancelled permits would be redistributed equally among the remaining pool of eligible permits, rather than defaulting to the common pool.

My staff is available to further discuss with your staff any questions you or your staff may have regarding this letter.

Sincerely,


Patricia A. Kurkul
Regional Administrator

cc: Paul J. Howard, Council Executive Director

126

NORTHEAST SEAFOOD COALITION

September 8, 2010

Mr. Frank Blount, Chair
Groundfish Oversight Committee
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950



Dear Frank,

On behalf of the Northeast Seafood Coalition I am writing to request that the Committee consider including language in Framework 45 that institutes an expedited process for operational improvements to be made for Groundfish Sectors.

At this point it seems unclear to NMFS which adjustments can and cannot be made accordingly to the Amendment 16 policy as approved by the Council. The appropriate departments at NMFS need to be provided the authority to work in partnership with Sector leadership and organizers to make improvements as deemed necessary over the course of a given fishing year.

NSC recommends that the Committee direct Council staff to craft language to be inserted into Framework 45 that would allow improvements to be made to discard calculation methodology, sector manager reporting frequencies and thresholds and the dockside monitoring program.

Sincerely,

Jackie Odell

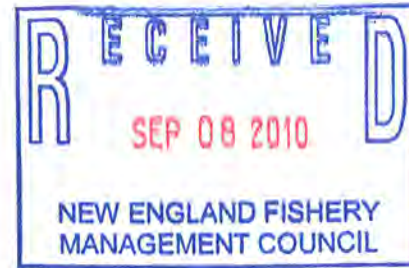
Jacqueline Odell
Executive Director

NORTHEAST SEAFOOD COALITION

12c

September 8, 2010

Mr. Frank Blount, Chair
Groundfish Oversight Committee
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950



Dear Frank,

I am writing to convey the support of the Northeast Seafood Coalition for the Committee to include an option in Framework Adjustment 45 that reverses the Amendment 16 requirements for groundfish sectors to pay at sea monitoring costs beginning in 2012 and beyond.

As stated in the NSC comments for the proposed rule for Amendment 16 (January 20, 2010), “the groundfish industry cannot support the additional costs associated with Sector development and implementation as contemplated by Amendment 16, particularly those costs associated with dockside and at-sea monitoring and reporting. This fact was well noted in the Draft Environmental Impact Statement (DEIS) accompanying Amendment 16, and is very unlikely to change in the near to mid-term future notwithstanding the hoped-for rebuilding of groundfish stocks under this Amendment. Consequently, the future success of the Sector management system relies on continued substantial Federal funding to cover these additional costs.”

With no foreseeable relief in sight for increasing the Annual Catch Limits or potential sector contributions, the fishery can simply not shoulder the added costs for monitoring which is estimated to be \$4.6 million for at sea monitoring alone. It is thus imperative that the Committee include an option that reverses this requirement in this current Framework.

Sincerely,

Jackie Odell

Jacqueline Odell
Executive Director



CAPE COD COMMERCIAL HOOK FISHERMEN'S ASSOCIATION, Inc.
210-E Orleans Road
North Chatham, MA 02650
508-945-2432 • 508-945-0981 (fax)
www.ccchfa.org • contact@ccchfa.org

12d

September 8, 2010

Frank Blount, Chairman
Groundfish Oversight Committee
New England Fishery Management Council
50 Water Street Mill 2
Newburyport, MA 01950



Dear Mr. Blount,

In May, the Council formally asked the National Marine Fisheries Service (NMFS) to provide continuing financial support for at-sea monitoring for 2012 and beyond. I am writing on behalf of the Board of Directors and the membership of the Cape Cod Commercial Hook Fishermen's Association (CCCHFA) to support this request and urge the Council to reverse its earlier decision to require sector vessels to pay the full cost of at-sea and dockside monitoring in 2012.

To this end, we ask that Groundfish Framework 45 include an option to reverse the Amendment 16 requirement for sectors to pay at-sea monitoring costs beginning in 2012. Holding the industry entirely responsible for monitoring costs so soon after transitioning to sector management will make it extremely difficult for fishermen trying to make the new system work.

Additionally, we ask both the Council and NMFS work to ensure that streamlined and comprehensive electronic monitoring (EM) options are available to all sectors by the 2012 fishing year. Such programs would provide a valuable alternative to high levels of at-sea observer coverage, at a fraction of the cost and without many of the logistical or safety issues of the existing program. Innovative EM programs are currently employed in other fisheries and have already been successfully piloted in New England's groundfish fishery.

It is now time to move beyond isolated pilot programs and towards a robust EM program available to all groundfish sectors. Without such an alternative, the cost of a much-needed comprehensive catch monitoring program will cripple the small-boat fleet in New England.

Thank you for your consideration. I appreciate your continued efforts to address these critical issues.

Sincerely,

Tom Dempsey
Policy Director

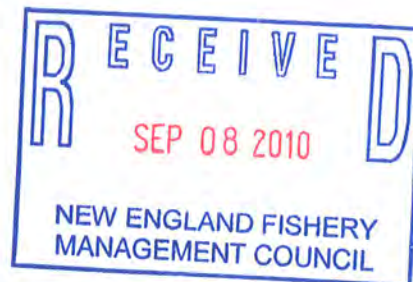
K & K FISHING CORP.

84 Front Street
New Bedford, MA 02740
Phone (508) 548-8226
Fax (508) 548-2629
pkavanagh5@aol.com

He

September 7, 2010

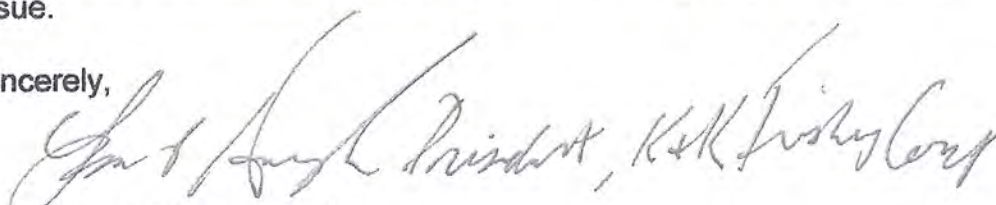
Mr. Frank Blount
Groundfish Oversight Committee
Via Electronic Mail



Dear Mr. Blount,

I am writing to request that the NEFMC recommend that NMFS pay for the at sea monitoring required for sector vessels in 2012. The way Amendment 16 is currently written the boats would have to bear the full burden. Groundfish boats cannot afford that additional expense. In other regions NMFS pays the lion's share. Please will the committee reconsider and reverse your position on this issue.

Sincerely,


Lawrence P. Kavanagh, Jr.

TOWN OF BURRILLVILLE

3. GROUND FISH (September 28-30, 2010)-M

Office of Town Clerk

Louise R. Phaneuf
Town Clerk



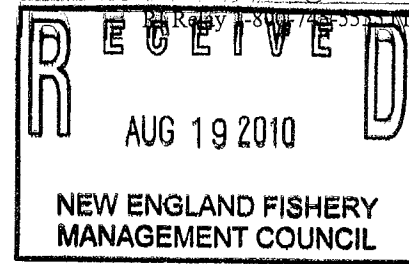
TOWN BUILDING
HARRISVILLE, R.I.

Telephone: (401) 568-4300 ext. 114

FAX: (401) 568-0490

E-mail: townclerk@burrillville.org

By Relay (800) 748-5555 (TDD/TTY)



August 17, 2010

National Oceanic and Atmospheric
Administration
1401 Constitution Avenue, NW
Room 5128
Washington, DC 20230

NOAA Fisheries Service
Partnerships & Communications
1315 East West Highway
Silver Spring, MD 20910

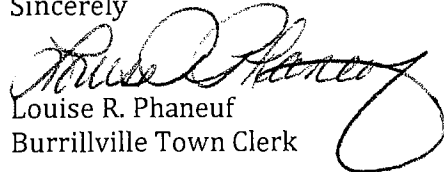
RE: Catch Share/Sector Management - Northeast

At the regular meeting of the Burrillville Town Council held Wednesday, August 11, 2010 at 7:00 p.m. in town council chambers, 105 Harrisville Main St., Harrisville, RI, at which time a quorum was present and acting throughout, the Burrillville Town Council considered and discussed a resolution of the Narragansett, Rhode Island, Town Council, respectfully requesting the suspension of the current Catch Share/Sector management in the Northeast. A copy of the resolution is attached for your consideration.

The Burrillville Town Council unanimously voted to support the Narragansett Town Council resolution. The Burrillville Town Council concurs with the Narragansett Town Council in their concern with the confusion created by this program and asks that NOAA and NMFS continue to work with the New England Fisheries Management Council to develop appropriate management policies that will have less of an economic impact on the commercial fishing industry and will not result in the bycatch of other species.

Your consideration in this matter is appreciated.

Sincerely



Louise R. Phaneuf
Burrillville Town Clerk

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

Grady Miller, Town Manager
Town of Narragansett
Narragansett Town Hall
25 Fifth Avenue
Narragansett, RI 02882

105 Harrisville Main Street, Harrisville, Rhode Island 02830 - 1499

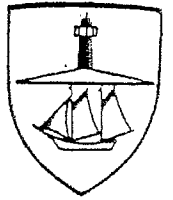
cc: CRBK (8/24)



Town of Narragansett

Rhode Island

Resolution No. 2010-13



A RESOLUTION RESPECTIVELY REQUESTING THE SUSPENSION OF THE CURRENT CATCH SHARE/SECTOR MANAGEMENT IN THE NORTHEAST IMPLEMENTED BY THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

WHEREAS, on May 1, 2010 the National Oceanic and Atmospheric Administration's Amendment 16 to the Magnuson-Stevens Fishery Conservation and Management Act became effective restructuring the fishing industry to a catch share/sector management program; and

WHEREAS, the intention of Amendment 16 is to immediately reduce overfishing in the Northeast multispecies fishery, while addressing the need to help sustain fishing communities, without compromising rebuilding objectives; and

WHEREAS, the complexity of the Magnuson-Stevens Act and the regulations to implement this Act have created a web of confusion and bureaucracy for commercial fisherman to negotiate and understand; and

WHEREAS, the measures proposed in this action are intended to reduce overfishing while the possible unintended consequences include dramatic bycatch increases of any fish managed by quota; and

WHEREAS, the proposed Southern New England Closure Area has led many Rhode Island commercial fishermen to secure dock space in Massachusetts in order to continue fishing in areas that are not proposed to be closed; and

WHEREAS, this possible transfer of effort from one New England state to another is not considered to be sound fisheries management and will likely have a negative impact on the species that are targeted for rebuilding in this interim rule; and

WHEREAS, the New England Fisheries Management Council provided a number of recommendations to the National Marine Fisheries Service in September 2008 to address the severity of the stock assessment findings, however, most of these recommendations are not included in Amendment 16; and

WHEREAS, commercial fishing is one of the oldest and most important industries in Rhode Island; and

WHEREAS, the Port of Galilee upholds the long standing tradition of fishing and ranks the third largest commercial fishing port in New England; and

WHEREAS, in 2008, fishermen in the Port of Galilee landed approximately 37.6 million pounds of fish worth approximately \$36.9 million; and

WHEREAS, according to the 2002 census, Rhode Island ranked #1 in sales or receipts per capita in the fish and seafood wholesale in the nation; and

WHEREAS, the economic impact of lower federal catch limits and the transition to the catch shares/sector management system will be devastating to the already struggling fishing industry that has been suffering through the worst economic crisis in decades; and

WHEREAS, there are approximately 226 commercial fishing boats currently registered in the Port of Galilee; and

WHEREAS, the effect of the new regulations will not only have an impact on the fishermen, wholesalers, processing plants and the trucking industry but also countless others such as boat builders, bait shops, restaurants and banks; and

WHEREAS, the State of Rhode Island and the United States of America should do everything in its power to rebuild fish stocks and reinvigorate the commercial fishing industry in order to produce its own food supply rather than rely on shipments of frozen fish from other countries; and

WHEREAS, the viability of the Port of Galilee and the success of the fishing fleet is a vital component to the overall economic health of the Town of Narragansett, Rhode Island and New England; and

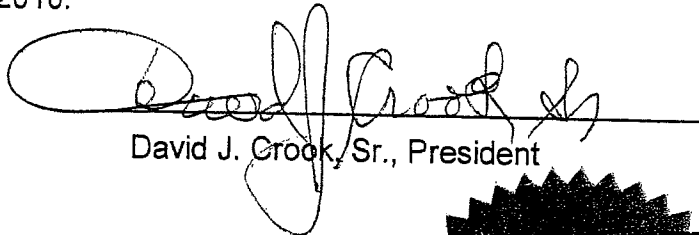
WHEREAS, the Port of Galilee is a large tourist attraction in Rhode Island where tourism ranks as the third largest industry; and

WHEREAS, recreational saltwater fishing is Rhode Island's 8th largest tourism attraction generating more than \$160 million in revenue and more than 1,000 jobs. **NOW THEREFORE, BE IT**

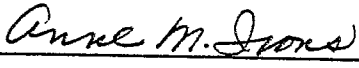
RESOLVED the Town Council respectively requests that the current catch share/sector management in the Northeast implemented by the National Oceanic and Atmospheric Administration on May 1, 2010 be suspended and encourages an amendment to the current regulations and advocates for the implementation of emergency regulations and for the increase of the 2010 annual catch limits, and

BE IT FURTHER RESOLVED that the Town Council hereby respectfully requests that the National Oceanic and Atmospheric Administration and the National Marine Fisheries Service continue to work with the New England Fisheries Management Council to develop appropriate management polices that will have less of an economic impact to the commercial fishing industry and will not result in the bycatch of other species.

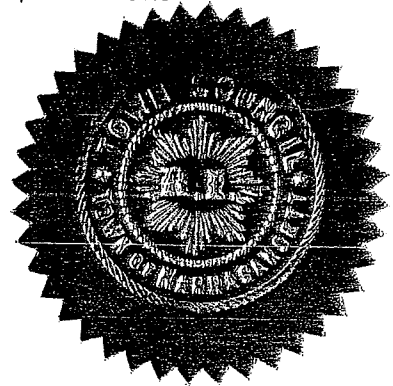
ADOPTED this sixth day of July A.D. 2010.


David J. Crook, Sr., President

ATTEST:



Anne M. Irons, CMC
Town Clerk



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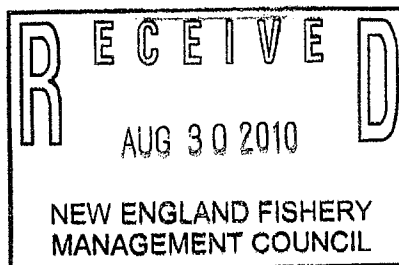
ASSOCIATED FISHERIES OF MAINE

PO Box 287, South Berwick, ME 03908

207-384-4854

August 25, 2010

Mr. Frank Blount, Chair
Groundfish Oversight Committee
VIA Electronic Mail



Dear Frank:

I am writing, on behalf of Associated Fisheries of Maine (AFM) to request the Committee's assistance with two issues that will improve the likelihood of success of sector management of groundfish.

First and foremost, AFM would like the Committee to include in FW 45 an option to reverse the Amendment 16 requirement for groundfish sectors to pay at-sea monitoring (ASM) costs in 2012.

You may recall that during the final decision-making on Amendment 16, there was little discussion of this requirement because everyone's attention was keenly focused on several controversial issues, most of which were more immediate, like allocation, access to rolling closures, specific levels of monitoring requirements, etc.

Since the implementation of Amendment 16, NMFS has determined that 38% of sector fishing trips must be monitored at-sea, at a cost of \$4.6 million annually.

In May 2010 the Council wrote to the NMFS expressing "concern...for the New England fishing industry's ability to shoulder cost of both ASM and dockside monitoring in 2012" and requesting the NMFS to "make every effort to provide continuing support for the ASM program in 2012 and beyond". However, it is not clear that the NMFS will include such funding in the 2012 budget, and it may now be too late to do so.

In a comparable situation, it appears that the NMFS has made a greater commitment to minimizing ASM costs for the Pacific groundfish fishery. The following paragraph (emphasis added) is from a NMFS fact sheet titled "West Coast Groundfish Trawl Catch Share Program", August 2010:

"The actual costs of observer coverage depend mostly on the business decisions of the industry (e.g., multiple vessels sharing a single observer). NOAA has committed to share a major portion of the per-permit observer program - up to 90% of the costs in year 1, with lowering amounts being paid in years 2 and 3, with the industry picking up the entire tab by 2014, depending on appropriations."

Recently, the Council's Joint Groundfish/Scallop Advisory Panel unanimously endorsed a motion to request a reversal of the decision to require sector vessels to pay the full cost of monitoring in 2012. The Joint Groundfish/Scallop Committee agreed to forward this recommendation to the Groundfish Committee.

The Amendment 16 EIS made it clear that it is difficult to project future revenues for vessels fishing under sector management. However, we hope the Committee and Council will agree that it is unreasonable to expect a fishery to pay nearly 6% of (present) ex-vessel value in ASM costs, especially when there is additional dockside monitoring and management costs for sectors. This percentage is well above what would be required under the Magnuson Act if the sector program were a LAPP, which it is not.

Second, AFM would like the Committee to recommend to the NMFS that sector vessels be allowed to offload lobster bycatch prior to the arrival of a dockside monitor, under certain conditions. As hurricane season and winter approach, vessel operators occasionally end fishing trips prematurely due to bad weather. Vessel operators would like to have the flexibility to immediately offload lobsters to reduce the possibility of weather-induced mortality when circumstances prevent the simultaneous offload of groundfish catch. The NMFS' solution is for vessel operators to waste financial resources by requesting a dockside monitor for the two offloading events.

A sensible recommendation was included in the dockside monitoring standards developed by the Gulf of Maine Research Institute (GMRI) and members of the fishing industry, in consultation with NMFS. However, this recommendation was not approved by NMFS.

The standards developed by GMRI, et al include the following language with regards to offloading prior to arrival of dockside monitor (emphasis on subparagraph a):

1. The vessel may enter port and tie at safe berth but no offloading can commence until the DM/RM is present.
 - a. **Under limited circumstances vessels may be allowed to land non-allocated stocks for example lobsters or scallops, but will be required to notify NMFS Enforcement with enough notice to enable enforcement to be deployed, if desired.**

AFM would like the Committee to recommend that the Council express support to NMFS for the language described above in paragraph 1a.

As always, we appreciate your consideration of our views.

Sincerely,

M. Raymond

Maggie Raymond

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New England Fishery Management Council

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

May 6, 2010

Mr. John Oliver
Deputy Assistant Administrator for Operations
NOAA/NMFS
Room 14743, 1315 East-West Highway
Silver Spring, MD 20910

RE: 2012 At-Sea Monitoring (ASM) Costs for New England Groundfish Sectors

Dear John:

I am writing to bring your attention to a very serious fiscal issue pending for the 2012 New England Groundfish fishing year. As you know, Amendment 16 to the Northeast Multispecies FMP includes a provision for At-Sea Monitoring (ASM) with the appropriate level of coverage to be set by NMFS. It is our understanding the agency has decided that 38% is the likely target with a minimum level of 30% coverage. We also understand that based on 2010 numbers (assuming 8,800 DAS) the agency's preliminary cost estimate for 30% ASM is \$4.6M. Our primary concern here is for the New England fishing industry's ability to shoulder cost of both ASM and dock-side monitoring starting in 2012.

Currently, the Agency is funding ASM at similar levels for both 2010 and 2011. However, we understand programmatic funding for ASM may not continue in 2012. If this comes to pass the New England fishing industry, already facing difficult times, will need to carry additional financial burden. It is imperative we raise this issue now as the Agency continues its work on the 2012 budget. We hope you will make every effort to provide continuing support for the ASM program in 2012 and beyond.

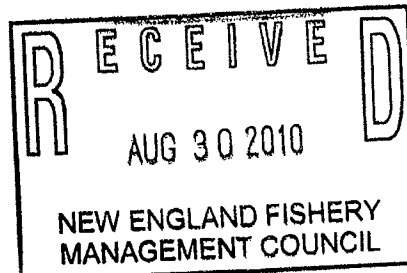
Thank you for your consideration of this timely and crucial issue facing New England Groundfish Sectors in 2012. Please do not hesitate to contact me should you have any questions or need additional information.

Sincerely,

John Pappalardo
Chairman

cc: Council members

91 FAIRVIEW AVE
PORSTMOUTH NH 03801

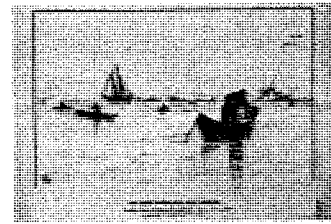


**NORTHEAST HOOK
FISHERMAN'S ASSOCIATION**

August 30, 2010

New England Fishery Management Council

50 Water Street, Mill 2
Newburyport, MA 01950
Phone: (978) 465-0492
Fax: (978) 465-3116



Dear NEFMC Council Members:

We represent a group of Commercial Fishermen with the Limited Access Handgear HA Permits, employing the use Rod and Reel or Handlines to catch Cod, Haddock and Pollock along with small quantities of other regulated and non-regulated marine fish. Historically and currently our fishermen account for a very small percentage of the groundfish landed in New England. However, the monetary gains obtained by the participants in this fishery are very important to us.

On July 30th the Handgear HA permits GOM cod trip limit was reduced from 300 lbs to 75 lbs and on the 6th of August the limit was increased to 100 lbs. This cod trip limit reduction is unacceptable to an entire class of fishermen who contributed to the rebuilding to the GOM cod stocks and deserve to benefit from the rebuilding of GOM cod. The Handgear cod trip limits were set proportional to the DAS fishery Cod trip limits so as the stock rebuilt and the DAS trip limits were increased so would the Handgear limits. It is very unfair that the Handgear GOM cod fishery was essentially shut down three weeks after the start of the season. We can not compete in a race to fish against more efficient fishing vessels. By the third week of July 85% of the GOM cod fishery was harvested by vessels and handgear boats never had a chance at a fair share of the fishery. 100 lbs of cod trip limit puts a whole gear type of fishermen out of business. This is must be corrected in FW45 to give the handgear permits a shot at their fair share of the GOM cod fishery. We can't survive another year with a three week cod season (or less) which will happen again next year if this is not addressed in FW45.

We insist that the following temporary corrective measures be added into FW45. When the next Groundfish Amendment is developed, more specific rules can implemented, for Handgear fishermen, that better address cod trip limits.

1. **Fix the handgear GOM and Georges Bank Cod trip limits for Handgear HA boats to at least 300 lbs per trip until the next Groundfish Amendment where specific measures for HA permits can be addressed. If the DAS cod trip limit does go up from 800 lbs so would the HA permits however the lowest it will be reduced is to 300 lbs per trip.**
2. **Allow the Handgear Vessels to fish in Statistical Grids 132 & 133 in April, May and June except in the Whaleback Spawning area if this area is approved for closure in FW45. This will return the Handgear fishery back to it's traditional fishing grounds when the weather is safe for their small boats.**

There will be no longer a commercial cod jig fishery in the GOM if no action is taken. The cod jig fishery was the first in New England and if nothing is done it will be the first to be eliminated at a time when cod stocks have rebound.

Respectfully,

**Marc Stettner
President**

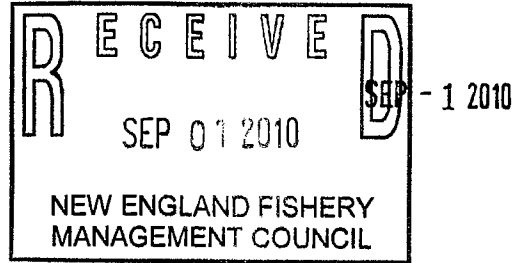
NEHFA MEMBERS: RON ONORATO (NY), JOHN ZACKS (CT), PAUL KEHLENBACH (CT), JOSEPH CRISCUOLO (CT), MICHAEL PLAIA (RI), STEPHEN BARUSSO (MA), THOMAS FOLEY (MA), ROBERT CARBONE (MA), WALTER TOLLEY (MA), JAMES GOULART (MA), KERRY DOON (MA), TED LIGENZA (MA), DONALD BERUBE (MA), MARIO TROMBI (MA), LARRY ROGERS (MA), CHUCK BUTLER (MA), KEVIN TWOMBLY (MA), JACK HILTON (MA), EDWARD COGGESHALL (MA), RONALD KRAUSE (MA), KEVIN HARNOIS (MA), GEORGE COSTA (MA), GEORGE DEMARAIS (NH), SCOTT RICE (NH), MARC STETTNER (NH)

Bj



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

John Pappalardo, Chairman
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950



Dear John:

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I. EXEMPTIONS PROHIBITED TO SECTORS

Amendment 16 prohibits certain exemptions for vessels enrolled in a sector and operating under an approved operations plan. The list of management measures that sectors are prohibited from asking for an exemption from is limited to: Year-round closed areas; permitting restrictions (vessel upgrades, etc...); gear restrictions designed to minimize habitat impacts (roller gear restrictions, etc...); and reporting requirements (not including DAS reporting requirements).

I request that the Council further define which groundfish regulations sectors may not be exempted from, particularly with regard to reporting requirements. Several sectors have inquired about exemptions for FY 2011 from certain reporting requirements, such as dockside monitoring or certain aspects of the dockside monitoring program. For example, an exemption from dockside monitoring for trips below a certain threshold of catch or for trips using jig gear. Because there appears to be some confusion within industry as to which regulations are included in the reporting requirement exemption prohibition, this letter informs you that NMFS interprets the reporting requirement exemption prohibition broadly to apply to all monitoring requirements, including at-sea monitoring, dockside monitoring, annual catch entitlement (ACE) monitoring, and the counting of discards against sector ACE. Based on this, NMFS intends to use this interpretation in reviewing sector exemption requests for FY 2011.

II. SOUTHERN BOUNDARY FOR DOCKSIDE MONITORING

The question of whether a southern boundary exists for dockside monitoring has come up several times during this past year and one of the potential exemption requests for FY 2011 is an exemption from dockside monitoring for vessels fishing west of 72° 30' when



cc: TN (9/2)

targeting dogfish, skates or monkfish. Amendment 16 did not set a geographic boundary for this requirement. As a result, a vessel enrolled in a sector (or the common pool starting in FY 2012) is required to have dockside monitoring on a trip where potentially very little, if any, groundfish are normally caught.

Amendment 16 specifies that sectors must develop and implement a dockside monitoring system that is “satisfactory to NMFS for monitoring landings and utilization of ACE.” This could be interpreted to allow an individual sector to propose a geographic boundary for its dockside monitoring program. However, having each sector develop a dockside monitoring program with different geographic boundaries would be problematic. Accordingly, I request that the Council consider establishing a geographic boundary to prescribe where the dockside monitoring requirements apply.

III. EXEMPTION FROM OTHER SECTOR REQUIREMENTS

Amendment 16 allows any groundfish measures that are not specified in the prohibited exemption list to be exempted through a sector’s operations plan if approved by NMFS. However, there are certain regulatory requirements for sectors that raise larger concerns than the direct impact of granting the exemption to a particular sector. For example, Amendment 16 redefines “sector” to mean “a group of persons (three or more persons, none of whom have an ownership interest in the other two persons in the sector) holding limited access vessel permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time...” At least one sector, a private permit bank with zero active vessels, is considering requesting an exemption from the minimum size (ownership rule of three) for sectors. NMFS believes the definition of a sector is a fundamental aspect of sector administration. Therefore, given that the Council did not include an exemption from the ownership rule of three, I request that the Council specifically consider this issue.

IV. DISTRIBUTION OF CATCH HISTORY OF CANCELLED PERMITS

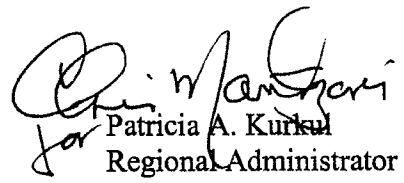
Lastly, I also wish to remind you of my April 2, 2010, letter regarding the distribution of landings history of cancelled permits. Since May 1, 2008, a small number of permits eligible to join sectors have been permanently cancelled, either through voluntary relinquishment by the permit holder or under the renew-or-lose provision. My previous letter notified the Council that NMFS interprets Amendment 16 to allocate history associated with cancelled permits to the common pool for FY 2010.

The scope of this issue is very small at this time. However, with increased discussion of a potential buy-back of groundfish permits, the Council may wish to consider whether, in future years, it would be better to recalculate PSCs annually (prior to the start of the next fishing year), removing cancelled permits from the pool of eligible permits. Thus, the

history of the cancelled permits would be redistributed equally among the remaining pool of eligible permits, rather than defaulting to the common pool.

My staff is available to further discuss with your staff any questions you or your staff may have regarding this letter.

Sincerely,


Patricia A. Kurkul
Regional Administrator

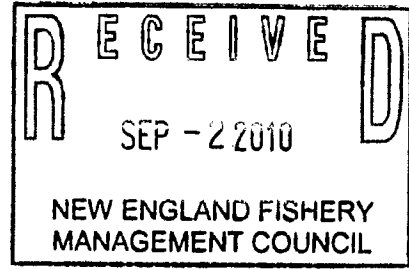
cc: Paul J. Howard, Council Executive Director

12K



September 2, 2010

Mr. Frank Blount
Groundfish Committee Chair
New England Fishery Management Council



Dear Mr. Blount,

As you know, the Northwest Atlantic Marine Alliance is concerned about the potential of rapid and uncontrolled consolidation of the region's groundfish fleet in the aftermath of Amendment 16 to multispecies fishery management plan. We believe it's important for the fleet's capacity to match the ecosystem within which our fishermen fish. We also believe that excessive consolidation can simply lead to accumulation of fishing power by a few. This potential isn't just an economic and/or social one, but rather an ecological one as well. Therefore, we believe it's important that any capacity reduction and consolidation effort follow a vision that has in mind the future of the fishery, marine ecosystem and the communities that fish these waters.

During its June's meeting, the Council tasked the Groundfish Plan Development Team with mining the knowledge base available to determine what measure the Council can adopt to ensure fleet diversity, develop mechanisms to limit accumulation, and prevent excessive consolidation of fishing power.

Over the past few months, we have done extensive research to determine what has been done in other parts of the world to address similar issues. The attached document represents the sum of our findings and recommendations based on a literature review of Catch Share programs globally and in the U.S., and efforts to fix economic and ecological problems associated with accumulation of fishing power.

We will gladly share with the Council all source documents for our research. We are also available to answer any questions, dig deeper on specific point and/or further refine any elements of the enclosed recommendations the Council chooses to pursue. We are committed to working with you to ensure the same mistakes that have happened in other Catch Share systems – as well as the rest of our food system – are not repeated here in New England. The future of our fisheries and the food systems into which they contribute are too important.

We look forward to working with you and the Council staff as this process moves forward.

Sincerely,

Brett Tolley

BOARD OF TRUSTEES

Bill Adler
Massachusetts Lobstermen's Association

Niaz Dorry
NAMA Coordinating Director

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Brett Tolley
Community Organizer & Outreach Coordinator

Sean Sullivan
Development, Marketing & Outreach Associate

**White Paper - Addressing the Ecological Implications of Consolidation and
Quota Accumulation Under Amendment 16
September 02, 2010**

The Problem: Sectors have been implemented under Amendment 16 to achieve its stated biological objectives. Although not stated as an objective or goal of the Amendment, it is widely recognized that consolidation of the fleet is an aim of this process in part because of the assumption that consolidation will reduce the size of the fleet thus helping managers achieve the ecological goals and objectives of A16. However, with no provisions in place to control how that reduction might occur the door is wide open for fleet consolidation on a scale that may in fact undermine the very ecological objectives the Council was intending to achieve. No goals have been set or measures put in place for matching the fleet to the characteristics of the ecosystem and the distribution of groundfish populations and subpopulations. Why is this a problem? Because an optimal diversity in the fleet is essential to achieving the ecological goals of Amendment 16 in pursuit of achieving the goals of the Magnuson Stevens Act (MSA). **Without public discussion of ecological implications of quota consolidation, management outcomes may run counter to the stated intent of Catch Shares to conserve and recover fish stocks.**

The Magnuson Stevens Act, with its ten national standards, recognizes that fisheries management has biological, social, and economic implications, and the best management structures will have successfully addressed *all* these aspects. These National Standards were designed to work together recognizing the symbiotic relationship between the social, economic and ecological issues involved in fisheries management. Instead of focusing only on National Standard 1 to the exclusion of all others until it is achieved, all standards should be applied simultaneously, including among them the following that are especially relevant to consolidation:

- Standard 4: Allocations of fishing privileges must be fair and equitable, promote conservation, and limit excessive individual shares.
- Standard 5: Efficiency in the utilization of fishery resources should be considered but not as a sole purpose.
- Standard 8: Provide for the sustained participation of fishing communities; and minimize adverse economic impacts upon fishing communities.

Amendment 16 also has goals and objectives that acknowledge the importance of all three -- biological, social, and economic vitality -- and it makes the link between diversity in fisheries and diversity in the ecosystem. For example:

- Goal 2 (A16): Achieve economic efficiency, biological conservation, and diversity within the fishery.
- Goal 4 (A16): Minimize, to the extent practicable, adverse impacts on fishing communities and shoreside infrastructure.
- Objective 7 (A16): To the extent possible, maintain a diverse groundfish fishery, including different gear types, vessel sizes, geographic locations, and levels of participation."

Yet in the design and implementation of sectors, the Council and NMFS have not adequately addressed the full range of MSA standards and Amendment 16 goals and objectives and consequently have undermined the ability to achieve the ecological benefits intended by these actions. It is the role of responsible management, not market economics, to shape the fleet in a way that is socially, ecologically, and economically resilient.

The short and long-term solutions: We urge the Council to modify the design of the current sector system to effectively address these weaknesses, and to include among the measures in Framework 45, a tightly intermeshed suite of provisions that together will address consolidation in order to effectively shape the desired diversity of the groundfish fleet.

We are encouraged that the Council took the first step toward achieving this in June it passed the following motion regarding accumulation limits:

To direct the Groundfish PDT to use the following goals to shape its recommendations to the Council on measures relating to accumulation limits: 1) maintain inshore and offshore fleets; 2) to the extent possible, maintain a diverse groundfish fishery, including different gear types, vessel sizes, geographic locations, and levels of participation; 3) maintain a balance in the geographic distribution of permits to protect fishing communities and the infrastructure they provide and 4) prohibit any person or government entity from acquiring or controlling excessive access to the resource, through in order to prevent extraction of disproportionate economic rents from other permits holders.

With this directive, the Council is asking the PDT to consider one of a number of types of measures that might be effective in achieving the outcomes required by the Magnuson-Stevens Act and the goals of Amendment 16. The success of accumulation limits is likely to be greater when accompanied by other well-formed measures, such that all interact to guarantee the success of each other and to avoid loopholes that might exist with only one type of control. **We therefore strongly suggest that, in addition to a well designed mechanism to limit accumulation of quota, associated measures be established at the same time to ensure the diversity of groundfish and groundfishing.**

We have reviewed Catch Share/ITQ plans and evaluations from around the United States and the world. We'd be happy to share more details about this research with the Council. Based on our research, there are a number of provisions that have been widely proposed or adopted to make Catch Shares more effective in accomplishing their ecosystem goals. Properly regulated, Catch Shares can be successful in recovering and maintaining healthy fisheries and ecosystems in the long run if maintaining an economically healthy fleet and a diverse community of fishermen is achieved. We are compiling a catalog of such measures, which is available as a separate document. Some should be seriously considered for New England over the long term, but for now we believe four key interlinked measures will be rapidly effective in shaping consolidation that supports rather than eliminates diversity of the fleet, fisheries, and fish.

1. ***Leasing restrictions:*** There must be leasing restrictions to ensure fleet diversity, prevent excessive consolidation, and foster an affordable fishery. The Baseline Leasing Restrictions under the Days At Sea program accomplished these goals. The groundfish industry is accustomed to baseline leasing restrictions and the infrastructure to implement already exists. Baseline leasing restrictions ought to be considered as a tool to achieve both the socio-economic and biological goals of the Council.
2. ***Accumulation limits:*** There must be strict limits on the ability of a single individual, vessel, or corporation to accumulate quota. Generally such limits are imposed as a limit on percentage of the TAC for a year and/or on percentage of the sector's allotted quota. Experience has shown that, if the quota limit is placed on the vessel, there must be an accompanying limit on how many vessels an individual or corporation may have participating in the fishery.

3. **Quota set asides:** There are several kinds of quota set-asides that can be established to help Catch shares achieve their ecosystem and fleet objectives:
 - Set-asides for new entrants to ensure younger fishermen and their boats have an opportunity to enter the fishery.
 - Set-asides for owner/operators, crew and captains to help maintain reliability and dedication to stewardship and safe fishing standards as well as providing security.
 - Quota set aside for adaptive management to enable adjustments to new scientific information and thereby helps achieve ecosystem goals.
 - Conservation set-asides to reward ecologically sound fishing practices with additional quota (not to exceed accumulation limits).
 - Research set-asides are already options in the New England management system and should remain so.

4. **Ownership restrictions:** Restricting quota ownership to historically active participants in the fishery can further ensure that fish are available only to fishermen and not to non-fishing corporations or investors.

Further description and explanation of these four recommendations

It is widely claimed that management systems based on catch limits are better able to meet conservation goals than systems based on fishing effort regulation, but that has not been clearly demonstrated. One of the biggest challenges is that the biological success of a management system such as sectors is entirely dependent upon the accuracy of the science determining annual catch limits. This is not at all guaranteed, and is even unlikely if the scales of the science do not match the scales of the ecosystem and fish population and subpopulation distribution, as is the case in New England. In the absence of perfect science, having a diverse fleet fishing with diverse gear and sensibly dispersed in inshore and offshore areas will better adjust to unanticipated conditions of stocks discovered as new science becomes available.

There have already been adjustments in catch limits made in the face of uncertain science and the challenges presented by choke species to the economic success of groundfish sectors. This clearly demonstrates how catch shares can drive management away from multi-species and ecosystem based systems toward more intense single species management. It is not clear that the desired recovery of fish stocks and fishery ecosystems – the primary justification for catch share management – will occur.

If the goal is to recover and maintain a healthy fishery ecosystem and also healthy fishing communities, extra measures are needed. If tightly regulated, with appropriate scales of management and sufficiently restrictive measures to avoid consolidation into a small industrial fleet, the sector system will better meet the desired objectives for fishermen, communities, and ecosystems alike. A complex of such measures should be able to address the goals laid out in the June Council meeting. There should also be measures that add adaptability and that alleviate the absolute need for perfectly accurate science.

Leasing restrictions

- Baseline leasing restrictions under the Days At Sea program served many functions, which included:

1. Maintaining a diverse groundfish fishery in terms of vessel size, geographical locations, and levels of participation,
2. Maintaining a balance in the geographic distribution of permits to protect fishing communities and the infrastructure they provide; and,
3. Prohibiting any person or government entity from acquiring or controlling excessive access to the resource.

Under Baseline leasing restrictions a lessor may only lease DAS to another vessel that is within 10 percent of the baseline length overall (LOA) and within 20 percent of the baseline engine horsepower of the Lessor's vessel. Information pertaining to vessel baseline specifications can be found on NOAA Fisheries' NE Regional Webpage http://www.nero.noaa.gov/ro/doc/das_baseline.htm

Baseline leasing restrictions is a practical solution to achieve the stated goals. The fishing industry is accustomed to the rule and infrastructure already exists to enforce the rule. Baseline leasing restrictions is legislatively feasible and ought to be placed into framework 45.

- Owner/Operator incentives: While leasing is essential for flexible exchange of quota among fishermen in order to accommodate and account for bycatch, reasonable limits can be applied that prevent a quota holder from going into the business of leasing quota. For instance, controls or limits might be placed on both the acquisition and release of quota. The exact cap — either on the owner or leaser or both — would need to be designed to meet the need for fishing flexibility while restricting fishermen from unfairly profiting from absentee quota ownership.

Accumulation limits

Once it has been established how the quota will be dispersed among eligible entities, accumulation limits can be imposed to further restrict consolidation. Accumulation limits may be tied to individuals or entities eligible to own or lease quota; to vessels with associated quota; to vessel categories (e.g. size categories); and other categories such as geographic units.

Different regions of the US and world have adopted accumulation caps ranging from as low as 0.5 percent to as high as 35%. The higher caps not only fail to prevent consolidation, they could very easily encourage it, whether intentionally or unintentionally. The one ITQ that is consistently held up as a successful example of restricting consolidation and protecting communities is the Alaska halibut-sablefish fishery, and at 0.5-1.5% the accumulation caps are considerably lower than in most other Catch Share management systems. However in the British Columbia halibut fishery, a seemingly low cap of 1% of the TAC was placed on each licensed vessel, which limited the concentration of catch per vessel. But they did nothing to prevent a single party from holding multiple vessels, so it did not stop consolidation. Accumulation limits on the order of 1% seem to be an essential component of any Catch Share system that wants to avoid consolidation that preferentially eliminates small- and medium-scale shore based fisheries operations and excludes crew.

In general, accumulation limits prevent excessive accumulation of quota, which should inhibit consolidation into corporations with large holdings, which should in turn hold down the price of leasing quota. To strengthen this resolve, limits on quota accumulation may be accompanied by provisions to:

- Ensure restrictions on accumulation of fishing vessels,
- Ensure that quota holders be active fishermen, and
- Prevent perpetual leasing or open market trading of quota shares.

Quota Set-asides

In any of the Catch Share systems, there should be measures to prevent exclusivity and to protect all levels of or groups of fishermen. Some portion of the TAC or sector allocations could be reserved for crew and captains as has been strongly recommended by fishermen on the west coast. Some portion of quota might be reserved for communities, community fishing associations, and/or geographic areas – including both initial allocations and eligibility to acquire additional quota within limits. To encourage new active fishermen to enter the fishery and to maintain a diverse fleet in inshore areas, permit prices and quota leasing must remain affordable. Owner-operator requirements and community quotas help accomplish this. In addition, a portion of initial allocation could be set-aside for new entrants.

Not all set-asides need be implemented each year, but the option should be there. When set asides turn out to be unneeded, they can be dispersed among owner-operators toward the end of the fishing year.

New entry set-asides could be coupled with public permit as a partial solution to maintaining diversity in the fleet. However, permit banks alone will not guarantee this.

Community-based non-profit permit banks that buy permits from retiring fishermen and lease or sell them to new entrants or returning fishermen at reasonable cost provide another mechanism for keeping entry costs fairly low and help maintain community connections to the local fishery.

Accountability, transparency, and enforcement are all key to making any of these measures work the way they are intended to work. As examples have shown, it is important to pay attention to the ease of creating parent companies to get around some of these restrictions and to provide for oversight and investigation, all of which requires forethought and planning and financing. It is difficult to do this right, as we are already seeing during the early months of sector implementation. It is essential to enact a few strong and quickly enforceable measures to stem consolidation. Once it happens, it is too hard to un-do, because large amounts of financial and political capital become entrenched and difficult to re-distribute. Only when the train has been slowed down, can the time be taken to design a more long-lasting and ecologically effective set of rules that shapes the character of the fishing fleet.

Incentives that reward additional quota beyond initial allocations (but not beyond accumulation limits) might be considered for fishermen switching to more sustainable fishing practices such as reducing size of gear, scaling fishing effort to the discrete ecosystem, changing number of hooks or gillnets, using sensors on trawls, etc. This might be accomplished with quota held available in a conservation set aside. Such a set-aside might also be used to enable the flexibility to respond to new information or unanticipated changes in the fishery, there might be an adaptive management quota set-aside.

Ownership rules

One way to manage consolidation is to place enforceable qualifications and rules on eligibility to acquire quota in a way that will constrain consolidation. For example, quota should be restricted to active fishermen, which would eliminate absentee ownership or investment speculation. There might also be a requirement that quota go only to owners onboard, which would restrict

accumulation of large numbers of vessels by a single entity (although there are bookkeeping methods that can and have been known to get around this requirement). Once rules for quota acquisition are determined, transferability may be addressed – whether, how much, and to/from whom quota can be transferred. Options range from non-transferable to no restrictions on transfer of quota. In the British Columbia halibut fishery, for instance, there was a planned sequential move from *non-transferable* for two years, to temporary leasing with *term limits* and finally to *permanent* transferability (sales), at which time consolidation into larger corporations occurred.

Transferability of a species quota between fishermen in different management regions, for which allowable catch is determined independently, should not occur. In fact, there are arguments supported by emerging science that suggest that spatial management units should be significantly smaller than they currently are and should be based on areal distribution of subpopulations. To the extent that these areas are based on fish population structure, the transfer of quota between them would presumably be restricted. The spatial allocation and transferability of quota needs more careful consideration than it has so far received, as it is key to the ecological success of Catch Share management plans.

The next steps

As the Council deliberates accumulation limits along with other measures to reinforce their effectiveness, we are confident that they will remain focused on the urgency to achieve their own defined goals – maintaining or increasing fleet diversity, preventing excessive and exclusive access to the fishery resource, maintaining geographic balance in the fleet, and sustaining both inshore and offshore fleets.

We look forward to working with the Council as you move forward in this process.

Sent: Tuesday, September 07, 2010 8:09 AM
To: Frank Blount
Cc: Anne E. Hawkins
Subject: 2012 At-Sea-Monitoring Costs

09/06/10
From: Christopher & Amanda Odlin
F/V Lydia & Maya
47 Dresser Rd.
Scarborough, Me 04074

To: Frank Blount
Chair, Groundfish Committee
New England Fisheries Management Council
Cc: Anne Hawkins
NEFMC, staff

This letter is to express our strong concern regarding 'at-sea-monitoring' for 2012 as indicated by Amendment 16. There is NO WAY this expense can be carried by our business! We ask that the NEFMC reconsider and reverse its decision on 'at-sea-monitoring' expenses for 2012 for the fact that the majority of the remaining fleet CANNOT afford this onerous expense.

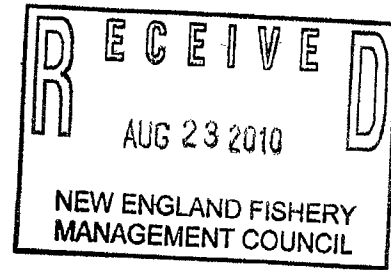
Thank You for the consideration,

Christopher & Amanda Odlin

#1200

August 16, 2010

Mr. John Pappalardo
 Chairman
 New England Fishery Management Council
 50 Water Street, Mill 2
 Newburyport, MA 01950



Dear Chairman Pappalardo:

We are writing to you today in the hopes that you will recognize and address, the likely unintentional, but disproportionate burden being placed on the handgear fishermen under the new groundfish regulations that were enacted on May 1, 2010.

Under the current measures our allocation has been reduced from a mere 300 pounds of cod per trip to just 100 pounds per trip for this fishing year. A hand gear fisherman is further restricted by limits on the number of hooks per line he/she can use and a one line per person maximum. In addition, we are virtually shut out of the fishery during the most lucrative part of the fishing year -- March, April and May -- when rolling and permanent closures are in effect. We are further limited by the small size of our fishing vessels and our ability to operate in waters not more than 20 miles from port. With operational costs of about \$75 to \$100 a day, and the price of cod currently at about \$1.98 per pound, it is not economically feasible for the hand gear fisherman to survive.

We are being left behind under the new sector management system. Our small historic allocation means that most of us do not possess sufficient landings history to make it economically feasible for us to join a sector. Our small profit margins also make it impossible for us to pay the operational fees that most sectors charge.

We request that you consider taking the following actions under Framework 45 to make adjustments to the groundfish fishing regulations for the 2011 fishing year to preserve this important component of the groundfish fishery:

- Provide a separate quota, a set-aside, for handgear A and B permit holders and restore the cod quota to 300 pounds. At present, the handgear fishery is included in the common pool. However, as handgear fishermen we are able to selectively harvest fish and release fish virtually unharmed on the odd occasion when we do catch a non-target species. With this restored allocation, our impact on the groundfish resource will still be minimal.
- Exempt handgear limited access permit holders from requirements of dockside and at-sea monitoring. As such a low volume/low profit fishery, it is unreasonable to expect us to pay monitoring costs.
- Allow the handgear A and B fisherman the same flexibility afforded the gillnet fisherman -- the ability to fish a 20 day block in the spring (during March and April) when cod are most abundant.
- Remove the hook limits, putting us on par with the recreational sector which has no hook limits.
- Recommend that the National Marine Fisheries Service create an experimental fishery for handgear A and B permit holders in the spring, allowing unlimited hooks, the use of mechanized gear to allow us to target haddock and demonstrate our ability to operate a clean and sustainable fishery with minimal impact on the environment. You will also be providing an opportunity for young fishermen to enter the fishery.

cc Council (8/24)

As handgear fishermen we represent less than 1% of the total landings of groundfish in the region, yet, we are being expected to bare the same burden as large scale fishing vessels, with significantly higher profit margins. We use one of the most the ecologically friendly fishing gears that have been used in this fishery since its inception. Yet, we are virtually being forced out of business under these new regulations. We urge you to take action to address our concerns and to preserve this important part of the New England fishing community.

Sincerely,

Hilary Dombrowski, F/V Destiny

24 Gee Avenue

Gloucester, MA

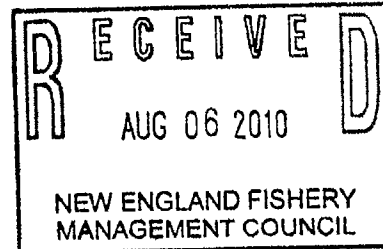

President, Cape Ann Hook Fisherman's Association

Cc: Paul Howard, executive director, New England Fishery Management Council, Rip Cunningham, chair, groundfish committee, Tom Nies, groundfish fishery analyst, Patricia Kurkul, regional administrator, National Marine Fisheries Service, Eric Schwaab, assistant administrator, National Marine Fisheries Service, Dr. Jane Lubchenco, administrator, National Oceanic and Atmospheric Administration.

#12n

August 6, 2010

New England Fisheries Management Council
 50 Water Street, Mill 2
 Newburyport, MA 01950



Subject: Handgear HA Permit Cod Limits

Attn: Paul Howard and John Pappalardo

Executive Summary

The specific issue at hand is the trip limits for Handgear HA permits fishing in the GB Area. Based on discussions with NFMS, their interpretation is Handgear HA permits are now restricted to 100lbs/day regardless if they are fishing in the GOM Cod Area or the GB Cod Area. This letter disputes that interpretation based on current regulations and rules.

Brief

There are numerous examples in the regulations which clearly define that cod are managed by two different areas: the GOM and the GB area. These examples include, but not limited to the following:

Example 1

Proposed Amendment 16 page 2 (page 69382 in Federal Register) where it breaks down all the stocks the document will have control over (emphasis added).

“Eight stocks (**Gulf of Maine (GOM) cod**, Georges Bank (GB) haddock, GOM haddock, Southern New England (SNE)/Mid-Atlantic (MA) winter flounder, GB yellowtail flounder, redfish, windowpane flounder (southern stock), and ocean pout) are managed under the adaptive rebuilding strategy, while five stocks (**GB cod**, Cape Cod (CC)/GOM yellowtail flounder, SNE/MA yellowtail flounder, American plaice, and white hake) are managed under the phased rebuilding strategy.”

Example 2

cc: fn, ah

The breakdown of cod stocks for both GOM and GB are stated in Amendment 16 for the Numerical Estimates for the Approved Status Determination Criteria. Amendment 16 page 4 (page 18264 in Federal Register).

TABLE 2—NUMERICAL ESTIMATES FOR THE APPROVED STATUS DETERMINATION CRITERIA

Species	Stock	Biomass target (B _{target}) in mt	Minimum biomass threshold (½ B _{target}) in mt	Maximum fishing mortality threshold (F _{MSY} or proxy)	MSY in mt
Cod	GB	148,084	74,042	0.25	31,159
Cod	GOM	58,248	29,124	0.24	10,014

Example 4

Since the final Amendment 16 does not reference a list of the stocks it covers directly like the proposed version but references the species of GARM III. Multispecies ABC published by the New England Fisheries Management Council page 5. Document At: http://www.nefmc.org/tech/cte_mtg_docs/0904300501_ssc_mtg/groundfish/6_Multispecies%20ABCs.pdf

“Stocks used: GB cod, GOM cod, CC/GOM yellowtail flounder”

Example 5

Framework 44 also differentiates between the species just as Amendment 16. Framework 44 page 1 (page 18356 of the Federal Register).

“Specifically FW 44 modifies the Gulf of Maine (GOM) cod and pollock trip limits implemented in Amendment 16;”

Example 6

The current allocations and catches for the common pool as published on the NMFS website, which shows GB and GOM cod clearly separated. Chart below taken from: http://www.nero.noaa.gov/ro/fso/reports/common_pool/Common_Pool_Summary.html

**Summary Table
Common Pool
Catch Monitoring**

Report run on: August 02 2010
For data reported through: July 24 2010
Quota Period: 2010
Quota Period Dates: May 1, 2010 to April 30, 2011

Stock	Sub-ACL (mt)	Cumulative Catch (mt)	Percent Caught
GB Cod East	12.8	0.0	0.0
GB Cod	128.0	10.0	7.8
GOM Cod	240.0	177.7	74.1

Trip Limits

With the examples from above clearly stating that there are two different zones for cod, the regulations then go on to state trip limits for each of those zones accordingly.

Example 1

Amendment 16 specifically states each of these zones has their own catch limits as stated below. Amendment 16 page 13 (page 18273 in the Federal Register). Emphasis added.

“GOM cod: The possession limit is increased to 2,000 lb (907.2 kg) per DAS, up to 12,000 lb (5,443.2 kg) per trip for vessels fishing under a NE multispecies DAS or under the Small Vessel permit exemption (Category C permit).

GB cod: The possession limit is increased to 2,000 lb (907.2 kg) per DAS, up to 20,000 lb (9,072 kg) per trip for vessels fishing under a NE multispecies DAS or under the Small Vessel permit exemption. The existing trip limit for GB cod caught within the Eastern U.S./Canada Area or the Eastern U.S./Canada Haddock SAP remains the same at 500 lb (226.8 kg) per DAS, up to 5,000 lb (2,268 kg) per trip; and 1,000 lb (453.6 kg) per trip, respectively. Consistent with existing regulations, a vessel is required to declare its intent to fish exclusively within the GB Regulated Mesh Area (RMA) via VMS to be exempt from the GOM cod limit of 12,000 lb (5,443.2 kg) per trip. “

In the following paragraph in Amendment 16 it states the Handgear HA Regulations with **no** mention to either GOM or GB Cod. Amendment 16 page 4 (page 18273 in the Federal Register).

“Cod limit for Handgear A vessels: The possession limit is increased to 750 lb (340.2 kg) per trip, consistent with the automatic possession limit adjustment provision implemented under Amendment 13. “

Example 2

Framework 44 also discusses trip limits relating to GOM Cod only. Framework 44 page 2 (page 18357 in the Federal Register). Emphasis added.

“2. Possession Limits This final rule modifies the Amendment 16 trip limits for **GOM cod** and implements a trip limit for pollock to reduce the likelihood of exceeding the ACLs for these two stocks. Specifically, for limited access DAS vessels, FW 44 replaces the Amendment 16 GOM cod limit of 2,000 lb (907.2 kg) up to 12,000 lb (5,443.2 kg)/trip, with the status quo GOM cod trip limit of 800 lb (362.9 kg)/DAS, up to 4,000 lb (1,818.4 kg)/trip. For vessels with a limited access Handgear A or open access Handgear B permit, FW 44 replaces the Amendment 16 cod limits of 750 lb (340.2 kg) and 200 lb (90.7 kg), respectively, with the status quo trip limits of 300 lb (136.1 kg) and 75 lb (34 kg) per trip. In addition, FW 44 implements a new trip limit for pollock of 1,000 lb (453.6 kg)/DAS, up to 10,000 lb (4,536.0 kg)/trip (Amendment 16 does not contain a trip limit for pollock). “

Example 3

Framework 44 also clearly stated for GOM Cod Handgear HA is reduced to 300#s. Framework 44 page 12 (page 18367 in the Federal Register). Emphasis added.

“This final rule modifies the GOM cod and pollock trip limits in Amendment 16 by: (1) Reducing the GOM cod trip limit in Amendment 16 (2,000 lb (907.2 kg)/DAS up to 12,000 lb (5,443.2 kg/ trip) to the status quo level (800 lb (362.9 kg)/DAS up to 4,000 lb (1,814.4 kg)/trip); (2) reducing **the GOM cod trip** limit for vessels fishing under a Handgear A or Handgear B permit to 300 lb (136.1 kg)/trip and 75 (34.0 kg)lb/ trip, respectively; and ..”

Example 4

The current letter issued July 27, 2010 by NMFS has reduced the limit for GOM Cod as stated below. Emphasis Added. Link to letter

<http://www.nero.noaa.gov/nero/nr/nrdoc/10/10MultiCommonPoolTripLimitReduction&GearRestriction.pdf>

“This letter is to inform you that NOAA’s National Marine Fisheries Service (NMFS) is adjusting the common pool GOM cod landing limit and implementing gear restrictions in a portion of the U.S./Canada Management Area to reduce catch of Georges Bank (GB) yellowtail for the remainder of the 2010 fishing year (through April 30, 2011).

GOM Cod

As of 0001 hours July 30, 2010:

- The GOM cod landing limit is reduced to 200 lb per day-at-sea (DAS), or any part of a DAS, up to 1,000 lb per trip, for limited access NE multispecies DAS vessels.
- The cod trip limit for Handgear A vessels is reduced proportionally to 75 lb per trip.
- The cod trip limit for Handgear B vessels is reduced proportionally to 25 lb per trip.
- The cod trip limit for Small Vessel (Category C) vessels is reduced to 75 lb per trip (within the 300 lb combined limit for cod, haddock, and yellowtail flounder)”

CONTENTION

Handgear HA permits fishing in the GB Area should not be limited to the 100lbs/day+ trip limit rules imposed on the GOM Cod. This limit should 750lbs/day as stated in and documented above in Amendment 16. Framework 44 made no mention of lowering the GB Cod for Handgear HA but specifically for GOM cod. The regulations as shown from above clearly state that there are two areas for cod. Amendment 16 and Framework 44 have also in detail and documented above stated the trip limits for each area. DAS permits fishing in the Common Pool are now allowed to fish in the GB Area and are not restricted to the new GOM Cod trip limits since they are not fishing in that zone. This also makes the current interpretation by NMFS by stating Handgear HA permits are limited to be unfair, unjust and inequitable. My last area of contention (and admittedly probably another letter in its own right) is the comments and responses for NMFS regarding the rules of Amendment 16 and the possibility of making the common pool a fishing derby and potentially eliminating the hook fishery – which obviously came true as the GOM Cod for the common pool allocation only effectively lasted 3 months. Amendment 16 page 27-28 (page 18287-18288 in the Federal Register). Emphasis Added.

“Comment 32: One commercial fisherman indicated that the Amendment 16 effort controls would pose a serious economic burden on common pool vessels. He suggested that, because Day gillnet vessels do not catch much flounder, they should not be subject to further effort controls under this action. The NEHFA expressed similar concerns, stating that such effort controls will eliminate the **GOM cod hook fishery** and might cause a derby fishery.

Response: The Amendment 16 effort controls are necessary to reduce F for a number of overfished stocks, most notably cod and pollock, species that are caught by both gillnet and hook gear. F on GOM cod must be reduced by 40 percent, while F on pollock must decrease by 73 percent compared to the F from catch in FY 2008 to achieve the conservation objectives of this action. Therefore, effort controls on these two gear types are necessary to end overfishing and rebuild these overfished stocks. Economic impacts associated with effort reductions to achieve the conservation objectives of the FMP and applicable law are unavoidable. The analysis prepared for this action suggests that these effort controls would result in greater impacts on gillnet vessels than other gear types, but that impacts on hook vessels would be the least affected among all gear types. However, Amendment 16 strove to minimize the economic impacts of management measures without compromising rebuilding efforts by removing obstacles that limit participation in the DAS Leasing and Transfer Programs and sectors, increased access to haddock resources, and increased trip limits for some stocks, among other provisions. The potential for a derby fishery in the common pool was a concern expressed by several fishermen upon the adoption of Amendment 16 by the Council in June 2009. Based upon these concerns, the Council provided the Regional Administrator with the authority to revise DAS counting rates and trip limits for NE multispecies stocks under FW 44 to ensure that the ACLs available to the common pool are not prematurely harvested and to minimize the potential for a derby fishery in the common pool. “

Respectfully,

Christopher J. DiPilato
Christopher J. DiPilato

#120



September 22, 2010

Mr. John W. Pappalardo, Chair
New England Fishery Management Council

Submission to Council meeting September 28-30, 2010
Sent via e-mail

Dear Chairman Pappalardo,

BOARD OF TRUSTEES

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*Community Organizer & Outreach
Coordinator*

Sean Sullivan
*Development, Marketing &
Outreach Associate*

As you know, the Northwest Atlantic Marine Alliance is concerned about the potential of rapid and uncontrolled consolidation of the region's groundfish fleet in the aftermath of Amendment 16 to the multispecies fishery management plan. We believe it is important for the fleet's capacity to be compatible with the ecosystem within which our fishermen fish, but we fear that excessive consolidation can simply lead to accumulation of fishing power by a few and drive out a diverse group of fishermen who are critical to local communities and the long-term sustainability of the ecosystem. The consequence of this kind of consolidation is not just economic and social, but it has ecological ramifications as well. We believe it is important that any capacity reduction and consolidation effort be limited and shaped by a vision that encompasses the future of the fishery, marine ecosystem and the communities that fish these waters.

During your June meeting, the Council tasked the Groundfish Plan Development Team with mining the knowledge base available to determine what measure the Council can adopt to ensure fleet diversity, to develop mechanisms to limit accumulation and to prevent excessive consolidation of fishing power. We have begun our own effort to determine what has been done in other parts of the country and the world to address similar issues and what types of measures are likely to be most effective. The attached document that surveys options for addressing excessive consolidation and quota accumulation, supports our testimony and augments the excellent work done so far by the Council staff to pull together this kind of information. The bibliography attached to our survey offers an abundance of knowledge and assessment of measures that may be effective in promoting fleet diversity and ensuring that the fleet matches both the biological structure of the ecosystem and the socio-economic structure of shore-side fishing communities. The Scientists' letter of January 2010, provided additional useful information. One thing is certain: the Council must have access to all the crucial information in order to make responsible decisions about shaping catch shares management in New England. It is urgent that the Council agree on a fleet vision supported by the broader fishing community and take action.

Our testimony along with our discussion paper lay out the reasons for taking action and offer a path toward the best actions for our region. We are convinced that doing nothing guarantees failure of Catch Shares and disintegration of the social and ecological fabric of New England fisheries.

We are committed to working with the Council to ensure that social and environmental mistakes that were made in other Catch Share systems and found in other parts of the food system, such as agriculture, are not repeated here in New England's groundfishery. The motions passed by the Council and the Groundfish Committee encourage us that you want to implement corrective measures, and we look forward to working with you in deliberating and choosing the most effective options.

Sincerely,

A handwritten signature in cursive script, reading "Boyce Thorne Miller".

Boyce Thorne Miller, Science and Policy Coordinator
Northwest Atlantic Marine Alliance (NAMA)

cc: Paul J. Howard, Executive Director
Patricia M. Fiorelli, Public Affairs Officer
Karen Roy, Office Manager
Joan O'leary, Administrative Assistant and Webmaster

**Addressing the Ecological Implications of
Consolidation and Quota Accumulation
Under the Amendment 16 to the
Northeast Multispecies Fishery Management Plan**

**Northwest Atlantic Marine Alliance
September 2, 2010**



Addressing the Ecological Implications of Consolidation and Quota Accumulation Under Amendment 16

The Problem: Sectors have been implemented under Amendment 16 to achieve its stated biological objectives. Although not stated as an objective or goal of the Amendment, it is widely recognized that consolidation of the fleet is an aim of this process in part because of the assumption that consolidation will reduce the size of the fleet thus helping managers achieve the ecological goals and objectives of A16. However, with no provisions in place to control how that reduction might occur the door is wide open for fleet consolidation on a scale that may in fact undermine the very ecological objectives the Council was intending to achieve. No goals have been set or measures put in place for matching the fleet to the characteristics of the ecosystem and the distribution of groundfish populations and subpopulations. Why is this a problem? Because an optimal diversity in the fleet is essential to achieving the ecological goals of Amendment 16 in pursuit of achieving the goals of the Magnuson Stevens Act (MSA). **Without public discussion of ecological implications of quota consolidation, management outcomes may run counter to the stated intent of Catch Shares to conserve and recover fish stocks.**

The Magnuson Stevens Act, with its ten national standards, recognizes that fisheries management has biological, social, and economic implications, and the best management structures will have successfully addressed *all* these aspects. These National Standards were designed to work together recognizing the symbiotic relationship between the social, economic and ecological issues involved in fisheries management. Instead of focusing only on National Standard 1 to the exclusion of all others until it is achieved, all standards should be applied simultaneously, including among them the following that are especially relevant to consolidation:

- Standard 4: Allocations of fishing privileges must be fair and equitable, promote conservation, and limit excessive individual shares.
- Standard 5: Efficiency in the utilization of fishery resources should be considered but not as a sole purpose.
- Standard 8: Provide for the sustained participation of fishing communities; and minimize adverse economic impacts upon fishing communities.

Amendment 16 also has goals and objectives that acknowledge the importance of all three -- biological, social, and economic vitality – and it makes the link between diversity in fisheries and diversity in the ecosystem. For example:

- Goal 2 (A16): Achieve economic efficiency, biological conservation, and diversity within the fishery.
- Goal 4 (A16): Minimize, to the extent practicable, adverse impacts on fishing communities and shoreside infrastructure.
- Objective 7 (A16): To the extent possible, maintain a diverse groundfish fishery, including different gear types, vessel sizes, geographic locations, and levels of participation.”

Yet in the design and implementation of sectors, the Council and NMFS have not adequately addressed the full range of MSA standards and Amendment 16 goals and objectives and consequently have undermined the ability to achieve the ecological benefits intended by these actions. It is the role of responsible management, not market economics, to shape the fleet in a way that is socially, ecologically, and economically resilient.

The short and long-term solutions: We urge the Council to modify the design of the current sector system to effectively address these weaknesses, and to include among the measures in Framework 45, a tightly intermeshed suite of provisions that together will address consolidation in order to effectively shape the desired diversity of the groundfish fleet.

We are encouraged that the Council took the first step toward achieving this in June it passed the following motion regarding accumulation limits:

To direct the Groundfish PDT to use the following goals to shape its recommendations to the Council on measures relating to accumulation limits: 1) maintain inshore and offshore fleets; 2) to the extent possible, maintain a diverse groundfish fishery, including different gear types, vessel sizes, geographic locations, and levels of participation; 3) maintain a balance in the geographic distribution of permits to protect fishing communities and the infrastructure they provide and 4) prohibit any person or government entity from acquiring or controlling excessive access to the resource, through in order to prevent extraction of disproportionate economic rents from other permits holders.

With this directive, the Council is asking the PDT to consider one of a number of types of measures that might be effective in achieving the outcomes required by the Magnuson-Stevens Act and the goals of Amendment 16. The success of accumulation limits is likely to be greater when accompanied by other well-formed measures, such that all interact to guarantee the success of each other and to avoid loopholes that might exist with only one type of control. **We therefore strongly suggest that, in addition to a well designed mechanism to limit accumulation of quota, associated measures be established at the same time to ensure the diversity of groundfish and groundfishing.**

We have reviewed Catch Share/ITQ plans and evaluations from around the United States and the world. We'd be happy to share more details about this research with the Council. Based on our research, there are a number of provisions that have been widely proposed or adopted to make Catch Shares more effective in accomplishing their ecosystem goals. Properly regulated, Catch Shares can be successful in recovering and maintaining healthy fisheries and ecosystems in the long run if maintaining an economically healthy fleet and a diverse community of fishermen is achieved. We are compiling a catalog of such measures, which is available as a separate document. Some should be seriously considered for New England over the long term, but for now we believe four key interlinked measures will be rapidly effective in shaping consolidation that supports rather than eliminates diversity of the fleet, fisheries, and fish.

1. ***Leasing restrictions:*** There must be leasing restrictions to ensure fleet diversity, prevent excessive consolidation, and foster an affordable fishery. The Baseline Leasing Restrictions under the Days At Sea program accomplished these goals. The groundfish industry is accustomed to baseline leasing restrictions and the infrastructure to implement already exists. Baseline leasing restrictions ought to be considered as a tool to achieve both the socio-economic and biological goals of the Council.
2. ***Accumulation limits:*** There must be strict limits on the ability of a single individual, vessel, or corporation to accumulate quota. Generally such limits are imposed as a limit on percentage of the TAC for a year and/or on percentage of the sector's allotted quota. Experience has shown that, if the quota limit is placed on the vessel, there must be an

accompanying limit on how many vessels an individual or corporation may have participating in the fishery.

3. ***Quota set asides:*** There are several kinds of quota set-asides that can be established to help Catch shares achieve their ecosystem and fleet objectives:
 - Set-asides for new entrants to ensure younger fishermen and their boats have an opportunity to enter the fishery.
 - Set-asides for owner/operators, crew and captains to help maintain reliability and dedication to stewardship and safe fishing standards as well as providing security.
 - Quota set aside for adaptive management to enable adjustments to new scientific information and thereby helps achieve ecosystem goals.
 - Conservation set-asides to reward ecologically sound fishing practices with additional quota (not to exceed accumulation limits).
 - Research set-asides are already options in the New England management system and should remain so.

4. ***Ownership restrictions:*** Restricting quota ownership to historically active participants in the fishery can further ensure that fish are available only to fishermen and not to non-fishing corporations or investors.

Further description and explanation of these four recommendations

It is widely claimed that management systems based on catch limits are better able to meet conservation goals than systems based on fishing effort regulation, but that has not been clearly demonstrated. One of the biggest challenges is that the biological success of a management system such as sectors is entirely dependent upon the accuracy of the science determining annual catch limits. This is not at all guaranteed, and is even unlikely if the scales of the science do not match the scales of the ecosystem and fish population and subpopulation distribution, as is the case in New England. In the absence of perfect science, having a diverse fleet fishing with diverse gear and sensibly dispersed in inshore and offshore areas will better adjust to unanticipated conditions of stocks discovered as new science becomes available.

There have already been adjustments in catch limits made in the face of uncertain science and the challenges presented by choke species to the economic success of groundfish sectors. This clearly demonstrates how catch shares can drive management away from multi-species and ecosystem based systems toward more intense single species management. It is not clear that the desired recovery of fish stocks and fishery ecosystems – the primary justification for catch share management – will occur.

If the goal is to recover and maintain a healthy fishery ecosystem and also healthy fishing communities, extra measures are needed. If tightly regulated, with appropriate scales of management and sufficiently restrictive measures to avoid consolidation into a small industrial fleet, the sector system will better meet the desired objectives for fishermen, communities, and ecosystems alike. A complex of such measures should be able to address the goals laid out in the June Council meeting. There should also be measures that add adaptability and that alleviate the absolute need for perfectly accurate science.

Leasing restrictions

- Baseline leasing restrictions under the Days At Sea program served many functions, which included:

1. Maintaining a diverse groundfish fishery in terms of vessel size, geographical locations, and levels of participation,
2. Maintaining a balance in the geographic distribution of permits to protect fishing communities and the infrastructure they provide; and,
3. Prohibiting any person or government entity from acquiring or controlling excessive access to the resource.

Under Baseline leasing restrictions a lessor may only lease DAS to another vessel that is within 10 percent of the baseline length overall (LOA) and within 20 percent of the baseline engine horsepower of the Lessor's vessel. Information pertaining to vessel baseline specifications can be found on NOAA Fisheries' NE Regional Webpage http://www.nero.noaa.gov/ro/doc/das_baseline.htm

Baseline leasing restrictions is a practical solution to achieve the stated goals. The fishing industry is accustomed to the rule and infrastructure already exists to enforce the rule. Baseline leasing restrictions is legislatively feasible and ought to be placed into framework 45.

- Owner/Operator incentives: While leasing is essential for flexible exchange of quota among fishermen in order to accommodate and account for bycatch, reasonable limits can be applied that prevent a quota holder from going into the business of leasing quota. For instance, controls or limits might be placed on both the acquisition and release of quota. The exact cap — either on the owner or leaser or both — would need to be designed to meet the need for fishing flexibility while restricting fishermen from unfairly profiting from absentee quota ownership.

Accumulation limits

Once it has been established how the quota will be dispersed among eligible entities, accumulation limits can be imposed to further restrict consolidation. Accumulation limits may be tied to individuals or entities eligible to own or lease quota; to vessels with associated quota; to vessel categories (e.g. size categories); and other categories such as geographic units.

Different regions of the US and world have adopted accumulation caps ranging from as low as 0.5 percent to as high as 35%. The higher caps not only fail to prevent consolidation, they could very easily encourage it, whether intentionally or unintentionally. The one ITQ that is consistently held up as a successful example of restricting consolidation and protecting communities is the Alaska halibut-sablefish fishery, and at 0.5-1.5% the accumulation caps are considerably lower than in most other Catch Share management systems. However in the British Columbia halibut fishery, a seemingly low cap of 1% of the TAC was placed on each licensed vessel, which limited the concentration of catch per vessel. But they did nothing to prevent a single party from holding multiple vessels, so it did not stop consolidation. Accumulation limits on the order of 1% seem to be an essential component of any Catch Share system that wants to avoid consolidation that preferentially eliminates small- and medium-scale shore based fisheries operations and excludes crew.

In general, accumulation limits prevent excessive accumulation of quota, which should inhibit consolidation into corporations with large holdings, which should in turn hold down the price of leasing quota. To strengthen this resolve, limits on quota accumulation may be accompanied by

provisions to:

- Ensure restrictions on accumulation of fishing vessels,
- Ensure that quota holders be active fishermen, and
- Prevent perpetual leasing or open market trading of quota shares.

Quota Set-asides

In any of the Catch Share systems, there should be measures to prevent exclusivity and to protect all levels of or groups of fishermen. Some portion of the TAC or sector allocations could be reserved for crew and captains as has been strongly recommended by fishermen on the west coast. Some portion of quota might be reserved for communities, community fishing associations, and/or geographic areas – including both initial allocations and eligibility to acquire additional quota within limits. To encourage new active fishermen to enter the fishery and to maintain a diverse fleet in inshore areas, permit prices and quota leasing must remain affordable. Owner-operator requirements and community quotas help accomplish this. In addition, a portion of initial allocation could be set-aside for new entrants.

Not all set-asides need be implemented each year, but the option should be there. When set asides turn out to be unneeded, they can be dispersed among owner-operators toward the end of the fishing year.

New entry set-asides could be coupled with public permit as a partial solution to maintaining diversity in the fleet. However, permit banks alone will not guarantee this.

Community-based non-profit permit banks that buy permits from retiring fishermen and lease or sell them to new entrants or returning fishermen at reasonable cost provide another mechanism for keeping entry costs fairly low and help maintain community connections to the local fishery.

Accountability, transparency, and enforcement are all key to making any of these measures work the way they are intended to work. As examples have shown, it is important to pay attention to the ease of creating parent companies to get around some of these restrictions and to provide for oversight and investigation, all of which requires forethought and planning and financing. It is difficult to do this right, as we are already seeing during the early months of sector implementation. It is essential to enact a few strong and quickly enforceable measures to stem consolidation. Once it happens, it is too hard to un-do, because large amounts of financial and political capital become entrenched and difficult to re-distribute. Only when the train has been slowed down, can the time be taken to design a more long-lasting and ecologically effective set of rules that shapes the character of the fishing fleet.

Incentives that reward additional quota beyond initial allocations (but not beyond accumulation limits) might be considered for fishermen switching to more sustainable fishing practices such as reducing size of gear, scaling fishing effort to the discrete ecosystem, changing number of hooks or gillnets, using sensors on trawls, etc. This might be accomplished with quota held available in a conservation set aside. Such a set-aside might also be used to enable the flexibility to respond to new information or unanticipated changes in the fishery, there might be an adaptive management quota set-aside.

Ownership rules

One way to manage consolidation is to place enforceable qualifications and rules on eligibility to acquire quota in a way that will constrain consolidation. For example, quota should be restricted to active fishermen, which would eliminate absentee ownership or investment speculation. There might also be a requirement that quota go only to owners onboard, which would restrict accumulation of large numbers of vessels by a single entity (although there are bookkeeping methods that can and have been known to get around this requirement).

Once rules for quota acquisition are determined, transferability may be addressed – whether, how much, and to/from whom quota can be transferred. Options range from non-transferable to no restrictions on transfer of quota. In the British Columbia halibut fishery, for instance, there was a planned sequential move from *non-transferable* for two years, to temporary leasing with *term limits* and finally to *permanent* transferability (sales), at which time consolidation into larger corporations occurred.

Transferability of a species quota between fishermen in different management regions, for which allowable catch is determined independently, should not occur. In fact, there are arguments supported by emerging science that suggest that spatial management units should be significantly smaller than they currently are and should be based on areal distribution of subpopulations. To the extent that these areas are based on fish population structure, the transfer of quota between them would presumably be restricted. The spatial allocation and transferability of quota needs more careful consideration than it has so far received, as it is key to the ecological success of Catch Share management plans.

The next steps

As the Council deliberates accumulation limits along with other measures to reinforce their effectiveness, we are confident that they will remain focused on the urgency to achieve their own defined goals – maintaining or increasing fleet diversity, preventing excessive and exclusive access to the fishery resource, maintaining geographic balance in the fleet, and sustaining both inshore and offshore fleets.

We look forward to working with the Council as you move forward in this process.

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TESTIMONY OF THE NORTHWEST ATLANTIC MARINE ALLIANCE

Before the

NEW ENGLAND FISHERIES MANAGEMENT COUNCIL

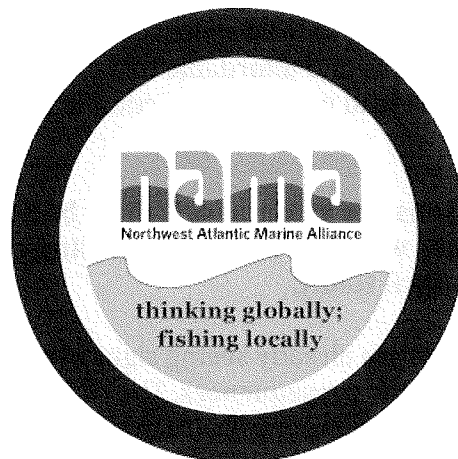
On

**EXCESSIVE FLEET CONSOLIDATION AND
THE IMPACT TO THE MARINE ECOSYSTEM**

Presented by

BRETT TOLLEY

September 30, 2010



Council Members:

On behalf of the Northwest Atlantic Marine Alliance I would like to thank you for the opportunity to testify today as you examine possible actions and decide the best way to handle the important and difficult issues of fleet diversity and consolidation of the New England groundfish fleet. You are in a position to decide whether to take action to protect and refine the character of the region's fishing industry. We hope you will leave this Council meeting convinced that a problem exists, that New England has the opportunity to pro-actively build a long-term vision, and that action is needed **now** to select and implement the most effective measures addressing the problem.

The Problem:

We know that Catch Share programs around the world have mostly taken the road of unregulated economic channels, because policy makers failed to make proactive decisions, and this has led to the consolidation of fishing fleets into monolithic, industrial scale, non owner-operator fleets – the Mid Atlantic Surf Clam/Ocean Quahog being one. These consolidations often happen at the expense of communities, crews and shoreside jobs. New England's current plan under Amendment 16, like Mid-Atlantic Surf Clam/Ocean Quahog management plan, has no safeguards against consolidation at all. No other Catch Share plan in the country is so devoid of any attempt to constrain accumulation and protect fleet diversity.

We also know that the majority of Catch Share programs around the United States have retrospectively had to adopt at least some set of mechanisms to ensure that fishing privileges stay accessible and affordable to a diverse range of fishing operations. New England can lead us in this direction without having to repeat past mistakes.

Before the potential actions are examined, it must be acknowledged that there is a problem, and together we must commit to finding effective solutions. This is what we ask of the Council today.

In the groundfish fishery, we are already seeing signs of excessive consolidation and its dire ecological and economic consequences. The cost of leasing quota and buying permits is rising rapidly. Quota and permits are migrating more rapidly from small- and mid-scale to larger-scale and more industrial operations. This puts community infrastructure at risk of collapse. Is this the vision New England wants for its fisheries? We saw this happen in other fisheries. We also saw this happen with farms in our land based food system. We urge that you not let this happen with our New England fisheries and our marine based food system.

A Vision Forward:

We refer you to our accompanying paper that surveys a variety of options for measures to control consolidation and quota accumulation and thereby achieve fleet diversity, and we look at what makes some measures more successful than others. We have included an expanded bibliography that we believe you should explore.

During the April Interspecies Committee meeting, the June Council meeting and the September Groundfish Committee meeting, NAMA presented the outcomes the Fleet Vision Project, which was developed by New England's fishing community and supported by a wide spectrum of participants in fishing-related industries, community members, seafood consumers, and marine and social scientists. We refer you to the Fleet Vision Report we submitted in April. The conclusion may be summarized in a single generalized vision for the future of the New England fishing fleet: "A diverse, economically viable, and environmentally sustainable fleet that is managed through a participatory governance structure." We believe that Amendment 16 as is, with no safeguards, will undermine this vision and ultimately undermine conservation efforts that so many have worked hard to achieve.

It is still eminently possible to take corrective measures that would safeguard the fleet and the fish. Otherwise you risk sacrificing both to the financial gain of a few. The responsibility is on your shoulders and cannot be put off until future amendments or frameworks, or until sectors morph into some other form of management. By then the damage that will have been done cannot be reversed.

Consistent with the aim of motions that were passed at the last Council meeting in June and at the Groundfish Committee meeting, and in support of those fishermen and their communities who composed the Fleet Vision, NAMA recommends that the Council adopt mechanisms to:

- Ensure that diversity of the region's fishing fleet represents the ecological diversity of the region's marine ecosystem.
- Ensure the diversity of the fishing fleet by preventing excessive consolidation and accumulation of fishing power into the hands of a few entities.
- Prevent repeating mistakes of the past in both fisheries and agricultural food systems by ensuring that the NE groundfish fleet does not become consolidated, geographically concentrated, homogenized, vertically integrated, and commoditized.
- Recover fish and keep fishermen fishing through careful attention to who fishes where.

In addition to accumulation limits we suggest that leasing restrictions, quota set-aside programs, and owner-operator provisions be put in place. We believe these interlinked measures will be effective in shaping a sustainable fishery so that it supports rather than eliminates diversity of the fleet, fisheries, and fish.

In order to protect the marine ecosystem, fishing communities, and our food system
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it is essential that New England maintain a diverse and locally based groundfish fishery, which includes a variety of gear types, vessel sizes, geographic locations, and levels of participation. Evidence shows that in order to recover fish stocks and the health of the ecosystem, diversity and scale of the fisheries should be well matched to the diversity and functional scales of marine species and the fishery ecosystem. Loss of fleet diversity and excessive consolidation of fishing power threatens to undermine regional and national conservation goals and requirements, our access to healthful food from the ocean, and the economic underpinnings of the region's fishing communities. It is urgent that fleet diversity and 'who fishes' be a top priority for New England fishery managers and decision makers.

Science - why does fleet diversity matter to conservation efforts?

The tight linkages among management, fleet characteristics, and ecosystem vitality (including recovery of fish stocks) are all too often underappreciated. Ecology and emerging fisheries science tells us it will be a mistake with dire consequences to ignore these interdependencies. The fishing fleet is an integral part of the living ecosystem, regardless of external markets, and management of fisheries is irresponsible if it does not factor this in. For more details and a comprehensive bibliography, we refer you to the comments that were submitted by a number of scientists commenting on the proposed Amendment 16 before it was approved. These scientific comments are based on the following principles that should be fundamental to the management of marine fisheries:

- Fish species often live as discrete substocks distributed unevenly in a given region or ecosystem (such as the Gulf of Maine).
- A fishing fleet is an integral part of the fishery ecosystem, so in order to perpetuate a healthy biological community and fished populations the fleet must operate on scales consistent with the scales on which the ecosystem operates.
- Management that takes into account spatial distributions of stocks and ecosystem characteristics (i.e. ecology) will be most successful over the long-term.
- The fleet therefore needs to be distributed in a way that accommodates the matching of scales—i.e the most basic separation is between inshore and offshore fleets based on capacity and ability to travel distances.
- Finer subdivisions within each of these fleets—by area, gear types, seasons, etc.—would make management more effective.
- Fishing methods that conform and respond to non-uniform and fluctuating distributions will be most effective in ensuring viability of various fish stocks.
- Diversity of fishing vessel size, gear, location and target species will support diversity in the living marine system by avoiding pulse fishing which disrupts the natural distribution of individual stocks and critical interactions among species.

- Science based solely on broad generalizations that average stock conditions over large regions will not be effective in determining ecologically sound quotas.

The inevitable result of uncontrolled consolidation is a lack of diversity in the fishing fleet – i.e. a few large, efficient and homogeneous fishing operations working out of only a few ports – that will negatively affect the character, diversity and scales of the fishery ecosystem and the community diversity ashore.

Experience – learning from others:

If we care about the health of our oceans, fishing communities, and our food system, then who fishes matters. As the New England groundfish fishery transitions into a new ‘Catch Share’ management system, with its promises to improve ecological stewardship of our oceans, it is important to keep in mind that uncontrolled ‘Catch Share’ programs around the world have consolidated into monolithic, industrial scale, non owner-operator fishing fleets. This direction undermines communities, ecosystems, and our food system.

Fisheries are tied to the larger human food system, most importantly by providing an essential high-quality source of protein for many people. It is essential that we recognize and learn from the fact that a monolithic, industrial-scale, non-owner-operator food production system (i.e. modern agriculture dominated by agribusiness) has seriously failed to accomplish its ecological, social and economic objectives on land. We can and should learn lessons from consolidation that led to severe ecological and socio-economic problems in our terrestrial food system and not repeat the same mistakes with the food we get from the ocean.

It’s important to note that nearly 30 years after the farming industry was forced into consolidation and industrialization, the Department of Justice is currently holding hearings to determine the consequences of those actions. It took 30 years to truly see the ecological, economic and social consequences.

We urge the Council to take a very different road – one that leads to a diverse fleet in the hands of community-based, family fisher-men and women.

The need for careful analysis and decision- making:

We are encouraged that the Council took the first step toward addressing fleet diversity and consolidation in June when it passed a motion setting goals of maintaining inshore and offshore fleets, maintaining fleet diversity, and prohibiting excessive control of the fish by a small group of participants. And this month the Groundfish Committee committed to establishing individual accumulation limits in the next appropriate action. We believe these limits need to be established in

Framework 45, as the more time lapses, the more difficult it will be to undue the damage that is sure to be done.

You should know that you are not alone in your thinking. Nearly 200 people have already signed a letter in support of fleet diversity (<http://www.change.org/nama>).

We were also encouraged by the Council staff's white paper: *Fleet Diversity, Allocation, and Excessive Shares in the Northeast Multispecies Fishery*. We commend the paper for highlighting the important areas and trust that more analytical work will be done to assess the potential value of the different possibilities for New England and how experiences and lessons from other regions in the U.S. and the world will be helpful. We suggest that including the original data with the diversity analysis in the paper might provide a more complete and complex picture than the averaged data reveals. Without the data, it is difficult to interpret the diversity graphs, which appear inexplicably static over time.

We agree strongly with the paper's suggestion that the purpose of proposed measures should be clearly defined, so that it will be possible to anticipate the effectiveness and possible secondary consequences. We are eager to help in further analysis of the options.

Conclusion:

It is essential to ensure that mistakes that have happened in other Catch Share systems and in the rest of our food system are not repeated here in New England. The future of our fisheries and the food systems into which they contribute depend on the decisions you make today.

It is critical to adopt a long-term vision for the fleet that acknowledges our rich marine ecosystem and fishing heritage. Let it be one that provides for a stable, diverse and viable long-term future for our fishermen without undermining our communities, ecosystems and fisheries for decades to come.

As it stands in Amendment 16 and the current management plan for the groundfish fishery, there are no protections to ensure fleet diversity or to prevent excessive consolidation. Protections are needed to ensure that the fleet remains diverse and under the control of active fishing communities to achieve the ecological objectives established by the Magnuson Stevens Act.

We know this. And we now challenge the Council to acknowledge that there is a serious problem and to commit to finding effective solutions and to take action in the context of Framework 45. We look forward to working with you and the Council staff as this process moves forward.

**Comments on the Proposed Rule for NE Multispecies Amendment 16
0648-AW72**

**Submitted to Patricia A. Kurkul, Regional Administrator
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930**

We, an ad hoc group of scientists advising fishermen and fishing communities in New England, are writing because we feel **the Proposed Rule for NE Multispecies Amendment 16** has serious scientific shortcomings. Specifically, we believe the Amendment fails to recognize the best available science, which implies the need for fishery management (fishing restraints/quotas) to be implemented at a local, fine scale as well as the single broad scale proposed by the Amendment. We understand the difficulty of making a transition from our current broad scale of management, however, we feel the scientific problems ignored by Amendment 16 and the resulting biological, economic and social consequences are too important to hide under the rug.

We support the general direction towards sectors and stricter controls; however, like any policy, the devil is in the details. Policies that appear good in principle can have unintended consequences that thoroughly defeat their primary purpose. In the case of amendment 16, there is a very large scientific problem that we believe will confound its intended economic and conservation effects. One of the fundamental principles of resource management is the need to match the spatial organization of management with the spatial structure of the ecology being managed. This matching is important because it allows us to directly connect the biological results of fishing activity to the ongoing evaluation of specific management practices and to improvements in the science. Stewardship is equally dependent on this same connection. But this feedback is largely lost when regulations are implemented at a single broad scale while ignoring the multiple scales relevant to the demographics of groundfish ecology.

In the last decade a series of studies in New England, Atlantic Canada and many other locations around the world have revealed localized stock structures that occur at a much finer scale than has been assumed for purposes of assessment and management. Here in New England, the Council has known for a long time and has tried to adapt management to multiple spawning areas for cod in the Gulf of Maine; just this last month, a report from the Massachusetts DMF revealed very localized cod spawning areas and concluded like so many other studies that many groundfish populations are loyal to particular spawning grounds in a way that is very much like salmon. [We have attached to this letter a partial, but still substantial, bibliography of scientific publications relevant to the finer scale aspects of fish populations.]

This new scientific evidence about local stocks is really evidence that ocean populations and ecosystems operate at multiple scales — from very local to very broad. We would contend that all the evidence we have about the ocean populations and all our theoretical knowledge of ecosystems is consistent with the organization of populations at multiple spatial and temporal scales. In practice, the important implication is that we have to

manage fisheries at multiple scales, not just a single large scale, if we hope to be able to learn, adapt and conserve the resource.

The most important negative aspect of overly broad, single scale management is that individual or group quotas simply shift the so-called 'race to fish' from a race in time to a race in space. Amendment 16 will give fishermen strong incentives to allocate their fishing activity to times and places that yield the best (private) economic result. With multiple stocks governed by a single quota, and management rules operating on a large scale, the biological results of these allocations will be very hard to predict. While at times, the results will probably be benign, there will be other times, depending on the local peculiarities of fish aggregations and the timing of fishing, when populations (spawning groups) may be driven below viable thresholds and lost, just as has happened in the past. Even if this occurs only occasionally, it is still a long-term and very serious form of overfishing.

Amendment 16 does nothing to prevent and may, in fact, encourage this kind of outcome. This is because the same strong incentives that will drive the spatial allocation of fishing effort also will push fishermen towards large scale technology appropriate for fishing over the broad extent of management boundaries. Large scale technology combined with efficient search capabilities is a sure fire recipe for the quick 'cropping' of local stocks in the early stages of recovery and may be one of the reasons why broad scale catch shares have had such a dismal biological record elsewhere. Two recent studies, one in *Science* (Costello, et al.) and one in the *Publications of the National Academy of Science* (Essington), both of which surveyed mostly broad scale fisheries, indicated that even with rigorous catch share policies there is little or no evidence of biological recovery. One need only look next door at the fate of Canada's Bay of Fundy cod stock, and the fishermen that depended on it, for evidence here. All of this will not only produce conservation problems but will lead, rather quickly, to fleet consolidation and the concentration of landings and markets in two or three ports. The communities and economic infrastructure necessary to support conservative harvesting technology appropriate for finer-scale ecology will have no economic base.

When fisheries science operates at a single broad scale it is misled by noisy feedback, which obscures all but the broadest long-term trends. Similarly, when fishermen operate at a broad scale, the feedback they receive about the results of their actions is noisy and incomplete. While, in principle, fishermen with catch shares should have strong stewardship incentives, the reality is that because management is not organized to provide appropriate feedback, they will be unable to act upon those incentives. For all practical purposes the benefits will not exist. Basically, fishermen will only be able to respond to the threat of penalties if they exceed their quota. Unfortunately, a single quota applied to multiple stocks of the same species will yield haphazard results that threaten to extirpate local stocks.

While the evidence for multiple scales is not completely certain, neither is the scientific evidence for managing at a single broad scale. The current practice is really more a scientific or management habit, one that dates back to the late 1940s (Halliday and Pinhorn). Nevertheless, we expect proponents of Amendment 16 would

argue that the uncertainty about finer scale stock structure is one reason why we have to continue managing at a single broad scale. In fact, this uncertainty is precisely why there is a need for a different approach. When confronted with scientific uncertainty the law requires a precautionary policy, i.e., one that minimizes the damage of being wrong. Multi-scale area management is far more precautionary than broad scale management because if the science behind it turns out to be wrong we will have lost little. Multi-scale management preserves ecological feedback about our actions and allows it to be aggregated to a broader scale; it does not stop us from learning; it does not foreclose a transition to larger scale technology and it does not artificially preserve markets and communities that might stand in the way of both economic efficiency and resource conservation. On the other hand, if the assumptions about broad, single scale management are false, as current developments in science certainly suggest, management will not acquire meaningful fine-scale feedback and, consequently, will seriously impair its scientific ability to adapt, learn and manage in a way that is consistent with the aspirations of the law. In short, from a precautionary perspective, Amendment 16 is an extraordinarily risky and legally vulnerable approach to fisheries management. This vulnerability will hang like a threatening cloud over regulatory processes and the economic decisions of the industry.

We understand the difficulty of moving to multi-scale management. Current data series and survey practices are adapted to broad scale management and will be difficult to decompose in a way that is appropriate to multi-scale management. Managing stocks that cross boundaries is difficult and a transition to multi-scale management will be costly for both the industry and management. Nevertheless, the cost of continuing to manage at a broad scale are very high — persistent stock depletion as has occurred elsewhere and the economic and social consequences that flow from depletion.

In summary, over the years management at a single broad scale has had disastrous biological, economic and social results in New England. Amendment 16 does nothing to address these problems. At the same time, it puts in place economic mechanisms in the form of sectors and transferable quotas that will accelerate the use of broad scale technology and fleet consolidation; this will set up conditions for the continued depletion of the groundfish resource, the on-going loss of jobs and economic opportunities and the continuing erosion of the once vibrant fishing communities of New England.

We emphasize that these pessimistic conclusions are not mere speculation, but flow directly from the new scientific evidence that has verified the presence of salmon-like spawning site fidelity in many, if not most, groundfish populations. If that evidence is correct, Amendment 16 violates a fundamental principle of fisheries management and all the dire consequences we list above are likely to follow. We also want to make it clear that the scientific concerns about scale that we raise here are not meant as an objection in principle to catch shares or sectors; nevertheless, when sectors and shares are implemented at a single broad scale the evidence is that their potential benefits will be squandered.

It may be too late at this stage for the Council and/or NMFS to take steps to bring Amendment 16 into conformance with what is rapidly becoming “best available science”, but it is crucial for the Council to immediately

signal its intention to quickly address the scale issue — that is, to move to multi-scale area management — in order to forestall the personal, business and scientific investments that will lock us into a perpetually depleted fishery. In order to give substance to those intentions we request the council (1) to ask the scientific and statistical committee to address (a) the issue of multi-scale ecology and management from both a biological and social perspective and (b) from the perspective of available data and survey methodology, and (2) that the Council begin the process of designing one or several pilot management programs for the purpose of learning about the practical issues of multi-scale management.

Sincerely,

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