

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

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Christopher M. Moore, Ph.D.
Executive Director

MEMORANDUM

DATE: June 1, 2012

TO: Council

FROM: Jason Didden 

SUBJECT: MSB Amendment 14

The Mackerel, Squid, Butterfish (MSB) Committee and MSB Advisory Panel will be meeting Friday June 8, 9am-noon via webinar (<https://www1.gotomeeting.com/register/126160849>) to review the alternatives in the document, review public comment, and get input from the Advisory Panel. The comment close for Amendment 14 is June 4, but the comments received to date are included following this page. A summary of the in-person public hearings, and any additional written comments received will be forwarded to the Council before the June 8 webinar. Once all public comments are received, staff may submit staff recommendations regarding Amendment 14 and these will be distributed before the Council meeting and posted to the web page noted below.

The MSB Committee will meet on Tuesday June 12, 2012, 9am-noon to consider actions on Amendment 14 to recommend to the Council. The Council will take up the issue on Wednesday. If requested, a hard copy of the Amendment's DEIS was mailed with the Council briefing documents and is available electronically at: http://www.mafmc.org/fmp/msb_files/msbAm14current.htm.

There was also a joint Amendment 14 – Amendment 5 (Atl. Herring) technical meeting on May 22 that looked at coordination issues. A summary of that meeting is being finalized and will be distributed once complete.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 30 2012

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. Daniel S. Morris
Acting Regional Administrator
Northeast Region
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
55 Great Republic Drive
Gloucester, MA 01930-2298

Dear Mr. Morris:

In accordance with the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the Environmental Protection Agency (EPA) has reviewed the National Oceanic and Atmospheric Administration's Draft Environmental Impact Statement (DEIS) for Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP) (CEQ No. 20120106).

The purposes of Amendment 14 are to: 1) improve monitoring and observing of incidental River Herrings and Shads (RH/S catch); 2) consider ways to reduce RH/S catch; and 3) consider adding RH/S as managed stocks in the MSB FMP (i.e., as stocks in the fishery) so as to improve overall RH/S conservation. EPA believes that the DEIS provides an adequate discussion of the potential environmental impacts and we have not identified any potential environmental impacts requiring substantive changes. EPA has rated the DEIS as LO – "Lack of Objections." A summary of EPA's rating is attached.

We appreciate the opportunity to review this DEIS. If you have any questions please contact Jessica Aresta-DaSilva at aresta-dasilva.jessica@epa.gov or 202-564-1567.

Sincerely,

A handwritten signature in blue ink that reads "Susan E. Bromm".

Susan E. Bromm
Director
Office of Federal Activities

Summary of Rating Definitions and Follow-up Action

Environmental Impact of the Action

LO--Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC--Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO--Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU--Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1--Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2--Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3--Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.



SFD
George
5/25 cc: Pete C
Aja
Carrie
Lindsey

5-12-12

Mr. Daniel Morris
Deputy Regional Administrator
NMFS
55 Great Republic Dr.
Gloucester, Mass. 01930

Dear Mr. Morris:

I am writing on behalf of the Delaware River Shad Fishermen's Association (DRSFA). We are a 700 member conservation group working to preserve, protect and restore migratory fish to the Delaware River and its tributaries. We strongly support the most vigorous protection of the remaining shad and herring species along our Atlantic coast.

For years, our coastal communities have worked tirelessly to restore culturally and economically significant species such as river herring and shad to rivers along the Atlantic coast. At the same time, the incidental catch of millions of river herring and shad annually by the mid-Atlantic mackerel and squid fisheries remains largely unmonitored and unregulated. I am concerned about this serious, ongoing threat to these already-depleted species that undermines efforts to restore our estuaries and rivers.

River herring and shad populations are at historic lows, and landings have declined coastwide by 99 and 97 percent, respectively. In response, most Atlantic states prohibit the taking of river herring in coastal waters and are advancing similar restrictions on American shad. These populations are in dire need of conservation and management, so it is critical that they are given protection in federal waters under Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. Because these fish have been depleted so severely, the council should choose the option with the most positive biological impact:

Inclusion of river herring and shad as stocks within the fishery (Alternative 9b-9e).

Developing the long-term protections associated with this designation will take time. Therefore, the council should adopt the following interim measure to immediately reduce and limit the at-sea catch of river herring and shad:

**A catch cap, effective in 2013 (Alternative 6b-6c), that functions effectively, does not increase wasteful discarding, and cannot be circumvented by simply declaring into another fishery. These alternatives should be modified to more effectively ensure that directed mackerel fishing stops if a cap is reached by lowering the amount of mackerel that can be fished for, possessed, or retained.

I strongly urge you to also incorporate all of the following:

**100 percent at-sea monitoring on all mid-water trawl fishing trips. One observer must be assigned to each vessel in a pair trawl operation (Alternative 5b4 and Alternative 3d).

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**An accountability system to discourage the wasteful dumping of unsampled catch. All catch, including "operational discards," must be made available to fishery observers for systematic sampling (Alternative 3j with operational discards prohibited). If dumping is allowed, include a fleetwide limit of 10 dumping events (Alternative 3l and 3n) and require vessels that dump to take an observer on their next trip (Alternative 3o).

**A requirement to weigh all catch. (Alternative 2c-2f).

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



Charles Furst, President DRSFA
Po 221
Solebury, Pa 18963

IDENTICAL AMENDMENT 5&14 COMMENT

533 identical comments (7 were altered)

Dear Mr. Moore,

Dear Regional Managers,

I'm very concerned about the impacts of industrial fishing on river herring.

I would very much appreciate it if you would adopt a comprehensive monitoring and bycatch reduction program for river herring, which I'm told are not currently considered in your management of either the Atlantic herring fishery or the Mackerel, Squid, Butterfish fishery. I think it's great that most Atlantic states now ban the catch of river herring in state waters, but it worries me that these efforts are not matched in federal waters. Large scale fisheries such as these can have major impacts, and should be monitored and managed carefully to minimize impacts to not only river herring, but other species like groundfish. I support your initiative to improve this aspect of both these fisheries.

Specifically, if the monitoring and bycatch reduction program you adopt could include the following, I would be much obliged. Here's what I'd like to see the New England Fishery Management Council adopt:

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

As for the Mid-Atlantic Fishery Management Council, I encourage you to adopt the following options:

- Inclusion of river herring and shad as stocks within the fishery (Alternative 9b-9e).
- Developing the long-term protections associated with this designation will take time. Therefore, the council should adopt the following interim measure to immediately reduce and limit the at-sea catch of river herring and shad:
 - A catch cap, effective in 2013 (Alternative 6b-6c), that functions effectively, does not increase wasteful discarding, and cannot be circumvented by simply declaring into another fishery. These alternatives should be modified to more effectively ensure that directed mackerel fishing stops if a cap is reached by lowering the amount of mackerel that can be fished for, possessed, or retained.

Furthermore, I strongly urge you to incorporate all of the following:

- 100 percent at-sea monitoring on all mid-water trawl fishing trips. One observer must be assigned to each vessel in a pair trawl operation (Alternative 5b4 and Alternative 3d).
- An accountability system to discourage the wasteful dumping of unsampled catch. All catch, including "operational discards," must be made available to fishery observers for systematic sampling (Alternative 3j with operational discards prohibited). If dumping is allowed, include a fleet-wide limit of 10 dumping events (Alternative 3l and 3n) and require vessels that dump to take an observer on their next trip (Alternative 3o).
- A requirement to weigh all catch. (Alternative 2c-2f).

Thank you for considering my input, and I look forward to applauding your wise decision.

Sincerely,

Y.D. Jordan
1 Nassau Rd
Montclair, NJ 07043

IDENTICAL AMENDMENT 14 COMMENT

6,622 identical comments submitted (61 were altered)

May 30, 2012

Mid-Atlantic Fishery Management Council
800 N. State Street, Suite 201
Dover, DE 19901

Dear Mid-Atlantic Fishery Management Council,

For years, our coastal communities have worked tirelessly to restore culturally and economically significant species such as river herring and shad to rivers along the Atlantic coast. At the same time, the incidental catch of millions of river herring and shad annually by the mid-Atlantic mackerel and squid fisheries remains largely unmonitored and unregulated.

I am concerned about this serious, ongoing threat to these already-depleted species that undermines our efforts to restore our estuaries and rivers.

River herring and shad populations are at historic lows and landings have declined coastwide by 99 and 97 percent, respectively. In response to this, most Atlantic states prohibit the taking of river herring in coastal waters and are advancing similar restrictions on American shad. These populations are in dire need of conservation and management, so it is critical that they are given protection in federal waters under Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan.

In light of the depleted status of these fish, the Council should choose the option with the most positive biological impact:

Inclusion of river herring and shad as stocks within the fishery.
(Alternative 9b-9e).

Developing the long-term protections associated with designating river herring and shad as stocks in the fishery will take time. Therefore, the Council should also adopt the following interim measure to immediately reduce and limit the at-sea catch of river herring and shad:

* A catch cap, effective in 2013 (Alternative 6b-6c) that functions effectively, does not increase wasteful discarding, and cannot be circumvented by simply declaring into another fishery. These alternatives should be modified to more effectively ensure that directed mackerel fishing stops if a cap is reached by lowering the amount of mackerel that can be fished for, possessed or retained.

In addition, I strongly urge you to incorporate the following:

* 100 percent at-sea monitoring on all mid-water trawl fishing trips.

One observer must be assigned to each vessel in a pair trawl operation. (Alternative 5b4 and Alternative 3d).

* An accountability system to discourage the wasteful dumping of unsampled catch. All catch, including "operational discards", must be made available to fishery observers for systematic sampling (Alternative 3j with operational discards prohibited). If dumping is allowed, include a fleet wide limit of 10 dumping events (Alternative 3l and 3n) and require vessels that dump to take an observer on their next trip (Alternative 3o).

* A requirement to weigh all catch. (Alternative 2c-2f).

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

Sincerely,

Fiona Kinniburgh
26 E 2nd St
New York, NY 10003-9486

EXAMPLE IDENTICAL NY COMMENT

528 identical comments submitted (19 were slightly altered)

May 29, 2012

Amendment 14 Comments

Dear Comments,

For years, New York and other coastal states and communities along the Atlantic coast have worked tirelessly to restore culturally and economically significant species such as river herring and shad to rivers along the coast. At the same time, the incidental catch of millions of river herring and shad annually by the mid-Atlantic mackerel and squid fisheries remains largely unmonitored and unregulated. I am concerned about this serious, ongoing threat to these already-depleted species that undermines efforts to restore our estuaries and rivers.

River herring and shad populations are at historic lows, and landings have declined coast-wide by 99 and 97 percent, respectively. In New York the Hudson River's historic shad fishery was recently closed to protect dwindling populations and a similar fate for river herring is likely. In addition, many other Atlantic states prohibit the taking of river herring in coastal waters and are advancing similar restrictions on American shad. These populations are in dire need of conservation and management, so it is critical that they are given protection in federal waters under Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. Because these fish have been depleted so severely, the council should choose the option with the most positive biological impact:

Inclusion of river herring and shad as stocks within the fishery (Alternative 9b-9e).

Developing the long-term protections associated with this designation will take time. Therefore, the council should adopt the following interim measure to immediately reduce and limit the at-sea catch of river herring and shad:

**A catch cap, effective in 2013 (Alternative 6b-6c), that functions

effectively, does not increase wasteful discarding, and cannot be circumvented by simply declaring into another fishery. These alternatives should be modified to more effectively ensure that directed mackerel fishing stops if a cap is reached by lowering the amount of mackerel that can be fished for, possessed, or retained.

I strongly urge you to also incorporate all of the following:

****100 percent at-sea monitoring on all mid-water trawl fishing trips. One observer must be assigned to each vessel in a pair trawl operation (Alternative 5b4 and Alternative 3d).**

****An accountability system to discourage the wasteful dumping of unsampled catch. All catch, including "operational discards," must be made available to fishery observers for systematic sampling (Alternative 3j with operational discards prohibited). If dumping is allowed, include a fleetwide limit of 10 dumping events (Alternative 3l and 3n) and require vessels that dump to take an observer on their next trip (Alternative 3o).**

****A requirement to weigh all catch. (Alternative 2c-2f).**

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

Sincerely,

Ms. annette bailey
753 James St
Syracuse, NY 13203-2108

INDENTICAL STOCKS IN A FISHERY COMMENT

--these started coming in on May 31, so we haven't tallied these yet.

May 31, 2012

Executive Director Christopher Moore

Dear Executive Director Moore,

I urge the Mid-Atlantic Fishery Management Council and the National Marine Fisheries Service to begin managing depleted populations of river herring and shad as stocks in the fishery. Unmanaged catch of river herring and shad by industrial trawlers has contributed to a collapse of populations of these small but ecologically important fish.

With river herring and shad landed catch down 99 and 97 percent, respectively, most states have banned their harvest and the Fisheries Service is considering listing river herring under the Endangered Species Act. Yet mackerel and squid trawlers can catch millions of river herring and shad every year without restriction or even adequate monitoring. This is unacceptable; river herring and shad are clearly in need of conservation and management within the federal fisheries in which they're caught.

As the council finalizes Amendment 14 to the Mackerel, Squid and Butterfish Fishery Management Plan, I strongly urge it to vote in favor of adding blueback herring, alewife, American shad and hickory shad as stocks in the fishery management plan (Action Alternatives 9b-e).

I also request that you approve the following measures to immediately reduce the at-sea catch of river herring and shad:

** A catch cap for river herring and shad in the Atlantic mackerel fishery (Action Alternatives 6b-6c).

** 100 percent at-sea monitoring on all mid-water trawl fishing trips. One observer must be assigned to each vessel in a pair trawl operation (Action Alternatives 5b4 and 3d).

** An accountability system to prohibit or discourage wasteful operational discards of unsampled catch. All catch must be made available to fishery observers for systematic sampling (Action

Alternative 3j with operational discards prohibited). If dumping is allowed, include a fleet-wide limit of 10 dumping events (Alternative 3l and 3n) and require vessels that dump to take an observer on their next trip (Alternative 3o).

** A requirement to weigh all catch (Alternative 2c-2f).

Every year states and communities throughout the mid-Atlantic and elsewhere on the east coast invest significant time and resources to restore their herring runs. Fishermen in inland and state coastal waters can no longer catch river herring, and instead must bide time and hope for populations to rebound. The Mid-Atlantic Fishery Management Council and the National Marine Fisheries Service must do their part and step forward to adequately regulate these important species.

Sincerely,

Mr. Peter Currie
631 W Olney Ave
Philadelphia, PA 19120-2219
(215) 276-3040

Many Near Identical Letters Were Received (see previous 4 sample letters). The next 6 pages detail additions made to letters that were not totally identical.

Unique Amendment 5&14

- As the holder of M.A.s in Marine Biology and Environmental Studies, I am a staunch defender of our marine resources and ocean and fresh water habitat.
- WHAT PART OF WATER TO SURVIVE DONT YOU GET??? STOP DESTROYING OUR OCEANS WITH YOUR OVER USE. WHO SAYS ITS YOUR TO RUIN ANYWAY?
- "Earth provides enough to satisfy every man's need, but not every man's greed." -- Mahatma Gandhi
- As a Professor Emeritus of Zoology and Environmental Science, I'm very concerned about the impacts of industrial fishing on river herring.
- THERE WILL NOT BE ANY MORE IF YOU DO NOT ACT TO CONSERVE THESE FISH!!
- Don't you know better by now? If you catch them all, your industry is dead. I'm very concerned about the impacts of industrial fishing on river herring.
- Industrial fishing is an unsustainable method of fishing and must not be supported. With regards to river herring, as bycatch industrial fishing is decimating the species. It must be stopped entirely.

Unique Amendment 14 only

- 3 quotes inserted into the comment
 - "Our duty to the whole, including to the unborn generations, bids us to restrain an unprincipled present-day minority from wasting the heritage of these unborn generations. The movement for the conservation of wildlife and the larger movement for the conservation of all our natural resources are essentially democratic in spirit, purpose and method."-- Theodore Roosevelt
 - "As we peer into society's future, we—you and I, and our government—must avoid the impulse to live only for today, plundering for our own ease and convenience the precious resources of tomorrow. We cannot mortgage the material assets of our grandchildren without risking the loss also of their political and spiritual heritage. We want democracy to survive for all generations to come, not to become the insolvent phantom of tomorrow."-- Dwight D. Eisenhower
 - "A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise."-- Aldo Leopold
- Do you think unmonitored fishing is wise?
- I am particularly concerned about the shad, which is a New Jersey fish that has been here historically and has had an economic impact on our state.
- Please consider the importance of every species in keeping the biodiversity and balance of the ecosystem in order.

- I am worried about our fish population
- WE NEED TO PROTECT OUR ENVIRONMENT...NOW!
- PERSONALLY, I AM STRONGLY OPPOSED TO ANY DUMPING OF "BI-CATCH" FISH. ALL CATCH CAN BE UTILIZED IN SOME WAY – PET FOOD, ETC. WE HAVE STRIP MINED OUR OCEANS AND WE WILL REAP THE PROBLEMS AND EFFECTS OF DEPLETION.
- The right hand does not know what the left hand is doing. Someone's got to look at this situation and say NO.
- We will reap what we sow and will suffer our own consequences no doubt.
- I know these fish don't pay you to rule in their favor, but consider that for years, our coastal communities have worked tirelessly to restore culturally and economically significant species such as river herring and shad to rivers along the Atlantic coast.
- American Shad were nearly extinct several decades ago due to water pollution - they were restored to healthy populations by a concerted effort and CAN BE AGAIN, BUT ONLY WITH A COMMITMENT TO DO SO...
- As a fish eater, this issue is important to me. I want to see our rivers and indigenous fish protected for future generations.
- DO WE HAVE TO TAKE EVERYTHING TO EXTINCTION?
- PLEASE TAKE THIS VERY SERIOUSLY
- As a biologist at Penn State University, I have participated in a research project on migrating shad and understand their ecological and economic importance. I am therefore concerned about this serious, ongoing threat to these already-depleted species that undermines our efforts to restore our estuaries and rivers.
- As a conservation professional I am concerned about this serious, ongoing threat to these already-depleted species that undermines our efforts to restore our estuaries and rivers.
- Can we please do everything in our power to protect our natural resources?
- The incidental catch of millions of river herring and shad by mid-Atlantic mackerel and squid fisheries remains largely unmonitored and unregulated, and is causing DEVASTATION throughout coastal foodchains.
- MAN IS DRIVING SEA LIFE TO EXTINCTION. POLLUTION, FISHING TOO MUCH, SPORT, TOXINS, GARBAGE AND OTHER FACTORS ARE KILLING SPECIES, LOSS OF CLEAN WATER IS CHANGING FISH BEHAVIOR AND BREEDING. UNTIL MAN REALIZES GREED IS NOT THE PLANET'S FIRST PRIORITY THESE CONDITIONS WILL ONLY WORSEN. CAN I BE THE ONLY PERSON WHO SEES THE DIRECTION OUR PLANET IS GOING IN???? I WILL NOT BE ALIVE WHEN THE PLANET AND IT'S WATERS AND ANIMALS AND SEA LIFE WILL BE DESTROYED- BUT- IT WILL HAPPEN UNLESS CHANGE IS MADE. NOW- NOT IN 10 YRS- NOW!!!!!!!!!!!!
- Once again, OVERFISHING is killing our oceans and the animals who call it home! THE OCEANS ARE ALREADY IN A SORRY STATE - PLEASE DO SOMETHING TO STOP THE DAMAGE.

- Greetings, My wife's family is from Jamesville NC. on the Roanoke River. Herring were a staple there. Now they are scarce. Industrial ocean fishing is too aggressive and must be curtailed.
- TO ALL OF YOU NUMNUTS THAT ARE DESTROYING STUFF IN THE WORLD HAD BETTER DAM SIGHT REALIZE THAT YOU CAN'T EAT MONEY!
- Imagine my surprise to learn that shad are not already extinct!
- I wonder what the people that deplete resources for living think they are going to do or leave for resources in the future.
- Please protect the supplies of river herring and American shad at sea from further dangerous depletion.
- George Washington was correct in his worries of the ecology. Interesting reading in his writings. This is not the time to shy away from protecting our waters.
- Please! Give urgent attention to the preservation of river herring and shad, as their populations have declined to a dangerous level.
- Fisheries throughout the world are being reduced by overfishing and loss by unintended catch. We can not afford to continue destroying our aquatic resources. This is a matter of concern for the environment as well as for mankind's welfare. Everything is connected.
- During the Depression, my mother's family on Albermarle Sound in North Carolina got by in part because of netted menhaden. I grew up hearing about the amazing spawning runs that came up the Sound until the Second World War. Unfortunately, during WWII, the fish population crashed, and has struggled ever since. Such damage can be difficult to repair.
- AS A FISHERMAN AND AN ENVIRONMENTALIST I AM SHOCKED THAT WE HAVE ALLOWED OUR FISHERIES TO BE DECIMATED. IT'S WELL BEYOND TIME TO PUT A STOP TO THE ONSLAUGHT.
- Fishing is in my blood. Many of my relatives were fishermen and some are still fishing. This issue is important to me and others like me -- the families of fishermen.
- DO NOT KILL OFF OUR RIVERS OR WHAT IS IN THEM!
- SO-called by-catch, also called "unintended" catch, is terribly destructive to "bait" for larger fish. The huge range of death & destruction for smaller species must be addressed for the longterm health for fisheries everywhere. PA contributes to two (2) significant watersheds that impact many other biodiversite marine livelihoods: Delaware Bay & the Chesapeake and each in turn impact the Atlantic Ocean. A broad spectrum overview is needed to encompass immediate and extended species for healthy outcomes. N.J., Maryland and VA must be included & cooperatively participate.
- Come on, how can any life in the sea survive if this basic building block of the food chain is exterminated.....
- Virginia would not be Virginia without the shad. And how could politicians dream of conducting business without the kickoff of the shad planking season??? I am a

native Virginian and still own property there, so I have a keen interest in all things that affect the state where my heart always will reside.

- EXTINCT IS FOREVER~!~!~!
- My family and I are truly concerned about this. We need to take this very seriously.
- Future generations of people and future years for our natural resources need to be protected. Short term decisions will mean long term losses.
- Please protect river herring and shad. Even though they are small fish, they play an immensely important role in the health of coastal ecosystems.
- As an environmental history professor, I am very conscious of the significance of our river herring and shad populations and their overall place in our environment. Please protect them! Thank you.
- The health of our coastal fisheries is of concern to all citizens. A sustainable ecosystem is necessary both for fishermen's economic health and for the incorporation of fish in a healthy diet.
- I live next to the Herring Run river, but in the 27 years I have walked its banks I have yet to see a herring. It is said that at one time the river was thick with migrating herring in the spring. What an amazing sight that must have been!
- As the Ramapo River Watershed Keeper and someone interested in the health of the oceans and the Hudson River Estuary, I endorse the views expressed below:
- The Chowan river near my hometown was completely dead. With luck and skill it was brought back. As of now, we are "waiting for the herring to run", the last step in recovery. Herring take a long time to overcome pollution. Protect them.
- Please institute a catch shares system to manage the herring and shad populations. This has been used successfully in many other fisheries.
<http://www.edf.org/oceans/catch-shares>

Unique New York Comments

- Please protect river herring and shad. They are vital to the health of our rivers and the economic vitality of our communities.
- I am an Ursuline Sister living in New York, and Riverkeeper and other organizations have helped me to see the importance of protecting endangered species.
- I want the fisheries of the Hudson River to survive and flourish so my daughter can witness great fish runs and eat local fish caught by local fishermen and women. Please take a great step towards that by decreasing bycatch.
- These fish not only are symbolic of our heritage, but more importantly are necessary to the functioning of a healthy marine ecosystem.
- You have an opportunity to make a difference in the future. Show me you can be a strong leader.
- This is an economic issue! These fish are the basis of the food chain and therefore the whole Atlantic fishing industry! Short term gains for a few companies will cost us all (including those gaining now) the future of a sustainable fishery!

- I know that as a neighbour to the U.S., and not a citizen, I cannot effect the political system, but when it comes to the ecosystem of which we are all a part, there can be no boundaries, as a problem in one area, however isolated, will eventually (and sometimes immediately) affect all of us.
- As a follower of St. Francis, who expressed concern and love for all of God's creatures, I write to express my concern for river herring and shad populations that are at historically low levels, and are truly an endangered species. My concern is heightened when I think of Indian Point and the number of small and feeder fish who are caught or killed at the water intake areas as water is pumped into the plant for cooling purposes.
- In New York the Hudson River's historic shad fishery was recently closed to protect dwindling populations and a similar fate for river herring is likely. Remember as well that striped bass, also important culturally and economically to New York, follow these fish up the river to spawn.
- Stop killing fish and discarding them at sea. This is an obnoxious, atrocious, and outrageous practice, performed while seafood prices are extremely high and fish stocks are dwindling.
- I am concerned about the severe decline in the herring and shad population in the Hudson River. I live near the River and appreciate its beauty, as well its economic gift to the people along the River.
- As a New Yorker, I long for the day when we can again claim a healthy, robust Hudson River full of fish.
- Please restrict the by-catch of river shad and red herring so that these important, if under-appreciated fish can survive and sustain the ecosystem that depend on them in plentiful and consistent numbers. You have all the information needed to make the informed decision to save these important species. You have all the mandate behind you in making the right decision for the American public. You have all the reason necessary to take steps to prevent this base of the food chain and our fishing economy from becoming extinct. Please have the will to do so, with the enthusiastic support of many of us who care.
- Please protect the threatened river herring and shad from Ocean bycatch. They play a huge part in our coastal ecosystem. River herring and shad must be protected at all costs.
- I am worried about the health of the fish that call the Hudson home, many of which are on the brink of collapse.
- As a recreational fisherman in New York City I have long enjoyed fishing for Striped Bass in the Hudson River, Brooklyn and Long Island. I know first hand the positive results fishery management has had on the Striped Bass Population. I have come to appreciate the role Herring and Shad play in the food chain as their well as their historical significance. I believe the conservation actions described below will help the current threat faced by the dwindling number of Shad and Herring. I hope these action can help preserve these fish for my children's generation.
- Please, do the right thing for the oceans and rivers that provide us with fish. Stop the needless waste of these important species. It's up to you.

- As a resident of the Hudson River Valley, where the shad and herring run is a storied part of the culture, I am very concerned about the future of these fish. I know commercial fishermen personally who can no longer fish for shad, and I'm concerned that river herring on the Hudson are still being overfished for bait. While New York has taken and will take action to reduce fishing impact in the Hudson, we must enact strong regulations in interstate waters to protect and restore these fish populations. That's why I support Riverkeeper's effort, and the letter pasted below.

Mailing Address:
P.O. Box 764
Wakefield, R.I., U.S.A. 02880
PHONE: (401) 782-1330



Plant Address:
65 State Street
Narragansett, R.I., U.S.A. 02882
FAX: (401) 782-4011

MAFMC
800 N. Dover St.
Suite 201
Dover, DE 19901

22 May 2012

REF: Amendment 14
Hand delivered at Public Hearing Warwick, RI

Council Members,

River Herring and Shad (RH/S) are anadromous species. The success of the spawning stock rests primarily within inland waters of the various coastal states along the eastern seaboard. A large part of the success or failure of the biomass is predicated on access to traditional spawning areas governed by individual States. These grounds have been permanently degraded by a variety of manmade obstacles such as dams and pollution. These are the issues that must be overcome in order to revive the stock.

This Amendment wrongly attempts to put the burden of inland ecosystem degradation on the commercial fishing industry. The fact that little or no evidence exists to support such a claim makes any of the Alternative Sets outlined in the Amendment both unneeded and unwarranted.

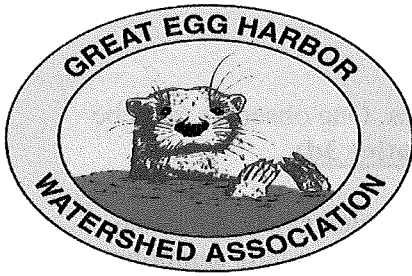
As the Council is also aware, the Mackerel Squid and Butterfish complex is currently managed with a minimum of scientific data. To include RH/S in the same management scheme would be of little or no benefit.

The RH/S fishery is already managed by individual States. The commercial industry is already overseen by At Sea Observers in a variety of fisheries, and both federal and states entities monitor dockside operations. This, combined with "grass roots efforts to collect baseline data for science" (savetheriverherring.org) is enough to monitor RH/S activity.

Given the efforts already in place regarding RH/S, I strongly urge the Council to recommend "No Action" on all the Alternative Sets 1-9 as outlined in the Public Hearing Document.

Sincerely,


Eric Reid
President
Deep Sea Fish of Rhode Island, Inc



The Great Egg Harbor Watershed Association & River Council

Fred Akers - Administrator
P.O. Box 109
Newtonville, NJ 08346
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Egg Harbor Twp.
William Handley
Upper Twp.

May 17, 2012

Christopher M. Moore Ph.D., Executive Director
Mid-Atlantic Fishery Management Council
800 N. State Street, Suite 201
Dover, DE 19901

RE: Amendment 14 for River Herring Protection

Dear Executive Director Moore:

For years, our coastal New Jersey communities have worked tirelessly to restore culturally and economically significant species such as river herring and shad to rivers along the New Jersey coast. At the same time, the incidental catch of millions of river herring and shad annually by the mid-Atlantic mackerel and squid fisheries remains largely unmonitored and unregulated. We are concerned about this serious, ongoing threat to these already-depleted species that undermines efforts to restore our estuaries and rivers.

River herring and shad populations are at historic lows, and landings have declined coastwide by 99 and 97 percent, respectively. In response, New Jersey has prohibit the taking of river herring in coastal waters and are advancing similar restrictions on American shad. These populations are in dire need of conservation and management, so it is critical that they are given protection in federal waters under Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. Because these fish have been depleted so severely, the council should choose the options with the most positive biological impact:

1. Incorporate river herring and shad as stocks within the federal fishery management plan for Atlantic mackerel, squid and butterfish. **(Alternative 9b-9e)** This action would afford river herring and shad direly needed conservation and management measures.
2. Adopt an interim catch cap, effective in **2013 (Alternative 6b-6c)**, that functions effectively, does not increase wasteful discarding, and cannot be circumvented by simply declaring into another fishery. These alternatives should be modified to more effectively ensure that directed mackerel fishing stops if a cap is reached by lowering the amount of mackerel that can be fished for, possessed, or retained.

3. Implement 100 percent at-sea monitoring on all mid-water trawl fishing trips. One observer must be assigned to each vessel in a pair trawl operation **(Alternative 5b4 and Alternative 3d)**.
4. Adopt an accountability system to discourage the wasteful dumping of unsampled catch. All catch, including "operational discards," must be made available to fishery observers for systematic sampling **(Alternative 3j with operational discards prohibited)**. If dumping is allowed, include a fleetwide limit of 10 dumping events **(Alternative 3l and 3n)** and require vessels that dump to take an observer on their next trip **(Alternative 3o)**.
5. Adopt a requirement to weigh all catch. **(Alternative 2c-2f)**.

The river herring and shad resource that is an essential food source to animals like striped bass and osprey, has been undermined to the point that river herring is currently being considered for protection under the Endangered Species Act. Since the most recent river herring stock assessment concluded that they are depleted and need fisheries management, we ask that you take all the urgent actions necessary to protect these species from total collapse and extinction and bring them back to significant abundance.

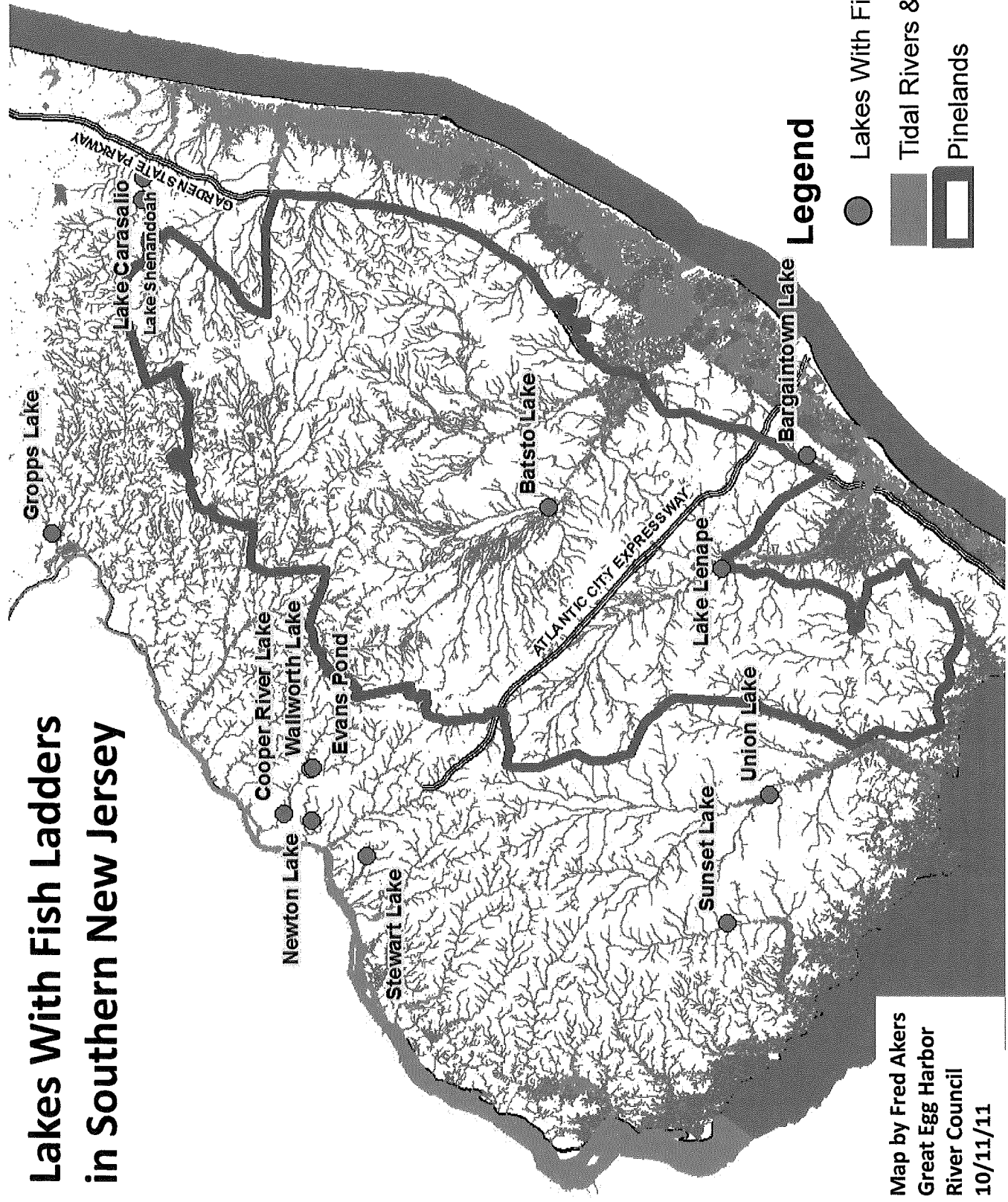
We thank you, the MAFMC, and the other states for initiating and supporting these actions to protect the River Herring, and we hope that New Jersey's opposition to protecting the river herring gets no traction in the end.

Very Best Regards,

A handwritten signature in cursive script, appearing to read "Fred Akers", written in black ink.

Fred Akers

Lakes With Fish Ladders in Southern New Jersey



Legend

- Lakes With Fish Ladders
- Tidal Rivers & Inland Bays
- ▭ Pinelands

Map by Fred Akers
Great Egg Harbor
River Council
10/11/11

Email to: jreichle@lundsfish.com

June 4, 2012

Dr. Christopher M. Moore
Executive Director
Mid-Atlantic Fishery Management Council
800 N. State Street, Suite 201
Dover, DE 19901

Re: **Amendment 14** – email to: msbamendment14@noaa.gov / jdiddden@mafmc.org

Dear Dr. Moore:

On behalf of the 150 employees of our family-owned business, Lund's Fisheries, Inc., and the independent fishermen who also supply fisheries products to our processing facility in Cape May, New Jersey, we thank you for the opportunity to comment on Amendment 14 to the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan (MSB FMP / A14). Our comments follow the order of issues and options outlined in the Executive Summary of the Draft Environmental Impact Statement; the Public Hearing Document (PHD).

2.1.1 Alternative Set 1: Additional Vessel Reporting Measures

We support alternatives 1c., which would institute weekly vessel trip reporting for all MSB permits, to facilitate quota monitoring and cross checking with other data sources; **1d72**, which would require 72 hour pre-trip notification to the National Marine Fisheries Service (NMFS/the Agency) to facilitate observer placement (as currently required in the Atlantic herring FMP) although a 48 hour requirement in the longfin squid fishery may be appropriate due to issues raised in the PHD; **1eMack** and **1eLong**, which would require VMS for limited access mackerel vessels and longfin squid/butterfish moratorium vessels; **1fMack** and **1fLong**, which would require daily VMS reporting of catch by limited access mackerel vessels and longfin squid moratorium vessels, to facilitate monitoring and cross checking with other data sources; and **1gMack** and **1gLong**, which would require 6 hour pre-landing notification via VMS and facilitate quota monitoring, enforcement, and/or portside monitoring.

2.1.2 Alternative Set 2: Additional Dealer Reporting Measures

We are opposed to alternative 2b, which would require federally permitted MSB dealers to obtain vessel representative confirmation of SAFIS transaction records for mackerel landings over 20,000 pounds, *Illex* landings over 10,000 pounds and longfin squid landings over 2,500 pounds. The purpose of this proposal is to catch errors at the first point of entry in the data system but places fishermen and dealers in a potentially adversarial, competitive regulatory posture that should be reserved for the Agency.

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

We support alternative 2d, which would require that federally permitted SMB dealers weigh all landings related to mackerel transactions of 20,000 pounds but we believe this alternative should reach all mackerel landings. If dealers do not sort by species, they would need to document with each transaction how they estimated the relative composition of a mixed catch. **Since we support all mackerel being weighed, we are opposed to alternative 4d, which would use a volume to weight conversion, and require vessel hold certification, for Tier 3 limited access-permitted vessels.**

We support alternative 2f, which would require that federally permitted SMB dealers weigh all landings related to longfin squid transactions over 2,500 pounds but we believe this alternative should reach all longfin squid landings. If dealers do not sort by species, they would need to document with each transaction how they estimated the relative composition of a mixed catch. **Since we support all longfin squid being weighed, we are opposed to alternative 4e, which would use a volume to weight conversion, and require vessel hold certification, for longfin squid moratorium-permitted vessels.**

We are opposed to alternative 2g, which would allow dealers to use volume to weight conversions if they cannot weigh landings. Although not an option in the PHD, we support daily dealer reporting.

2.1.3 Alternative Set 3: Additional At-Sea Observation Optimization Measures

We support alternatives 3b and 3c, which would require Captains and crew to provide reasonable assistance to observers and provide observers notice when pumping/haul back occurs on vessels with mackerel limited access and/or longfin squid moratorium permits. Our Captains and crew are already providing this assistance to observers. It is our understanding that the relationship between Federal observers, whom have been on our vessels over the past few years, and our Captains is excellent and we have attempted to cooperate with every request made to us by the observer program throughout this period of time.

We support the intent of alternative 3d, which would place an observer on any vessel taking on fish wherever/whenever possible, on vessels with mackerel limited access and/or longfin squid moratorium permits, although we recognize that the assignment of an observer on each vessel in a pair trawl operation (primarily in the mackerel and herring fisheries) has been at the discretion of the Northeast Fisheries Observer Program (NEFOP) up to this point in time.

We support alternative 3e, requiring the use of a “Released Catch Affidavit” if unobserved fish is released, or ‘slipped’ for any reason and understand that these are already being used. Our Captains make every effort so that observers can visually identify any fish in the net before they are released. We understand that NEFOP observers are satisfied with the cooperation they are already receiving from our Captains and crews.

We are opposed to alternatives 3f, 3g and 3j, which would require all fish to be discarded to be brought aboard for sampling by the observer. As we have repeatedly pointed out during the development of A14, and herring A5, there are significant operational restrictions that make it impossible, or dangerous, to bring the pump and codend, or brailer, over the rail during fishing activities on most, if not all, midwater trawl fishing vessels. Our captains tell us that the observers have no problem seeing what remains in the net after pumping, while the net remains alongside the vessel and, as we indicate above, our captains have no problem providing visual access to the net and codend so that the observer can do his or her job in recording all fish caught.

We are strongly opposed to alternatives 3h, 3i, 3j, 3l, 3m, 3n, 3o and 3p (proposing trip termination after any slipped catch) as being simply punitive in nature and not constructive to the ongoing cooperation between our Captains, our crews and the observers on our vessels.

It is important, however, to retain in regulation, as has been done in the herring fishery, that fish can be released throughout the mackerel and longfin squid fisheries (although pumping does not normally occur in the longfin squid fishery) if the vessel operator finds that:

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

2.1.4 Alternative Set 4: Port-Side and Other Sampling/Monitoring Measures

We are opposed to alternatives 4b and 4c, which would require industry-funded 3rd party port-side landings sampling programs for mackerel and longfin squid vessels. To the extent possible, A14 and herring A5 should be consistent in their requirements concerning the mackerel, longfin squid and herring fisheries' efforts to reduce catches of river herring and shad, principally because many of these vessels (primarily those in the mackerel fishery) operate in both fisheries, depending upon the seasonal availability of the fishery resources that are the target of these directed fisheries. There is no similar proposal to establish an industry-funded port-side monitoring program in A5 so we cannot support these requirements in A14.

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

We agree with A14's Purpose A, to implement effective RH/S catch monitoring, since it has now become clear to us that minimizing the incidental catch of alosine species has recently become both a public and a Council interest and we recognize our duty under the law to reduce the incidental catch of these fish.

As this amendment, and herring A5, have developed over the last few years, however, we have come to the realization that most of the river herring monitoring and avoidance strategies proposed by both Councils in these amendments do not recognize the temporal and spatial variations dictating where river herring will be from year to year, or even from day to day, and that the extensive areas that are proposed to be closed threaten our ability to continue to fish for herring, mackerel and longfin squid.

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

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

Within this context, we support alternative 4f, a two-phase bycatch avoidance approach based on the SFC/SMAST/DMF project, as the only option that will best work to reduce the incidental catch of river herring in the herring, mackerel and longfin squid fisheries and allow for the continued production of optimum yield from the Atlantic herring, mackerel and longfin squid fishery resources.

2.1.5 Alternative Set 5: At-Sea Observer Coverage Requirements

Throughout the development of MSB A14, and herring A5, we have argued that the mackerel, squid and herring fisheries should not be singled out as being required to pay for excessive levels of observer coverage, beyond what the Agency and Councils may prioritize through an SBRM process; a treatment similar to other fisheries managed by the Councils.

We have taken this position because we believe that these pelagic fisheries are the ‘cleanest’ fisheries in the region, and that this fact continues to be borne out by the data coming out of both the at-sea observer program and the MEDMR/MADMF shoreside monitoring program, a program that we believe should be expanded in the region, although, as we mention above, since both Councils are not on the same page with a requirement to establish a shoreside monitoring program, and since the ongoing SMAST project includes a shoreside monitoring component, we believe it is premature for A14 to require the establishment of an industry-funded shoreside monitoring program at this time.

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

Even so, we and the majority of other Category A-permitted herring vessels owners informed the NEFMC that we are willing to support observer coverage levels of 100 per cent in the herring fishery, for a limited period of time, because we remain convinced that the data will continue to show that incidental catches in this fishery are not of significant biological concern to haddock, shad, river herring or any other regional fishery stocks. We are taking this position as a challenge to our detractors, who so far have shown no interest in the actual data coming from current monitoring programs and who continue to make unsubstantiated claims about how the herring fishery operates. We will take observers at a 100% rate to continue to demonstrate that the herring fishery is a responsible fishery. **Similarly, we endorse this goal for the mackerel fishery but do not support an industry-funded observer program in the longfin squid fishery, where many day boats take just a few thousand pounds of squid per day and are in no position to pay for observers from the modest revenue realized from these trips.**

We take this position with a couple of caveats, however. First, we do not support maintaining 100% observer coverage levels in the herring fishery, or the mackerel fishery forever since we do not believe this coverage rate is necessary and because the expense can be significant. We suggested to the NEFMC that a 100% requirement be temporary and only last two years, after which time the PDT should be tasked to analyze the data and report to the Council whether or not a 30% or similar level of coverage is necessary to adequately monitor the herring fishery in the future. **Similarly, we support the A14 alternative 5h, which would require reevaluation of an expanded coverage requirement after 2 years to determine if incidental catch rates justify the continued expense of continued high coverage rates.**

Second, we are only willing to purchase observer coverage in the mackerel and herring fisheries, beyond those levels that may be allocated through the SBRM process and up to 100%, if the daily cost can equate to the \$325 a day rate paid by the West Coast H&G fleet, a fleet whose observer coverage rates have been suggested as a model for the pelagic fisheries during the development of both A5 and A14 by those who argue that we are under regulated and operating unsustainably. **We are opposed to paying the \$1200 a day rate calculated by the observer program since this represents a cost that would not be sustainable in these fisheries.**

Recently, at the ASMFC May meeting, their *Atlantic Herring NEFMC Amendment 5 Working Group* made the following recommendation, concerning expanded observer coverage, which we endorse, for both A5 and A14: **“that observer coverage be funded by Federal resources, but that phased-in, cost sharing alternatives be considered and the differences in observer costs between the east and west coasts be examined.”**

It may also be appropriate, as was recommended during the A5 public hearing process, that those vessels with consistently higher bycatch rates, or more numerous encounters, be required to carry a higher level of observer coverage than other vessels during this phase-in period and in the future.

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

A waiver program like this is described at page 160 of the A14 DEIS (although there is no specific alternative to select, as there was in A5). This is a critical element of any program that would expand observer coverage, and require industry funding for even an interim period of time, in the herring and mackerel or fisheries.

2.1.6 Alternative Set 6: Mortality Caps

We support alternative 6a, the no-action alternative. We do not support the Council considering a historical catch-based or a biologically-based cap, through either a framework adjustment process or the specifications process with this amendment. It is our understanding that neither the FMAT nor the herring PDT have recommended the establishment of a cap because there is insufficient information upon which to base one.

The relative mortality effects of incidental catches in the mackerel, longfin squid and herring fisheries are unknown and would be critically important to understand before attempting to set a biologically-based cap and risk the industry's ability to fish successfully for mackerel, longfin squid or herring. We do not agree with the statement made in the PHD, at page 12, which infers that reducing the incidental catch of river herrings or shad in the mackerel or longfin squid fishery may be "likely to restore RH/S populations." This seems highly unlikely with 95% of the species' freshwater habitat already altered or eliminated.

As we know, the ASMFC has recently released an updated stock assessment for river herring and a peer review of the assessment. Two statements in the peer review report support our belief that the incidental catch of river herring in the mackerel, longfin squid and herring fisheries does not threaten these populations but that other factors far outweigh incidental fishing mortality. These are:

"The SASC also noted that a northward shift in distribution in both species might be occurring, perhaps in relation to warming water. The SASC noted that for alewife, only, stable or increasing trends in juvenile and adult abundance were observed in the northern areas, while stable or decreasing trends were observed in the southern areas. The NMFS trawl survey seemed to support this notion for both species, showing increases in the north and decreases in the south." and; "The coastwide meta-complex of river herring is depleted to near historic lows...determining the relative contribution of various factors to this mortality is difficult given the limited data, but it is likely that a number of factors will need to be addressed, including fishing (both in-river and ocean bycatch), water passageways, water quality, predation, and climate change, to allow for the recovery of river herring."

What is the relative mortality effect of incidental catches of river herrings and shads? Is it significant enough to risk our ability to harvest millions of dollars of fisheries resources, which are being managed sustainably today?

What is the relative mortality effect of current incidental catches of river herring in the ocean, as compared, for example, with the mortality effect of the directed river herring fisheries, which the ASMFC has determined to be 'sustainable'? Would eliminating the Atlantic mackerel, longfin squid and Atlantic herring fisheries completely, for example, restore RH/S species?

During this debate, which has taken place over a period of years, we have not seen any data that suggests that this would be the case and therefore we do not support a river herring or shad catch cap being imposed in these fisheries, with the potential for them to be shut down without realizing the public benefits of achieving optimum yield from these important fisheries.

We have identified our support for the continuation of the SMAST bycatch avoidance project, which we believe has already had the effect of minimizing the incidental catch of river herring and shad, as required by National Standard 9. We believe this approach to be adequate given what we believe to be our minor effect on the coastwide blueback herring, alewife and shad resources, none of which are targeted by our commercial fishing fleets.

2.1.7 Alternative Set 7 – Restrictions in areas of high RH/S catch

We support alternative 7a, the no-action alternative.

We have previously identified our support for increased observer coverage in the mackerel fishery, and have agreed to fund additional coverage, on an interim basis, which will help to identify the amount of river herring and shad that may be encountered, on a day-to-day basis during those times and in those areas where the fish may be found. We are opposed to area closures as they are not sensitive to which fish species may be found within them, on a real-time basis. In addition, the SMAST bycatch avoidance project will continue to work to direct the fleets away from where concentrations of river herring and shad may be found, also in real-time, so that we can meet the National Standard 9 requirement that, to the extent practicable, the incidental catch of and mortality of river herring and shad species be minimized.

2.1.8 Alternative Set 8 – Hotspot Restrictions

We support alternative 8a, the no-action alternative.

Our comments follow those concerning Alternative Set 7, above.

2.1.9 Alternative Set 9 – Addition of RH/S as “Stocks in the Fishery” in the MSB FMP

We support alternative 9a, the no-action alternative.

Under the no-action alternative, primary RH/S management would continue to rest with the states, as coordinated through the ASMFC, as stated at page 82 of the PHD.

The January 16, 2009 Final Rule amending the guidelines for National Standard 1 (NS1) provides guidance to the Councils concerning criteria necessary to establish target and non-target species as “stocks in the fishery” stating that ***“Stocks in the fishery” need status determination criteria, other reference points, ACL mechanisms and AMs.***”

It is our opinion, after reviewing the recently published ASMFC stock assessment for river herring and the accompanying peer review report, there continues to be insufficient information upon which to establish a status determination for these species.

In discussing the population model used in the ASMFC assessment (page 19), the Peer Review panel stated, ***“In summary, the panel concurred with the SASC (Stock Assessment Subcommittee) that the DB-SRA (depletion-based stock reduction analysis) model did not adequately model river herring stock conditions and should not be used to assess status.”***

Also, in response to TOR 6 of the assessment, ***“Evaluate stock status determination from the assessment; if appropriate, recommend changes or specify alternative methods/measures”*** (page 23), the Peer Review panel found, ***“Coast wide status of the stock (biomass and exploitation rates) in relation to management reference points could not be determined.”***

Since the revised NS1 guidelines are clear that identifying “stock determination criteria” is a necessary condition for a Council to establish a species as a “stock in the fishery”, it is therefore inappropriate for RH/S stocks to be designated as such in the SMB FMP. It is our view that the SMB FMP is sufficient to work to minimize bycatch and the mortality of the bycatch of RH/S stocks when they may be found in the ocean, through the management measures that we are supporting in our comments concerning the PHD.

The outcome of the NEFMC’s consideration, and rejection, of RH/S species as “stocks in the Atlantic herring fishery” should be instructive for the MAFMC. In the March 2, 2011 Final Rule, implementing “approved measures” in A4 to the Atlantic herring FMP (FR Vol. 76, No.41), the NMFS makes the following statements concerning this issue: ***“While other species are caught incidentally when fishing for herring, herring is the target stock, and the only stock directly managed by the Herring FMP. This action established herring as a stock in the fishery...Bycatch in the herring fishery will continue to be addressed and minimized to the extent possible, consistent with other requirements of the MSA.”***

Thank you for your attention to and your consideration of our comments. We look forward to continuing to work with you and the members of the Council towards the implementation of reasonable, additional monitoring requirements in the Atlantic mackerel and longfin squid fisheries, through the implementation of Amendment 14, to ensure a sustainable Atlantic mackerel and longfin squid resource and fishery for many years into the future.

With best regards,

Jeff Reichle

Jeffrey B. Reichle
President

38 of these letters were received from Lund's Employees

Thank you for the opportunity to comment on Amendment 14 to the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan. My comments follow the order of issues and options outlined in the Public Hearing Document (PHD):

Alternative Set 1: Additional Vessel Reporting Measures

We support weekly VTR reporting for MSB vessels and a 72 hour observer notification requirement for mackerel vessels. A 48 hour requirement may be appropriate for Loligo vessels. We support a daily VMS reporting requirement for limited access MSB vessels, and a 6 hour pre-landing notification requirement for these vessels.

Alternative Set 2: Additional Dealer Reporting Measures

We support a requirement that would have all MSB dealers weigh and sort all landings in the MSB fisheries. Although it is not an option in the PHD, we support daily dealer reporting.

Alternative Set 3: Additional At-Sea Observation Optimization Measures

We support the measures proposed to facilitate good cooperation between our Captains, crews and Federal observers, along with the use of a "Released Catch Affidavit" when unobserved fish may be released before the observer can see it. We understand these measures are already in place and working well. Requiring nets with fish in them to be hauled over the side on midwater trawlers is dangerous, however. Our Captains and crews are cooperating with observers so that any fish remaining in the net after pumping can be accounted for by observers while the net remains alongside the vessel.

Alternative Set 4: Port-Side and Other Sampling/Monitoring Measures

Since it is important to coordinate regulations affecting the Atlantic mackerel and Atlantic herring fisheries, we do not support the establishment of an industry-funded portside monitoring system at this time since it is not being proposed in Herring Amendment 5. We do support the continuation of the river herring and shad bycatch avoidance project, being facilitated by the Sustainable Fisheries Coalition (of which Lund's Fisheries is a member), SMAST and Mass. DMF, since it is more effective in reducing incidental catches of these fish, in 'real time', than area closures would be and since shoreside monitoring is a component of this project.

Alternative Set 5: At-Sea Observer Coverage Requirements

In response to proposals made in herring A5, we and the majority of companies operating midwater trawlers have agreed to a temporary 100% observer requirement, with industry funding up to \$325 a day, and with a determination made in two years whether this expense is necessary to maintain. We support this approach in the mackerel fishery but do not support an industry-funded program in the Loligo fishery since it would be too costly for smaller vessels.

Alternative Set 6: Mortality Caps

We do not support the Council considering a historical catch-based or a biologically-based cap, through either a framework adjustment process or the specifications process, with this amendment. It is our understanding that neither the FMAT nor the herring PDT have recommended the establishment of a cap because there is insufficient information upon which to base one. How does ocean bycatch mortality compare to directed, in-river catches of RH/S, determined to be 'sustainable' by ASMFC?

Alternative Set 7 & 8 – Restrictions in areas of high RH/S catch / Hotspot restrictions

We are opposed to area and hotspot closures or restrictions as they are not sensitive to which fish species may be found within them, on a real-time basis. In addition, the SMAST bycatch avoidance project will continue to work to direct the fleets away from where concentrations of river herring and shad may be found, in real-time, so that we can meet the National Standard 9 requirement that, to the extent practicable, the incidental catch of and mortality of river herring and shad species should be minimized.

Alternative Set 9 – Addition of RH/S as "Stocks in the Fishery" in the MSB FMP

We support the no-action alternative; primary river herring and shad management would continue to rest with the states, as coordinated through the ASMFC. The revised NS1 guidelines are clear that identifying "stock determination criteria" is a necessary condition for a Council to establish a species as a "stock in the fishery". After reviewing the ASMFC stock assessment for river herring and the peer review report, there continues to be insufficient information to establish a status determination for these species, therefore it is inappropriate for river herring and shad stocks to be designated as such in the SMB FMP. The FMP is sufficient for the Council and industry to work together to minimize bycatch, and the mortality of bycatch of RH/S stocks when they may be found in the ocean, through the management measures that we are supporting in our comments concerning the amendment.

Signature / date Ofero Omar 5-18-12
Name and address Omar Seda ofero
Employer LUND'S FISHERIES

RIVER HERRING/SHAD ANALYSIS - CORNELL LONGFIN SQUID CONSERVATION GEAR TECHNOLOGY PROJECTS

PROJECT	TOTAL NUMBER OF TOWS	NUMBER OF TOWS THAT INCLUDED HERRING/SHAD	HERRING/SHAD TOTAL IN POUNDS	LONGFIN SQUID TOTAL IN POUNDS	TOTAL CATCH IN POUNDS (ALL SPECIES)	% OF TOTAL CATCH THAT WAS HERRING/SHAD	INSHORE OR OFFSHORE
AGA - BELLY PANEL	90	16	21	11,399	115,932	0.02%	INSHORE
PROOF OF CONCEPT 12" DROP CHAIN	23	0	0	3,002	8,831	0.00%	INSHORE
DROP CHAIN II	96**	19	317	25,982	55,414	0.57%	INSHORE
DROP CHAIN II	48***	19	323	19,656	41,778	0.77%	OFFSHORE
BUTTERFISH BYCATCH BRD	256****	104	2,105	141,606	336,691	0.63%	OFFSHORE
TOTALS	513	158	2,766	201,645	558,646	0.50%	N/A

* INCLUDED IN THIS ANALYSIS WAS HICKORY SHAD, AMERICAN SHAD, AND A GENERAL CATEGORY HERRING THAT WAS UTILIZED ON THE DATA SHEETS FOR EACH OF THESE PROJECTS. FOR THE SAKE OF THIS ANALYSIS, ANYTHING THAT WAS LISTED UNDER GENERAL HERRING WAS INCLUDED IN THIS TABLE. BUT, IT IS POSSIBLE SOME SPECIES OF HERRING THAT MAY NOT BE CLASSIFIED AS RIVER HERRING (I.E. ATLANTIC HERRING) WERE ALSO REPORTED UNDER THE GENERAL HERRING CATEGORY ON THE DATA SHEETS.

** 48 PAIRED TOWS

*** 24 PAIRED TOWS

**** 128 PAIRED TOWS

OBSERVATIONS

- 30.8 % of all tows included herring/shad
- The amount of herring/shad captured in any single tow ranged from 0.3 lbs. to 274.2 lbs.
- 115 of the 158 tows that had herring/shad, had 10 lbs. or less total herring weight. This equates to 72.8 % of the tows that included herring/shad had 10 lbs. or less total weight of herring/shad.
- The squid total (201,645 lbs.) is 36.1 % of the total catch (558,646 lbs.) while the herring/shad total (2,766 lbs.) is only 0.50 % of the total catch.

Cornell University Cooperative Extension Marine Program, 423 Griffing Ave., Riverhead, NY 11901

24 Of these Postcards were received from NY, NJ, and PA

PROTECT and RESTORE RIVER HERRING and SHAD

Dear Executive Director Moore:

I am concerned about the declining river herring and shad stocks and the unrestricted catch of these forage species by the Atlantic mackerel and squid fisheries. Although most Atlantic states now prohibit the harvest and possession of river herring in state waters, the catch of river herring and shad continues without limit or regulation in ocean waters. I urge the Mid Atlantic Fishery Management Council to protect river herring and shad in federal water and promote their recovery by supporting:

1. Immediate implementation of a river herring and shad catch cap;
2. 100 percent at-sea monitoring of industrial trawlers, strong controls on at-sea dumping of un-sampled catch, and requirement to weigh all catch;
3. Inclusion of river herring and shad as non-target stocks in the fishery that are in need of conservation and management.

Signed:

Steve Raphael

Print name:

Steve Raphael

City:

NY

State:

NY



*Conserving Ocean Fish and Their Environment
Since 1973*

May 23, 2012

Dr. Chris Moore, Executive Director
Mid-Atlantic Fishery Management Council
Suite 201, 800 N. State St
Dover, DE 19901

Re: AMENDMENT 14

Dear Dr. Moore,

The National Coalition for Marine Conservation (NCMC) appreciates the Mid-Atlantic Council's commitment to aid in the recovery of river herring and shad populations by addressing inadequate catch monitoring, unregulated incidental catch and the inability of the current management framework to conserve these wide-ranging stocks. The impacts associated with depleted¹ shad and river herring stocks are far-reaching. As anadromous forage species, shad and river herring are prey to numerous predators both inland and offshore, and through these predator-prey interactions, shad and river herring are linked to a number of recreational and commercial fisheries on the east coast, including those managed by the Mid-Atlantic Council.

Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (MSB FMP) includes a diverse suite of measures for developing badly needed conservation and management strategies in federal waters. We respectfully submit the following comments to assist the Council in determining the best path forward.

We believe the best path forward must be a two-phase process that begins with an interim strategy, coordinated with the New England Council, to improve catch monitoring and reduce incidental catch. While necessary in the short-term to help mitigate impacts to river herring and shad stocks, a fragmented management approach for federal waters, pieced together by two separate councils under two separate FMPs, will ultimately fall short - an unacceptable scenario given the critical status of these species. **Therefore, the second phase would be to fully incorporate shad and river herring into the MSB FMP through a subsequent amendment.** The inclusion of shad and river herring as stocks in the fishery is the only approach that would afford the Council adequate tools, resources and authority to successfully mitigate threats in federal waters for the long-term.

¹ The ASMFC lists the status of American shad, alewife and blueback herring as depleted in accordance with the most recent stock assessments for these species.

ASMFC. August 2007. Stock Assessment Report No. 07-01 (Supplement) of the Atlantic States Marine Fisheries Commission: American Shad Stock Assessment for Peer Review, Volume 1.

ASMFC. May 2012. Stock Assessment Report No. 12-02 of the Atlantic States Marine Fisheries Commission: River Herring Benchmark Stock Assessment, Volume 1.

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www.savethefish.org

Phase 1: Interim Strategy, Consistent Where Applicable with the New England Council's Atlantic Herring FMP, to Improve Catch Monitoring and Reduce Incidental River Herring and Shad Catch. Below we outline interim strategy goals and alternatives that would be most effective in achieving these goals. Our comments follow the alternatives and are in *italics*.

- **Interim Goal 1: Improve the efficiency, timeliness and accuracy of vessel and dealer reporting so as to improve the precision of river herring and shad incidental catch estimates which are extrapolations based on total reported landings. Improvements should be standardized throughout the mackerel, squid and butterfish fisheries and consistent with reporting requirements in the Atlantic Herring FMP because of fishery overlap.**

Vessel Reporting (Alternative Set 1)

- **1c:** Weekly vessel trip reporting (VTR) for all MSB permits (mackerel, longfin squid/butterfish, Illex) so as to facilitate quota monitoring (directed landings and/or incidental mortality cap if applicable) and cross checking with other data sources.
- **1d48:** Require 48 hour pre-trip notification to NMFS to retain/possess/transfer more than 20,000 pounds of mackerel so as to facilitate observer placement.
- **1eMack & 1eLong:** Require VMS for limited access mackerel vessels and for longfin squid/butterfish moratorium vessels.

A great majority of mackerel limited access and squid/butterfish moratorium permitted vessels are already equipped with VMS (A14 DEIS, pp. 292, 294).

- **1fMack:** Require daily VMS reporting of catch by limited access mackerel vessels so as to facilitate monitoring (directed and/or incidental catch) and cross checking with other data sources.
- **1gMack & 1g Long:** Require 6 hour pre-landing notification via VMS to land more than 20,000 pounds of mackerel or more than 2,500 pounds of longfin squid, which could facilitate quota monitoring, enforcement, and/or portside monitoring.

Dealer Reporting (Alternative Set 2)

- **2b:** Require federally permitted MSB dealers to obtain vessel representative confirmation of SAFIS transaction records for mackerel landings over 20,000 lb, Illex landings over 10,000 lb, and longfin squid landings over 2,500 lb to catch data errors at first point of entry.
- **2c, d, e & f::** Require that federally permitted SMB dealers weigh all landings related to mackerel transactions over 20,000 pounds and longfin squid transactions over 2,500 pounds.

We view this suite of alternatives as working together to provide for efficiency and flexibility. Dealers that do not sort by species could document in applications their method for estimating the composition of a mixed catch. If this method cannot be applied to a particular transaction, dealers should be able to apply an appropriate methodology as long as they document that method with the transaction.

- **Interim Goal 2: Employ increased at-sea observer coverage levels, with supplementary industry funding as needed, and enhanced protocols to ensure that observers have access to all catch for sampling in order to improve precision in river herring and shad incidental catch estimates and minimize catch that observers record as “Herring Not Known (NK)” and “Fish Not Known (NK).”**

Observer Optimization Measures (Alternative Set 3)

- **3b:** Require the following reasonable assistance measures: provision of a safe sampling station; help with measuring decks, codends, and holding bins; help with bycatch collection; and help with basket sample collection by crew on vessels with mackerel limited access and/or longfin squid/butterfish moratorium permits.
- **3c:** Require vessel operators to provide observers notice when pumping/haul-back occurs on vessels with mackerel limited access and/or longfin squid moratorium permits.
- **3d:** When observers are deployed on trips involving more than one vessel, observers would be required on any vessel taking on fish wherever/whenever possible on vessels with mackerel limited access and/or longfin squid moratorium permits.

***We recommend striking the words “wherever/whenever possible” from this alternative as it leaves too much ambiguity regarding the exceptions to this important requirement.** According to Appendix 5 of the DEIS (p. 662), the majority of Fish NK records are associated with fish that are pumped to the paired trawl vessel not carrying the observer. Between July 2009 and June 2010 over 5.7 million pounds of catch was recorded as Fish NK in the observer database.²*

- **3j:** Apply “Closed Area I (CA1)” requirements to mackerel limited access and longfin squid moratorium permitted vessels.

These requirements are currently in force in the Atlantic Herring fishery for mid-water trawl vessels intending to fish in Groundfish Closed Area 1. This alternative would require that all fish be brought aboard for observer sampling with exceptions made for safety, mechanical failure, or spiny dog fish clogging the pump. Alternative 3j should clarify that operational discards must be brought aboard for sampling consistent with current CA1 sampling regulations.

- **3I (implemented in conjunction with 3J):** For mackerel limited access permitted vessels, NMFS would track the number of slippage events. Once a cap of 10 slippage events (adjustable via specifications) occur in any given year for notified and observed mackerel trips then subsequent slippage events on any notified and observed mackerel trip would result in trip termination for the rest of that year. The goal is to minimize slippage events.

From 2006-2010, 26% of hauls on observed mackerel trips had some unobserved catch (A14 DEIS, p. 130) - a troublingly large percentage given the cost of observers and the need for accurate catch data. CA1 regulations in the Atlantic herring fishery have been highly effective with no observed slippage events recorded in 2010.³

²NEFSC. Standardized Bycatch Reporting Methodology Annual Discard Report 2011: Section 2, p. 189. http://www.nefsc.noaa.gov/fsb/SBRM/2011/SBRM_Annual_Discard_Rpt_2011_Section2.pdf

³ Amendment 14 DEIS, Appendix 5, p. 658.

However, the effectiveness of this measure is likely due to an accountability measure tied to the requirements, which is that a vessel is required to stop fishing and exit Closed Area I if it releases an un-sampled net. Given the three exceptions provided for under 3j, permitting 10 slippage events before slippage results in trip termination seems to be a reasonable balance that would deter slippage without being unduly penalizing.

- **3n** (implemented in conjunction with 3J): For longfin squid moratorium permitted vessels, NMFS would track the number of slippage events. Once a cap of 10 slippage events (adjustable via specifications) occur in any given trimester for notified and observed longfin squid trips then subsequent slippage events on any notified and observed longfin squid trip would result in trip termination for the rest of that trimester. The goal is to minimize slippage events.

On observed longfin squid trips, an average of 9% of hauls are not seen and sampled by observers (A14, p.130). As discussed above, an accountability measure is an important component to the CA1 sampling requirements to ensure compliance, and we believe an allowance of 10 slippage events per trimester before trip termination is implemented is appropriate for deterring slippage.

- **3o**: For mackerel and/or longfin squid permitted vessels, if a trip is terminated within 24 hours because of any of the anti-slippage provisions (3g, 3h, 3k-3n), then the relevant vessel would have to take an observer on its next trip.

This alternative should be implemented if observer coverage levels are not set sufficiently high (e.g., >50% of trips within a permit tier such as mackerel Tier 3 or minor longfin squid/butterfish moratorium permitted vessels) as to discourage observer avoidance strategies.

At-Sea Observer Coverage Requirements (Alternative Set 5)

Note: We believe limited resources should be dedicated to an at-sea observer program, which obtains data for both kept and discarded catch. In contrast, portside sampling only captures information for the catch that is maintained, and therefore misses an important part of the equation. Without maximized retention, not considered in Amendment 14, we do not support portside sampling (Alternative Set 4) for deriving estimates on river herring and shad incidental catch.

- **5b4**: Require 100% of MWT mackerel trips by federal vessels intending to retain over 20,000 pounds of mackerel to carry observers. The NEFSC would assign coverage based on pre-trip notifications. Vessels would not be able to retain more than 20,000 pounds of mackerel unless they had notified their intent to retain more than 20,000 pounds of mackerel.

Analyses in Amendment 14 estimate that mid-water trawl vessels account for 75.7% of river herring incidental catch and 41.8% of shad incidental catch (A14, Appendix 2, p. 581). Mid-water trawl vessels are also responsible for the majority of mackerel landings, accounting for 62% of landings in 2010 (Amendment 14, Table 29, p. 247). According to information presented in Amendment 11 to the MSB FMP, there are 15 mid-water trawl vessels that are eligible for the mackerel limited access program (13

in Tier 1 and 2 in Tier 2).⁴ Given the high volume nature of these vessels, and the fact that shad and river herring catch events can be rare but quite large when they occur, 100% coverage is necessary for an accurate accounting of incidental catch. In addition, mid-water trawl vessels are in the top permit tiers of the Atlantic herring limited access fishery, for which the New England Council is considering 100% observer coverage. Given the overlap in the mid-water trawl fisheries for Atlantic herring and mackerel (see A14, Appendix 2, p. 574), observer coverage levels should be consistent between the FMPs.

- **Modified 5c:** Require 100% of SMBT (<3.5 in) mackerel trips by Tier 1 and Tier 2 limited access mackerel vessels intending to retain over 20,000 pounds of mackerel to carry observers. Require 25% of SMBT trips by Tier 3 vessels intending to retain over 20,000 pounds of mackerel to carry observers.

Small-mesh bottom trawls are believed to contribute to 23.7% and 25.6% of river herring and shad incidental catch respectively; therefore, it is important to improve observer coverage in this fleet to achieve precision in incidental catch estimates. Because industry funding will be necessary to achieve coverage levels above the status quo, it is important to distribute the observer cost burden equitably among fishery participants. For the mackerel limited access program, 10 SMBT vessels are eligible for Tier 1, and 19 are eligible for Tier 2.⁵ Neither Tier 1 nor Tier 2 vessels are capped by a percentage of the quota, and there are no trip limits for Tier 1 vessels. For Tier 3, however, 138 vessels qualify,⁶ and this tier is capped at 7% of the annual quota. Additionally, the average length of a Tier 3 vessel is 65 ft, compared to 78 ft for Tier 2 and 110 ft for Tier 1⁷, likely making the observer costs significantly more burdensome for vessels in Tier 3 relative to their daily operating costs.

- **Modified 5d:** Require 50% of SMBT (<3.5 in) longfin squid trips by major longfin squid moratorium permitted vessels intending to retain over 2,500 pounds of longfin squid to carry observers.

Merely 3.5% of longfin squid catches by weight have been observed in recent years (2006-2010),⁸ contributing to great uncertainty in the shad and river herring incidental catch estimates for this fishery. As described above, small-mesh bottom trawls (SMBT) do contribute significantly to shad and river herring incidental catch, and higher levels of at-sea observer coverage will be needed for the Northeast's SMBT fleet in order to obtain reasonably precise estimates of this catch. Coverage must be equitably distributed among vessels according to their activity in the fishery. While there are approximately 400 vessels that hold moratorium permits, an average of only 103 vessels have been significantly active in this fishery in the last 5 years, and these vessels account for around 95% of the annual landings.⁹ Of these vessels, 57 major vessels account for 75% of landings.

⁴ MAFMC. Amendment 11 to the Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP). May 2011, Tables 94-96, pp. 447-448.

⁵ *ibid*

⁶ *ibid*

⁷ See note 4, Table 82, p. 435.

⁸ Amendment 14 DEIS, p. 147.

⁹ MAFMC. Loligo AP Informational Document, April 2012, Table 6.

- **5f:** Vessels would have to pay for observers to meet any observer coverage goals adopted by the Council that are greater than existing sea day allocations assigned through the sea day allocation process (already implemented in other fisheries). NEFSC would accredit observers and vessels would have to contract and pay observers.
- **Interim Goal 3: Implement an effective strategy for reducing incidental catch of river herring and shad from recent levels.**

Mortality Caps (Alternative Set 6)

Note: Bycatch avoidance programs are only effective if there is incentive to avoid the bycatch. The Sustainable Fisheries Coalition Bycatch Avoidance Project (alternative 4F) is not an appropriate measure for the Council to consider for meeting the goal of reducing incidental river herring/shad catch. A similar project employed in the scallop fishery has proven successful at reducing yellowtail flounder bycatch because there is a yellowtail flounder cap that the scallop fishermen must avoid hitting in order to fish. The establishment of river herring/shad caps should be a prerequisite for Council support of industry bycatch avoidance tools.

- **Combine and modify 6b and 6c:** Implement a mortality cap for alosines (shad and river herring species combined) for the mackerel fishery whereby the mackerel fishery would close once it is determined that it created a certain level of alosine mortality (that level would be determined annually by Council in specification process. As data improve, the Council could also determine through the specifications process if the cap should be further delineated by species). If the mackerel fishery closes because the cap is reached, the mackerel incidental catch allowance would be reduced to 2,000 lbs.

A combined cap would afford a measure of protection to all alosine species as we seek more precise estimates of incidental catch with increased observer coverage and more robust sampling. Given the current paucity of data for Mid-Atlantic fisheries, high CVs around species-specific incidental catch estimates may be problematic (A14 DEIS, Appendix 1, Table A2). Atlantic herring and Atlantic mackerel mid-water trawl fishery overlap complicates implementation of a cap on the mackerel fishery alone, since Atlantic herring fishing may continue in the same quarter and in the same areas allowing catch of river herring and shad to continue. The current mackerel incidental allowance of 20,000 lbs is far too liberal for deterring directed fishing and minimizing fishing effort should a cap be reached. In comparison, the 2,000 lbs incidental Atlantic herring limit, implemented after a herring management area closes, has proven effective. For example, when Atlantic herring Area 2 closed on February 20th of this year, mackerel fishing that takes place in the same area leveled off.¹⁰

- **6f:** Add mortality caps to list of measures that can be frameworked.

A cap in the mackerel fishery should be implemented with Amendment 14. The MSB FMP currently does not list incidental catch caps as frameworkable measures. As

¹⁰ NERO. Weekly Quota and Landing Report. http://www.nero.noaa.gov/ro/fso/reports/reports_frame.htm

data improve, the Council may find that caps in the squid and butterfish fisheries are necessary and this alternative would facilitate implementation.

Hotspot Restrictions (Alternative Set 8)

- **8eMack:** Vessels possessing a federal mackerel permit would not be able to retain, possess or transfer more than an incidental level of fish (20,000 pounds mackerel) while in a River Herring Protection Area unless no mesh smaller than 5.5 inches is onboard the vessel.
- **8eLong:** Vessels possessing a federal moratorium longfin squid permit would not be able to retain, possess or transfer more than an incidental level of fish (2,500 pounds longfin squid) while in a River Herring Protection Area unless no mesh smaller than 5.5 inches is onboard the vessel.
- **Modified 8f:** Make the above measures **8eMack and 8eLong** only effective if/when they are effective for Atlantic Herring vessels.

*We recognize that the Amendment 14 FMAT and the Atlantic Herring PDT had different approaches to hotspot analyses and therefore had differing results. We believe, based on the Amendment 5 analyses,¹¹ there would be a conservation benefit to both river herring and shad if the River Herring Protection Areas identified through Amendment 5 were implemented. Though they are driven by water temperature, like other small pelagic species, river herring and shad congregate where food is available. Static or slowly changing ocean features such as topography can significantly influence productivity which in turn influences the location of feeding grounds. If River Herring Protection Areas are implemented in the Atlantic herring fishery, then the conservation benefit would be greatly diminished if small-mesh gears capable of taking river herring were permitted in the closed areas simply because they are targeting a species other than Atlantic herring. **We do not support the trigger-based river herring alternatives in Amendment 5 as triggers based on median, mean or highest catch would simply be a labor and resource intensive way of maintaining the status quo, and we have modified the above alternative accordingly.***

Federal FMPs must describe the species of fish involved in a fishery, and NMFS and the Councils are required to manage those stocks in need of conservation and management, such as river herring and shad.¹² While Amendment 14 is an important response to shad and river herring incidental catch, analyses in the Draft Environmental Impact Statement (DEIS) make it clear that addressing the problem within MSB fisheries is but one piece of a larger puzzle that needs to be assembled in order to adequately protect these fish throughout their life cycles and throughout all parts of their range, especially in ocean waters where they spend most of their lives. Fully incorporating river herring and shad into the MSB FMP (Phase 2) is the only comprehensive solution provided in Amendment 14 that would afford adequate, long-term conservation and management to these imperiled but ecologically critical species.

¹¹ See Draft Amendment 5 to the Fishery Management Plan for Atlantic Herring, Volume II, Appendices.

¹² 16 U.S.C. §§ 1853(a)(2); 1852(h)(1). See also *Flaherty v. Bryson*, 2012 WL 752323 (D.D.C. Mar. 9, 2012).

Phase 2: Addition of River Herring and Shad as “Stocks in the Fishery” in the MBS FMP (Alternative Set 9)

In our scoping comments submitted in 2010, we stated that “Amendment 14 will be most effective if the Mid-Atlantic Council tackles the issue with a regional, ecosystem perspective versus a narrow fishery-specific view.” Analyses conducted for Amendment 14 correctly take a regional and fleet-based approach to investigating solutions for monitoring and reducing incidental catch. The mid-water trawl fishery for Atlantic herring and Atlantic mackerel - managed by two councils under two separate federal FMPs - accounts for 71% of combined river herring and shad incidental catch. Likewise, fleet overlap exists between New England and the Mid-Atlantic small-mesh bottom trawl fisheries, which are responsible for an estimated 24% of the combined incidental catch.¹³

Of the roughly 5 million river herring taken at sea every year, many are immature. The majority of the 600,000 American shad taken are also juveniles (A14 DEIS, p. 111). The “spawn-at-least-once” principle suggests that sustainability is secured if fish become vulnerable to commercial gears only after they have spawned. Research shows that high fishing mortality on immature fish has a significant negative effect on stock status.¹⁴ Indeed, the fact that immature fish comprise a large portion of at-sea catch was flagged as a concern by the Peer Review Panel in the recent river herring stock assessment.¹⁵ The Peer Review Panel also found that total mortality levels in all runs examined surpassed the recommended benchmark and called for all sources of mortality to be addressed, including ocean bycatch.¹⁶

Throughout the discussion of Amendment 14 alternatives, mention is made that the Council is limited to regulating only its own fisheries. But achieving precision in incidental catch estimates or a significant reduction in incidental catch depends on applying management measures consistently throughout the Northeast. Without region-wide and fleet-wide consistency of monitoring and management measures, the conservation burden will be placed on only a subset of fisheries that are contributing to the problem, and the overall conservation benefit to river herring and shad will be diminished.

We strongly support the suite of options in Alternative Set 9 (9b-e) that would launch an amendment process to incorporate blueback herring, alewife, American shad, and hickory shad as stocks-in-the-fishery under the MSB FMP. The amendment process is typically a two-year deliberative process, providing ample opportunity for the ASMFC, the Councils and stakeholders to work collaboratively on a joint management framework that is appropriate for the geographic range and life cycle of these fish.

The Magnuson-Stevens Act (MSA) requires Councils to specify annual catch limits (ACLs) at a level such that overfishing does not occur in the fishery, accompanied by accountability measures to ensure that the limit is not exceeded.¹⁷ To comply with the MSA’s unambiguous mandate to prevent overfishing, the revised National Standard 1 regulatory guidelines¹⁸

¹³ Amendment 14 DEIS, Appendix 2, Table 3, p. 581.

¹⁴ Vasilakopoulos, P., O'Neill, F. G., and Marshall, C. T. 2011. Misspent youth: does catching immature fish affect fisheries sustainability? – ICES Journal of Marine Science, 68: 1525–1534.

¹⁵ ASMFC. May 2012. Stock Assessment Report No. 12-02 of the Atlantic States Marine Fisheries Commission: River Herring Benchmark Stock Assessment, Volume 1. pp. 15-16.

¹⁶ Ibid, p.29

¹⁷ 16 U.S.C. § 1853(a)(15)

¹⁸ 50 CFR § 600.310

require ACLs for all managed stocks in the fishery, which may include non-target stocks caught incidentally as bycatch and either retained or discarded at sea.¹⁹ The intent is to ensure that fishing mortality in federally managed fisheries is regulated and minimized as required under the U.S. fisheries law, supporting the states' efforts to conserve and build shad and river herring populations.

With stocks in a fishery designation, incidental catch limits for directed fisheries would be based on the best available science about what catch level is sustainable and in line with restoration goals, enhancing rather than compromising ASMFC's authority to manage and conserve these important fish. Among the benefits of a federal component to the interstate plan are requirements for river herring and shad to be prioritized in the annual observer and data collection programs, additional resources for stock assessment, annual reviews of data for fishery specifications, and broadening of the tools available to the Council to address catch in other federal fisheries that interact with river herring (See table below).

ISSUE	Problem	Benefit of Federal Stock Designation
COUNCIL AUTHORITY LIMITED TO ITS MANAGED FISHERIES	Actions the Mid-Atlantic Council can take to manage river herring and shad incidental catch are limited to its own fisheries, likely resulting in a disproportionate distribution of the conservation burden and/or ineffective management measures.	The tools available to the Council to manage and conserve river herring and shad would expand beyond its managed fisheries, allowing for conservation and management to be applied consistently throughout federally-managed fisheries that contribute to the problem.
MINIMIZING INCIDENTAL CATCH	The Magnuson Act narrowly defines bycatch as discards. Because most river herring and shad caught in federal fisheries are retained for sale, regulatory authority to reduce bycatch under National Standard 9 does not afford these species adequate protection.	Federal stock designation would require that all catch is accounted for and maintained at sustainable levels.
EFH IMPACT CONSULTATION	Federal councils cannot designate essential fish habitat (EFH) for river herring or shad unless they are included in a federal FMP.	EFH designation would ensure federal agency consultation with NOAA on projects that could impact these important river herring and shad habitats.
STOCK ASSESSMENT RESOURCES	State resources for stock assessment are extremely limited resulting in infrequent stock assessments. Stock assessments that are decades old are not useful for management purposes.	NMFS could allocate resources to aid with the stock assessment, including participation of the Northeast Fisheries Science Center. Assessment needs would likely dictate that river herring and shad be given higher priority in NMFS data collection programs (e.g., recording lengths and weights from trawl surveys, collecting otoliths for aging, genetic studies).
FEDERAL CATCH REPORTING	There is no standard methodology for documenting catch of river herring and shad in federal waters.	Catch reporting methodology to account for mortality on an annual basis would be implemented.
INCORPORATING NEW INFORMATION	There is currently no framework for regularly incorporating new information about river herring and shad populations and fisheries into federal management actions.	The status of river herring and shad fisheries and stocks would be reviewed annually in conjunction with catch specifications for mackerel, squid, and butterfish. All significant sources of mortality would be identified and accounted for.

¹⁹ 50 CFR § 600.310(d)(3) & (4).

The ASMFC plan mandates the closure of state fisheries for shad and river herring unless the state can demonstrate that its fishery is sustainable. As a result, the majority of states have already implemented river herring moratoriums. Limits on fishing for American shad are imminent for 2013. Some of these closures are due to inadequate resources to monitor the fisheries and document sustainability. The burden of proof rests entirely on the shoulders of river herring and shad fishermen, the same men and women who in many cases are actively engaged in efforts to improve water quality and restore habitat and fish passage. There is no such burden of proof on fisheries catching river herring and shad in federal waters. Despite insufficient monitoring and data to prove that levels of incidental catch are sustainable, the catch in federal fisheries is for all intents and purposes unrestricted.

Depleted to historic lows, river herring and shad are in serious need of conservation and management in federal waters. Alewife and blueback herring are under review for a threatened listing under the Endangered Species Act.²⁰ Through a 2-phase strategy culminating in a federal management framework for river herring and shads, the Mid-Atlantic Council has a great opportunity to lead river herring and shad management in federal waters and take an active role in recovering these fish, which are invaluable to Atlantic fisheries and ecosystems.

Sincerely,

A handwritten signature in cursive script that reads "Pam Lyons Gromen".

Pam Lyons Gromen
Executive Director

²⁰Listing Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List Alewife and Blueback Herring as Threatened Under the Endangered Species Act, " 76 Federal Register 212 (02 November 2011), pp 67652-67656.

Mr. Daniel Morris
Acting Regional Administrator/Northeast Region
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930-2298

May 17, 2012

George
s/jazcc: Pete C.
Aja
Carrie
Lindsay

I am writing because the Mid-Atlantic Fishery Management Council will meet in June to decide how to protect river herring and American shad at sea and I ask your help to save these treasured species.

River herring and shad play an immensely important role in the health of our coastal ecosystems. As food for larger fish, they help sustain commercial and recreational fisheries on the East Coast and contribute to the economies of many coastal river towns. Now, they are in critical condition because their populations have declined by more than 97 percent.

You can help secure the first meaningful protections for these fish in the ocean. Millions are caught each year, mostly by industrial trawlers targeting Atlantic mackerel. These massive boats tow football field-size nets and indiscriminately kill millions of pounds of unintended catch annually, including river herring, shad, bluefin tuna, cod, haddock, and striped bass, as well as whales, dolphins, and seabirds. For years, our coastal communities have worked tirelessly to restore culturally and economically significant species such as river herring and shad to rivers along the Atlantic coast. At the same time, the incidental catch of millions of river herring and shad annually by the mid-Atlantic mackerel and squid fisheries remains largely unmonitored and unregulated. I am deeply concerned about this serious, ongoing threat to these already-depleted species that undermines our efforts to restore our estuaries and rivers.

I have read that river herring and shad populations are at historic lows and have declined coast wide by 99 and 97 percent, respectively. In response to this, most Atlantic states prohibit the taking of river herring in coastal waters and are advancing similar restrictions on American shad. These populations are in dire need of conservation and management, so it is critical that they are given protection in federal waters under Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan.

In light of the depleted status of these fish, I agree with those who ask the Council to choose the option with the most positive biological impact.

Inclusion of river herring and shad as stocks within the fishery. (Alternative 9b-9e).

Developing the long-term protections associated with designating river herring and shad as stocks in the fishery will take time. Therefore, the Council should adopt the following interim measure to immediately reduce and limit the at-sea catch of river herring and shad: A catch cap, effective in 2013 (**Alternative 6b-6c**) that functions effectively, does not increase wasteful discarding, and cannot be circumvented by simply declaring into another fishery. These alternatives should be modified to more effectively ensure that directed mackerel fishing stops if a cap is reached by lowering the amount of mackerel that can be fished for, possessed or retained.

Also, I urgently ask you to incorporate all of the following:

- One hundred percent at-sea monitoring on all mid-water trawl fishing trips. One observer must be assigned to each vessel in a pair trawl operation. (**Alternative 5b4 and Alternative 3d**).
- An accountability system to discourage the wasteful dumping of unsampled catch. All catch, including "operational discards," must be made available to fishery observers for systematic sampling (**Alternative 3j with operational discards prohibited**). If dumping is allowed, include a fleet wide limit of ten dumping events (**Alternative 3l and 3n**) and require vessels that dump to take an observer on their next trip (**Alternative 3o**).
- A requirement to weigh all catch. (**Alternative 2c-2f**).

Currently, millions of pounds of river herring, American shad and other fish are scooped up indiscriminately by industrial trawlers targeting Atlantic mackerel. Massive boats tow football field-size nets that pick up fish, whales, dolphins, seabirds -- anything in their path. It is time to rein in these massive trawlers, and restore balance to the Atlantic.

Thank you for your commitment to these priority reforms and the health of our waters.

Yours truly,  J. Capozzelli, New York