

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Richard B. Robins, Jr.
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Lee G. Anderson
Vice Chairman

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Christopher M. Moore, Ph.D.
Executive Director

MEMORANDUM

DATE: September 30, 2011

TO: Squid-Mackerel-Butterfish (SMB) Committee, Council

FROM: Jason Didden *JAD*

SUBJECT: Amendment 14

Please find enclosed recent communications with the Atlantic States Marine Fisheries Commission (ASMFC) as well as public comments related to Amendment 14.

FMAT analyses and recommendations are included as Appendices 1-3 of the Draft Environmental Impact Statement (DEIS). The DEIS was mailed together with the briefing book.

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Christopher M. Moore, Ph.D.
Executive Director

April 28, 2011

John V. O'Shea
Atlantic States Marine Fisheries Commission
1050 North Highland Street
Suite 200A-N
Arlington, VA 22201

Dear Vince:

In April the Mid-Atlantic Fishery Management Council (Council) passed the following motion:

“Move that the Council take a proactive approach with a letter to the Commission outlining specific reporting relationships on significant issues that impact the river herring fishery and ask the Commission to do likewise.”

Our understanding is the Atlantic States Marine Fisheries Commission (Commission) is currently developing a white paper that, among other issues, will explore the optimal content and timing of reporting between the Council and ASMFC regarding river herring and shad issues. The Council supports such a systematic exchange of information. We believe that the ASMFC white paper will be a good starting point for formalizing information exchange and hope that Council input is solicited during the development of the white paper. Once the white paper is finished, we can discuss additional reporting relationships and implementation.

The Council looks forward to working with the Commission on this matter. Please contact me or Jason Didden of my staff if you have any questions.

Sincerely,



Christopher M. Moore, Ph.D.
Executive Director

cc: Robins; Anderson; Berg; Zeman; Kurkul; Pappalardo; Didden

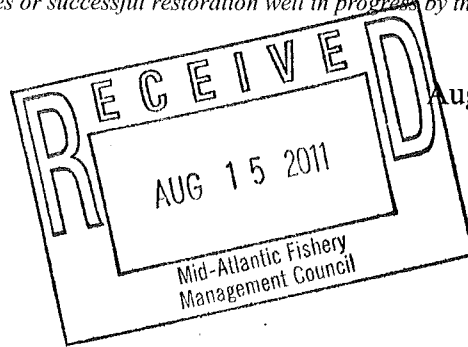


Atlantic States Marine Fisheries Commission

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Robert H. Boyles, Jr. (SC), Chair Paul Diodati, (MA), Vice-Chair John V. O'Shea, Executive Director

Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015



August 10, 2011

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

Dear Dr. Moore, *Chris,*

I am writing on behalf of the Shad and River Herring Management Board (Board) to convey their support for the continued development of Alternative Sets 1-8 in Draft Amendment 14. The Board expressed its strong support for the Council's efforts to address shad and river herring bycatch in Amendment 14.

The Board also discussed Alternative Set 9 during its 1 August 2011 meeting, specifically, the impacts a stock in the fishery designation might have on existing state management plans. The Board decided to postpone taking a position on Alternative Set 9 until it had an opportunity to review additional analysis on the legal and management implications of such a designation.

The Board and its Technical Committee stand ready to assist the Council and your staff in any analysis needed to help develop monitoring programs and management options to minimize the bycatch of American shad and river herring in the federal fisheries managed by the Council. If you or your staff have any questions, please contact Kate Taylor at ktaylor@asmfc.org. Please call me if I can be of any assistance to you or the Council.

Sincerely,
Vince
John V. O'Shea

cc: Malcolm Rhodes, Chair, ASMFC Shad and River Herring Management Board
ASMFC Shad and River Herring Management Board
Richard B. Robins, Jr., Chair, Mid-Atlantic Fishery Management Council

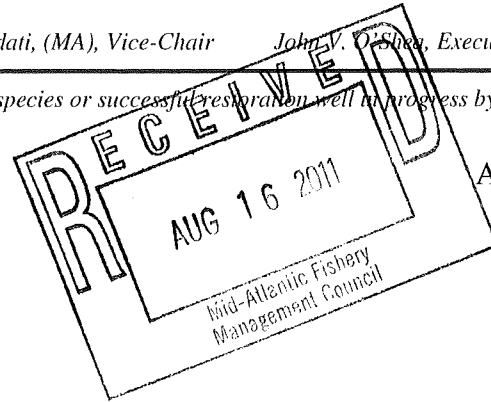


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Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015



August 11, 2011

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

Dear Dr. Moore, *Chris*

The Shad and River Herring Management Board (Board) met on 1 August 2011 to review the request from the Mid-Atlantic Fisheries Management Council (Council) that the Board provide specific reporting relationships on significant issues impacting the river herring fishery. The Board and Council currently exchange information and consult on many alosine related issues as needed. Formalizing this exchange will increase the effectiveness and transparency of coastwide alosine management.

The Board requests the Council annually provide the following information, for inclusion in our annual Shad and River Herring FMP Review:

- Current fishing year SBRM prioritization and observer coverage allocation, as well as the previous fishing year observer coverage rates, for all fleets associated with SMB fisheries
- Previous fishing year estimates of alosine bycatch and discards in SMB fisheries
- Status of any federal management measures that impact alosines
- Status of the SMB fishery

This request may be revised pending the final implementation of Amendment 14. Additionally, in order to promote the efficient exchange of information at all levels, the Board is interested in options to increase interactions between the Board and Council's technical and advisory committees. The Board would also provide the Council with additional annual information on the alosine management and status as outlined in the enclosed white paper.

The Board and the Commission remain concerned about the status of the shad and river herring stocks. We remain committed to working with the Council to increase monitoring to document the extent of alosine interaction with Federal fisheries and where appropriate implement measures to reduce it.

Sincerely,
Vince
John V. O'Shea

encl: Increasing Coordination between Councils and Commission White Paper

cc: Dr. Malcolm Rhodes, Chair, ASMFC Shad and River Herring Management Board
ASMFC Shad and River Herring Management Board

Increasing coordination between Councils and Commission

Council Motion: Move that the Council take a proactive approach with a letter to the Commission outlining specific reporting relationships on significant issues that impact the river herring fishery and ask the Commission to do likewise.

The significant issues impacting shad and river herring populations include but are not limited to bycatch, degradation of habitat, loss of habitat, predation, water quality and quantity and directed harvest. While there is not currently a formal reporting relationship between the MAFMC and the Commission on shad and river herring issues, the Board has been routinely briefed on the progress of Amendment 14 to the SMB plan and the most current bycatch estimates.

1. Information the Shad & River Herring Management Board could potentially receive from the Councils to address bycatch:
 - Annual SBRM prioritization and previous years observer coverage rates
 - o Can occur prior to the implementation of Am14
 - o SBRM prioritization occurs in January.
 - Seasonal / Annual bycatch estimates
 - o Increased reporting could be necessary depending on the final management measures approved in Am14.
 - o Can occur prior to implementation of Am14
 - Status of federal management measures implementation
 - o Dependant on the final management measures approved in Am14
 - Annual status of the SMB fishery
 - Request for additional management action or information from the Management Board, as needed

2. Information the Shad & River Herring Management Board could provide to the Councils:
 - Annual Shad and River Herring FMP Review including stock assessment or stock updates when available
 - Annual update on status of SRH fisheries and implementation of Am2 and 3
 - Status of state bycatch reduction measures
 - Annual update on habitat and fish passage programs
 - Request for additional management action or information from the Council, as needed
 - Request the Council to annually send a letter to the Science Center requesting SBRM analysis for SRH (note: not actual allocation). Including SRH automatically in SBRM analysis could possibly require an omnibus amendment and is currently being looked into by the NEFMC Am5 PDT.
 - o Would be beneficial if SRH are not considered as a “stock in the fishery”

3. Integration

- Annual ASMFC FMP review could include sections on:
 - o Federal waters bycatch landings
 - Including observer coverage rates, state dockside monitoring program implementation
 - o Status of federal management measures
- Board Meeting Updates
 - o Annual or seasonal updates on management measures and implementation, as appropriate
- Joint Informational Conference Calls
 - o Board (NEMFC / MAFMC / ASMFC / USFWS)
 - o Technical Committee and SSC
 - Especially if SRH considered as “stock in the fishery” or if mortality caps or triggers are included in Am14
- Website
 - o Central location for all SRH information, including but not limited to:
 - Relevant management plans
 - Landings updates
 - Meeting notifications
 - Distribution, migration and habitat maps
 - Funding opportunities
 - Monitoring Results
 - Relevant news
 - Literature
 - Links to Councils, Commission, USFWS, relevant stakeholders, local/state programs

***SHAD & RIVER
HERRING
MANAGEMENT BOARD***



***Summer Meeting Week
August 3, 2011***

Alternative Set 1- Vessel Reporting

- Institute weekly VTR
- Require 48 hour pre-trip notification to facilitate observer placement *
- Require VMS; daily reporting via VMS
- 6 hour pre-landings notification via VMS or phone *

Status Quo: Monthly VTR reporting. 72 hour pre-trip reporting for *Loligo* vessels.

Analysis: Increasing VTR from monthly to weekly reporting and adding VMS reporting could provide more precise and accurate estimates of SRH bycatch. Instituting the 6 hour pre-landing notification could facilitate the deployment of state dockside samplers. Dockside monitoring was removed as an option in the alternate sets in Am14 in February. If mortality caps or “triggers” included (Alt Set 6, 7) then increased reporting would be necessary to monitor the fishery in near real-time or real-time.

Alternative Set 2 – Dealer Reporting

- Require daily / 48 hour / 72 hour electronic reporting
- Require permitted dealers to obtain confirmation from federal permitted vessels of SAFIS transactions within 24 hours of submitting landings
- Require dealers to sort and weight / weigh* all species

Status Quo: Weekly dealer reporting

Analysis: Daily / increased e- reporting could provide more precise and accurate estimates of SRH bycatch.

Alternative Set 3 – At Sea Observation Optimization

- Require “reasonable assistance” to observers *
- Require notice when pumping occurs *
- Require observers on both vessels of pair trawl*
- Require slippage reports *
- Require trip termination following 1 or 2 “unsampled hauls” during an observed trip. *
- Require trip termination following 1, 2, or 3 slipped hauls on observed trips *
- Require cod-ends to be re-secured and brought aboard for sampling after pumping on every 4th, 5th or 6th haul on observed trips *
- Vessels that do not pump fish would be required to bring all fish aboard the vessel for inspection and sampling by the observer (with exceptions) *

Analysis: Safety of vessel crew and observers needs to be considered. Preventing, to the best ability, “unsampled hauls” and requiring observers on both vessels of pair trawl could provide more precise and accurate estimates of SRH bycatch. Preliminary observer reports suggest that 4% of hauls on *Loligo* trips were slipped in 2010, mostly because of non-target catch, especially dogfish but sometimes other species. Could recommend a separate level of slipped hauls allowed or cod-end sampling in areas of high bycatch, (if the Council goes forward with Alt Set 7).

*Options being considered in NEFMC Amendment 5

Alternative Set 4: 3rd Party and Other Monitoring Measures

- Require 3rd party landings weight verification
- Require volumetric vessel-hold certification for Tier 3 mackerel and/or *Loligo* vessels
- Consider developing a framework adjustment to implement strategies of the Sustainable Fisheries Coalition bycatch avoidance project. *

Status Quo: Vessel hold certification already applies to Tier 1 and 2 mackerel permits. Tier 3 vessels are typically small, although some can be 75-100 feet in length. Vessel hold certification is not currently required for *Loligo* vessels.

Analysis: Vessel hold certification is currently only required of Tier 1 and 2 mackerel vessels. Although Tier 3 permits allow for access to mackerel should a localized abundance occur where mackerel are not frequently targeted and would not normally fall within the 20,000 pound threshold. SFC project is seeking to develop a real-time bycatch avoidance intra-fleet communication system and provide additional support for port sampling. Preliminary research (2011) focused on an area off the coast of NJ; will be increased in 2012. Unknown if it can be scaled up to cover the entire fishery.

Alternative Set 5: At-Sea Observer Coverage Requirements

- Require 25%, 50% or 100% of trips to carry observers *
- Vessels would have to pay for monitoring when observer funds are not available
- Phase-in industry funding over 4 years.
- Require re-evaluation of coverage requirement after 2 years to determine if bycatch rates justify continued expense of continued high coverage rates

Status Quo: From 2005-2009 approximately 8% of mackerel and 4% of *Loligo* landings were observed.

Analysis: NMFS most likely does not have the funds to increase observer coverage for shad and river herring. If SRH not considered as a “stock in the fishery” request the Council to send a letter to the Science Center to consider include SRH in the SBRM analysis (Note: not into the actual allocation determination).

Alternative Set 6: Mortality Caps

- Implement mortality cap for river herring and/or shads whereby the fishery would close once it is determined that it created a certain level of river herring and/or shad mortality*
- Add mortality caps to list of measures that can be frameworked.

Status Quo: There are currently no limits on incidental catch of RH/S in the mackerel and/or *Loligo* fisheries other than state landing requirements.

Analysis: If a mortality cap is considered, that level would be determined annually by Council in the specification process unless SRH were added as “stocks in the fishery”. ASMFC should be included in the mortality cap determination process.

*Options being considered in NEFMC Amendment 5

Alternative Set 7: Restrictions in areas of high SRH catch

- Prohibit retention of more than 20,000 pounds of mackerel / 2,500 pounds *Loligo* in designated areas of high SRH catch. *
- Require use of certain inch mesh (e.g. 3 inch) in designated areas of high SRH catch
- Require observers in designated areas of high SRH catch (to be identified) for vessels. Vessels would pay for observer coverage if a NMFS-funded observer is not otherwise available.
- Make above requirement(s) only in effect when a mortality "trigger" is reached *
- Stipulate that the GRAs (Gear Restricted Areas) would be considered for updating every other year in specifications considering the most recent data available when specifications are developed.
- Apply the hotspot requirements of Herring Am5 to mackerel vessels *

Analysis: ASMFC should be included in the process of identifying the mortality "trigger" and gear restrictions.

Alternative Set 8: Mesh Requirements

- Require increased (e.g. 3-inch) mesh for vessels
- Make above requirement(s) only required when a mortality trigger hit

Analysis: ASMFC should be included in the process of determining gear restrictions.

Alternatives Related to Considering SRH NS1 Issues

Alternative Set 9: Add SRH Stocks as "Stocks in the Fishery" within the MSB FMP

National Standard 1 (NS1) suggests that non-target species may be considered to be added as stocks in the fishery to existing FMPs. This essentially would bring SRH into the plan as equals to the existing species in terms of Council management responsibilities.

Option 1: No Federal Management

- ASMFC retains management authority over shad and river herring in state waters, including state directed and bycatch fisheries.
- Continued coordination between ASMFC and Councils to manage bycatch of alosines in federal waters through federal amendments / framework adjustments, as necessary
- Stock assessments organized and funded through ASMFC. Shad assessment completed in 2007; there are no plans to complete another assessment in the future. River herring assessment will be peer reviewed in 2012.
- Habitat conservation and protection accomplished through partner agencies with authority.
 - Total federal and state investment over the past 5 years was over \$48 million; Nearly all for fish passage/dam removal
 - States required to develop habitat plans for American shad under Amendment 3
- Rebuilding timeline is not a hard target

*Options being considered in NEFMC Amendment 5

Option 2: Federal Management under Mid-Atlantic Council

Consideration on adding shad and river herring as a non-target “stock in the fishery” to the SMB FMP.

- For all stocks and stock complexes that are “in the fishery” the Councils must include the following items per NS1 in their FMPs to end or prevent overfishing:
 1. MSY or other measures of reproductive potential, based on the best scientific information available, that are reasonable proxies for MSY, F_{msy} , and B_{msy} , to the extent possible.
 2. Status determination criteria to determine if overfishing has occurred, or if the stock is overfished.
 3. OY and specification analysis based on the best scientific information available.
 4. ABC control rule based on scientific advice from SSC
 5. Mechanisms for specifying ACLs, which may be further divided into state-ACLs and federal-ACLs. In cases where fisheries (e.g., anadromous fish) harvest multiple indicator stocks of a single species that cannot be distinguished at the time of capture, separate ACLs for the indicator stocks are not required and the ACL can be established for the complex as a whole.
 6. AMs. For stocks or stock complexes that have harvest in state or territorial waters, amendments must have AMs for the portion of the fishery under Federal authority (e.g. closing the EEZ when the Federal portion of the ACL is reached).

Flexibility in application of NS1 guidelines. There are limited circumstances that may not fit the standard approaches in NS1 guidelines. These include, among other things, conservation and management of Endangered Species Act listed species, harvests from aquaculture operations, and stocks with unusual life history characteristics (e.g., Pacific salmon, where the spawning potential for a stock is spread over a multi-year period). In these circumstances, Councils may propose alternative approaches for satisfying the NS1 requirements of the MSA, including documenting the rationale for any alternative approaches, which will be reviewed for consistency with the Magnuson-Stevens Act.

- Federal resources would contribute toward stock assessments.
- Rebuilding timeline, if overfished status determination. For overfished stocks, a Council must prepare and implement proposed regulations within two years of notification of overfished status. If the stock is overfished and overfishing is occurring, the rebuilding plan must end overfishing immediately and must allocate both restrictions and recovery benefits fairly and equitably among sectors of the fishery. This target time for rebuilding shall be as short as possible, not to exceed 10 years when possible.
- Identification of essential fish habitat (EFH) for every life stage.
 - Any Federal agency authorized, funded, or carrying out actions that may adversely impact EFH would have to consult with NMFS regarding the impact of their activities.
 - Most EFH designated for Atlantic salmon (the only other anadromous fish managed by a Council on the East Coast) does not cover the range of SRH, particularly south of New England. Critical habitat for Atlantic salmon (per ESA) has only been designated in ME.

Option 3: Federal Management under New England Council

- Has not been considered but shad and river herring could alternatively be added as a “stock in the fishery” to the Atlantic herring FMP. The relevant Council determines which specific target stocks and/or non-target stocks to include in a fishery.

*Options being considered in NEFMC Amendment 5

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

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Christopher M. Moore, Ph.D.
Executive Director

August 24, 2011

John V. O'Shea
Executive Director
Atlantic States Marine Fisheries Commission
1020 N. Highland Street
Suite 200A-N
Arlington, VA 22201

Dear Mr. O'Shea: *Vince*

Thank you for your August 10, 2011 letter regarding Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. We appreciate your offer to assist and believe a productive first step would be to add Kate Taylor of your staff to the Amendment 14 Fishery Management Action Team (FMAT). This would ensure continued coordination between the Council and Commission and provide the FMAT with the additional analytical assistance Kate could provide.

Please call me or Jason Didden of my staff if you have any questions.

Sincerely,



Christopher M. Moore, PhD
Executive Director

cc: Anderson, Berg, Didden, Robins



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



Dear Mr. Moore:

I am writing on behalf of the Delaware River Shad Fishermen's Association (DRSFA). We are a six hundred member conservation group working to protect, preserve and restore migratory fish to the Delaware River and its tributaries. We strongly support the most vigorous efforts to protect shad and river herring species.

Spawning runs of river herring and shad have declined dramatically along the Atlantic coast, some by more than 95 percent. Although these fish are afforded some protection in state waters, incidental catch of these imperiled forage fish remains largely unmonitored and uncontrolled in federal waters.

To address this problem, the Mid-Atlantic Fishery Management Council last year identified the monitoring and reduction of shad and river herring catch as priorities for the squid and mackerel fisheries and initiated Amendment 14.

As we near completion of this amendment, please ensure that the Council continues to demonstrate its commitment to protecting these fish by soliciting public comment on the full range of management options developed, including:

****Monitoring and Observer Coverage:** Provide for enhanced at-sea monitoring of all catch, including 100 percent at-sea observer coverage on larger vessels and strong measures to prohibit at-sea dumping of unobserved catch except for limited exceptions for safety.

****Bycatch Reduction:** Apply mortality caps to limit the number of river herring and shad caught annually and avoid fishing in areas of high shad and river herring catch.

****"Stocks in the Fishery" Designation:** Complementary federal management will afford protections to shad and river herring that are not provided under other options.

By forwarding all of the options in Amendment 14 to the public for comment, the Council connects all members of the public to the decision-making process and promotes transparency and accountability. Thank you for your consideration of my comments as the Council finalizes these much-needed measures to address the unrestricted catch of river herring and shad in federal waters.

Charles Furst (DRSFA)
PO221
Solebury, Pa
18963



*Conserving Ocean Fish and Their Environment
Since 1973*

September 28, 2011

Rick Robins, MAFMC Chairman
Erling Berg, Squid, Mackerel, Butterfish Committee Chairman
Mid-Atlantic Fishery Management Council
Suite 201
800 N. State St
Dover, DE 19901

Re: MSB Amendment 14 Alternatives

Dear Mr. Robins and Mr. Berg,

The National Coalition for Marine Conservation (NCMC) strongly supports the Mid-Atlantic Fishery Management Council's efforts to assist the Atlantic States Marine Fisheries Commission (ASMFC) with the recovery of river herring and shad populations by crafting bycatch monitoring and reduction strategies through Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (MSB FMP). We are pleased that the Squid, Mackerel and Butterfish Committee (SMB Committee) has moved expeditiously with this important amendment, and **urge the SMB Committee and Council to keep Amendment 14 on schedule by approving the entire, current suite of alternative sets for public comment when you convene in October.** While we plan to submit detailed comments on all the Amendment 14 alternative sets after the Draft Environmental Impact Statement (DEIS) is officially released, **we wish to emphasize our continued support for the stocks in a fishery alternative (Alternative Set 9) recommended by the Council's Ad-hoc River Herring and Shad Committee.**ⁱ

NCMC is dedicated to preserving the Northeast forage base, which is crucial to maintaining the structure and function of our ocean and coastal ecosystems and to the productivity of our marine fisheries. Anadromous herrings, river herring and shads, are essential components of this forage base and are prey for a number of important commercial and recreational species in the Mid-Atlantic, including striped bass, bluefish and weakfish.ⁱⁱ River herring (alewife and blueback herring), already designated Species of Concern by the National Marine Fisheries Service (NMFS), are now being reviewed for listing under the Endangered Species Act.ⁱⁱⁱ American shad populations are not faring much better, with populations at record lows and showing no sign of recovery.^{iv}

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www.savethefish.org

Nearly all the Mid-Atlantic states (New Jersey, Delaware, Pennsylvania, Maryland, Virginia and North Carolina) will have closed their river herring fisheries by January 2012^v in accordance with the Interstate Fishery Management Plan (IFMP) for Shad and River Herring, which directs states to close fisheries unless they can be proven sustainable.^{vi} American shad fishery closures are likely to follow in 2013. These closures come at great cost to the coastal communities that have worked hard to restore their runs for recreational and commercial fishing and tourism. It is unlikely that we will see these fisheries reopened until a comprehensive recovery plan is in place, one that includes management measures in federal waters where river herring and shad spend most of their lives.

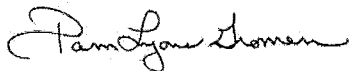
The ASMFC defines sustainable fisheries as “those (states) that demonstrate their ... stock could support a commercial and/or recreational fishery that will not diminish potential future stock reproduction and recruitment.”^{vii} Sustainability depends on adequately constraining total mortality to meet reproduction and recruitment goals, yet significant fishing mortality in federal waters is not covered by ASMFC sustainable fishery plan requirements for state fisheries. As many states move to moratoria, the issue of how states can and should address river herring bycatch landed in the states by federal fisheries (small-mesh trawl fisheries for sea herring, mackerel and squids) continues to be raised at ASMFC meetings with no agreement as to how the problem should be resolved.^{viii}

The issue is further complicated by insufficient state resources available to adequately monitor landings from the high-volume small-mesh federal fisheries. At-sea federal observers have documented up to 20,000 lbs of river herring in a single mackerel tow^{ix}. The amount of river herring caught as bycatch in this single tow is greater than the amount landed by many states’ directed fisheries over an entire year.^x Most states just do not have the necessary infrastructure to effectively monitor or enforce landings restrictions for these high-volume, pelagic federal fisheries.

The stocks in a fishery alternative set is the only alternative set proposed in Amendment 14 that fully complements the current ASMFC plan and offers a long-term framework for the Commission and Council to work cooperatively on restoration goals. Stocks in a fishery designation would require that incidental catch limits be established to prevent overfishing and contribute to rebuilding - essentially a sustainable fishery plan for bycatch in the MSB fisheries. While lead authority for river herring and shad management would remain with the ASMFC, bringing river herring and shad into the fold of the Magnuson-Stevens Fishery Conservation and Management Act would allow the Council to identify and mitigate threats to essential fish habitat and employ other actions necessary for conservation and management of these species. The plan would also facilitate implementation of ASMFC-recommended actions for federal waters, which are currently communicated through the IFMP to the Secretary of Commerce, an ineffective process that has essentially led to federal waters inaction since the IFMP’s implementation in 1985.

Once again, we appreciate the work of the Council, SMB Committee and its FMAT to develop a full suite of alternative options for Amendment 14 and to keep the amendment on schedule. **All nine alternative sets and the Draft Environmental Impact Statement should now be made available for public comment, so the Council can make informed decisions on the best possible strategies for river herring and shad management and conservation, and implement these strategies as soon as possible.**

Sincerely,



Pam Lyons Gromen
Executive Director

cc: Dr. Chris Moore, MAFMC Executive Director
John Vince O'Shea, ASMFC Executive Director
Robert Beal, ASMFC Interstate Fisheries Management Program Director
Jason Didden, MAFMC Fishery Management Specialist
Kate Taylor, ASMFC Fishery Management Plan Coordinator

ⁱ See http://www.mafmc.org/fmp/msb_files/RHS/2011_04_01_River_Herring_Motions.pdf.

ⁱⁱ See predator data for American shad, alewife and blueback herring available at <http://fishbase.org>.

ⁱⁱⁱ Natural Resources Defense Council. Before the Secretary of Commerce: Petition to List Alewife (*Alosa pseudoharengus*) and Blueback Herring (*Alosa aestivalis*) as Threatened Species and to Designate Critical Habitat. 01 Aug 2011.

^{iv} ASMFC American Shad Stock Assessment Peer Review Panel. Stock Assessment Report No. 07-01 of the Atlantic States Marine Fisheries Commission, Terms of Reference & Advisory Report to the American Shad Stock Assessment Peer Review. Conducted on July 16-20, 2007, Alexandria, Virginia.

^v See

http://www.asmfc.org/meetings/summer2011/presentations/shad_riverHerringBoard_Aug2011Presentations.pdf.

^{vi} See the Interstate Fishery Management Plan for Shad and River Herring including plan amendments at <http://www.asmfc.org/shadRiverHerring.htm>.

^{vii} ASMFC. Amendment 2 to the Interstate Fishery Management Plan for Shad and River Herring. May 2009.

^{viii} See Proceedings from the August 3, 2011 Meeting of the ASMFC Shad & River Herring Management Board.

^{ix} Database query provided by the Northeast Fisheries Observer Program, NOAA FOIA No. 2009-00371. 3 June 2009.

^x From 2007-2010, annual state-reported commercial river herring landings for New Hampshire, New Jersey, Delaware, and the Potomac River Fisheries Commission each have been below 20,000 lbs. Pennsylvania did not have any commercial landings. Massachusetts, Connecticut, Rhode Island and North Carolina moratoria were in place over this period. [ASMFC. Amendment 2 to the Interstate Fishery Management Plan for Shad and River Herring. May 2009. p. 68; also Kate Taylor, ASMFC Fishery Management Plan Coordinator, personal communication, September 26, 2011].

Didden, Jason T.

From: Kristen Cevoli <KCevoli@pewtrusts.org>
Sent: Wednesday, September 28, 2011 5:49 PM
To: Moore, Christopher
Cc: Didden, Jason T.; Robins, Rick
Subject: Amendment 14 Comments
Attachments: Amendment_14_Comments_State_Breakdown.xlsx

Dear Chris,

Attached please find 7,875 comments from individuals asking the Mid Atlantic Fishery Management Council to approve for public comment the full range of management alternatives currently developed in Amendment 14. I spoke to Jason regarding these comments prior to sending this email, and we arranged for me to send PDF documents containing the individual letters from each of the respondents directly to Jason in order to avoid issues with email size limitations. The attached document in this email is an excel spread sheet with the individual respondents broken down by State. Please note there will be some duplicate letters in the PDF files, however, the duplicate names have been removed the spreadsheet list.

The responses arranged according to location are:

- East Coast States (represented by a Council): 3027 comments
- Mid-Atlantic States: 1804 comments
- Other US: 4764 comments
- Other / No State provided: 84 comments

Mid-Atlantic States:

New York: 684
New Jersey: 257
Pennsylvania: 334
Delaware: 21
Maryland: 141
District of Colombia: 20
Virginia: 177
North Carolina: 170

Please let me know if you have any questions.

Thank you,

Kristen

Kristen R. Cevoli, Esq.

Associate, Northeast Fisheries Program, Mid-Atlantic
Pew Environment Group | The Pew Charitable Trusts
p: 215.575.4790 | e: kcevoli@pewtrusts.org
www.herringalliance.org | www.pewenvironment.org



Check out the **Herring Alliance** on your favorite social networks and say hello!

This is a representative example of the 7,875 letters received. MAFMC will examine all letters and note any substantial differences for the Council meeting.
-JTD

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

Sep 14, 2011

Christopher Moore Executive Director, Mid-Atlantic Fishery Management Council
801 N. State St., Ste. 201
Dover, DE 19901

Subject: Stop Unrestricted Catch of River Herring and Shad

Dear Christopher Moore Executive Director, Mid-Atlantic Fishery Management Council,

Spawning runs of river herring and shad have declined dramatically along the Atlantic coast, some by more than 95 percent. Although these fish are afforded some protection in state waters, incidental catch of these imperiled forage fish remains largely unmonitored and uncontrolled in federal waters.

To address this problem, the Mid-Atlantic Fishery Management Council last year identified the monitoring and reduction of shad and river herring catch as priorities for the squid and mackerel fisheries and initiated Amendment 14.

As we near completion of this amendment, please ensure that the Council continues to demonstrate its commitment to protecting these fish by soliciting public comment on the full range of management options developed, including:

****Monitoring and Observer Coverage:** Provide for enhanced at-sea monitoring of all catch, including 100 percent at-sea observer coverage on larger vessels and strong measures to prohibit at-sea dumping of unobserved catch except for limited exceptions for safety.

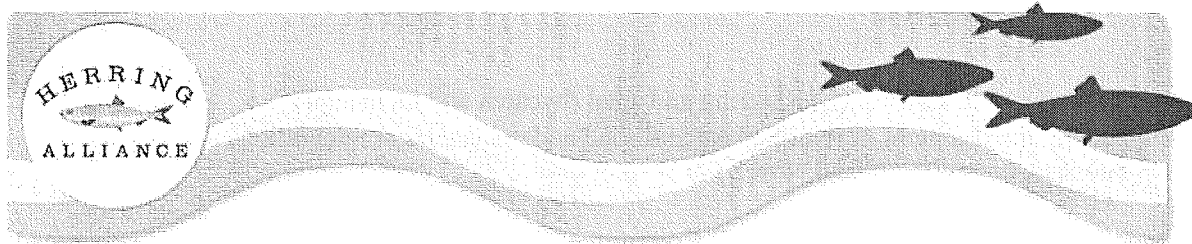
****Bycatch Reduction:** Apply mortality caps to limit the number of river herring and shad caught annually and avoid fishing in areas of high shad and river herring catch.

****"Stocks in the Fishery" Designation:** Complementary federal management will afford protections to shad and river herring that are not provided under other options.

By forwarding all of the options in Amendment 14 to the public for comment, the Council connects all members of the public to the decision-making process and promotes transparency and accountability.

Thank you for your consideration of my comments as the Council finalizes these much-needed measures to address the unrestricted catch of river herring and shad in federal waters.

Sincerely,
Ms. Alicia LaPorte



September 28, 2011

Richard B. Robins, Jr., Chairman
Erling Berg, MSB Committee Chair
Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, DE 19901

RE: Amendment 14

Dear Mr. Robins and Mr. Berg,

On behalf of the Herring Alliance, I am writing in advance of the Mid-Atlantic Fishery Management Council's (MAFMC) October meeting, where it is anticipated that the Council will vote Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (MSB FMP) out for public comment.

We are writing now to urge the Council to advance the full suite of management alternatives as it finalizes the draft document for public review. This is in the best interest of completing a strong amendment that will address key monitoring objectives and reduce at-sea catches of river herring and shad.

When the Council began scoping for Amendment 14, the Herring Alliance consisted of 17 organizations. The Herring Alliance now consists of 42 organizations from Maine to North Carolina.¹ We are concerned about the status of the Atlantic coast's forage fish (e.g., Atlantic herring, menhaden, and mackerel, river herring, American and hickory shad, butterfish, and squids) that play a critical role in the food web by serving as prey to a large number of predators, many of which support valuable recreational and commercial fisheries. A significant number of the Alliance's newest members are organizations from the Mid-Atlantic states, a testament to the historic importance of river herring and shad throughout this region.

Amendment 14 has significantly changed from the original scoping document,² with its focus now shifted exclusively to measures related to river herring and shad catch within the MSB fishery. The Council received more than four thousand scoping comments from individuals and at least 65 membership organizations.³ Three major themes emerged from these comments, recommending that Amendment 14 focus on;

- Improving monitoring

¹ For a full list of member organizations, please see list appended to this letter.

² Amendment 14 Notice of Intent, See: http://www.mafmc.org/fmp/msb_files/Am14/NOI.pdf

³ See Amendment 14 Scoping Comment Summary, Page 5-6:

http://www.mafmc.org/meeting_materials/2010/August/Tab_03_Squid_Mackerel_Butterfish_Committee.pdf

59 Temple Place, Suite 1114, Boston, MA 02111 | 2005 Market Street, Suite 1800, Philadelphia, PA 19103

www.herringalliance.org | PewTrusts.org

A Project of the Pew Environment Group

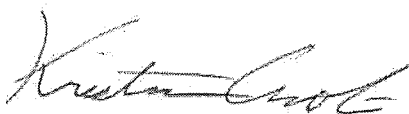
- Reducing total catch of river herring and shad (bycatch and incidental)
- Federal management of river herring and shad and management integration (between states, interstate commission, and NMFS)

In response to scoping comments, the MSB Committee and Council staff developed a relatively broad range of alternatives for the Council to consider that address these three priorities, meet the Amendment's goals and objectives, and fulfill the requirements of the Magnuson-Stevens Act.⁴ The public should have the opportunity to comment in detail on these alternatives, and the accompanying analysis. Removal of any alternatives at this stage in the process would deny the public the opportunity to provide input, and potentially deny the Council valuable additional information and analysis from public sources.

Further, it is our view that removal of any of the alternatives at this juncture would violate the Council's responsibilities under the National Environmental Protection Act (NEPA) and NOAA's NEPA implementing regulations.⁵ Regulations promulgated by the Council on Environmental Quality (CEQ) require agencies, "to the fullest extent possible," to "[u]se the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment."⁶ Because this analysis of alternatives "is the heart of the environmental impact statement,"⁷ agencies cannot give it mere passing attention; instead, they must "[r]igorously explore and objectively evaluate *all* reasonable alternatives."⁸ Central to NEPA's requirements is that the public be provided with a meaningful opportunity to participate in the decision making process.⁹ This is the appropriate point in the Amendment process to advance the full range of alternatives forward so that the public has the opportunity to comment, and so the Council can receive valuable input prior to its final selection of management measures for the fishery.

The Herring Alliance strongly supports advancing the full range of alternatives to monitor and address the catch of river herring and shad in the Mackerel, Squid and Butterfish fishery as currently included in Amendment 14. We thank the Council for its efforts to develop Amendment 14 to date, and look forward to the opportunity to comment further on the full range of alternatives for this important amendment in the forthcoming comment period.

Sincerely,



Kristen Cevoli
Pew Environment Group

⁴ Among these requirements are National Standard requirements to prevent overfishing and achieve optimum yield, rely upon the best available science, and minimize bycatch, 16 U.S.C. 1851(a)(1), (2), along with requirements to ensure accountability in achieving annual catch limits and the monitoring and reporting measures necessary to track retained catch and discarded bycatch occurring in the fishery. 16 U.S.C. §§ 1853(a)(5), (a)(11).

⁵ NOAA Administrative Order (NAO) 216-6, "Environmental Review Procedures for Implementing the National Environmental Policy Act," available at: <http://www.nepa.noaa.gov/>.

⁶ 42 U.S.C. § 1500.2, 1500.2(e)

⁷ *Id* at § 1502.14

⁸ *Id* at § 1502.14(a)

⁹ See 42 U.S.C. § 4332

Herring Alliance Member List

Alewives Anonymous
Rochester, Massachusetts
www.plumblibrary.com/alewives.html

Blue Ocean Institute
Cold Spring Harbor, New York
www.blueocean.org

Buckeye Brook Coalition
Warwick, Rhode Island
www.buckeyebrook.org

Chesapeake Bay Foundation
Annapolis, Maryland
www.cbf.org

Conservation Law Foundation
Boston, Massachusetts
www.clf.org

Delaware River Shad Fishermen's Association
Hellertown, Pennsylvania
www.drfsfa.org

Earthjustice
Washington, DC
www.earthjustice.org

Eightmile River Wild & Scenic Coordinating
Committee
Haddam, Connecticut
www.eightmileriver.org

Environmental Entrepreneurs (E2)
Boston, Massachusetts
www.e2.org

Environment America
Washington, DC
www.environmentamerica.org

Environment Maine
Portland, Maine
www.environmentmaine.org

Environment Massachusetts
Boston, Massachusetts
www.environmentmassachusetts.org

Environment New Hampshire
Concord, New Hampshire
www.environmentnewhampshire.org

Environment New Jersey
Trenton, New Jersey
www.environmentnewjersey.org

Farmington River Watershed Association
Simsbury, Connecticut
www.frwa.org

Float Fishermen of Virginia
Roanoke, Virginia
www.floatfishermen.org

Friends of the Rivers of Virginia
Roanoke, Virginia
www.forva.giving.officelive.com

Great Egg Harbor National Scenic and
Recreational River Council
Newtonville, New Jersey
www.gehwa.org/river.html

Greater Boston Trout Unlimited
Boston, Massachusetts
www.gbtu.org

Greenpeace
Washington, DC
www.greenpeace.org

Ipswich River Watershed Association
Ipswich, Massachusetts
www.ipswichriver.org

Island Institute
Rockland, Maine
www.islandinstitute.org

Herring Alliance Member List

Jones River Watershed Association
Kingston, Massachusetts
www.jonesriver.org

Juniata Valley Audubon
Hollidaysburg, Pennsylvania
www.jvas.org

Lowell Parks & Conservation Trust
Lowell, Massachusetts
www.lowelllandtrust.org

Mystic River Watershed Association
Arlington, Massachusetts
www.mysticriver.org

National Coalition for Marine Conservation
Leesburg, Virginia
www.savethefish.org

Natural Resources Defense Council
Washington, DC
www.nrdc.org

Neponset River Watershed Association
Canton, Massachusetts
www.neponset.org

Neuse Riverkeeper Foundation
New Bern, North Carolina
www.neuseriver.org

New England Coastal Wildlife Alliance
Middleboro, Massachusetts
www.necwa.org

North and South River Watershed Association
Norwell, Massachusetts
www.nsrwa.org

NY/NJ Baykeeper
Keyport, New Jersey
www.nynjbaykeeper.org

Oceana
Washington, DC
www.oceana.org

Ocean River Institute
Cambridge, Massachusetts
www.oceanriver.org

Parker River Clean Water Association
Byfield, Massachusetts
www.businessevision.info/parker_river

Peconic Baykeeper
Quogue, New York
www.peconicbaykeeper.org

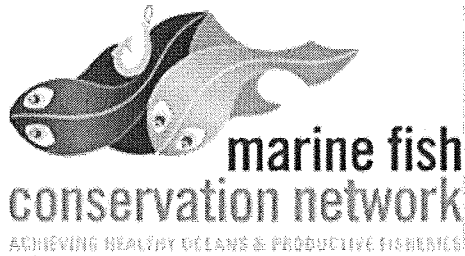
PennEnvironment
Philadelphia, Pennsylvania
www.pennenvironment.org

Pennsylvania Organization for Watersheds and Rivers
Harrisburg, Pennsylvania
www.pawatersheds.org

Pew Environment Group
Washington, DC
www.pewenvironment.org

Riverkeeper
Ossining, New York
www.riverkeeper.org

Rivers Alliance of Connecticut
Litchfield, Connecticut
www.riversalliance.org



September 28, 2011

To: Richard B. Robins, Chairman
Erling Berg, Chairman, Squid, Mackerel, Butterfish Committee
Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, Delaware 19901

Re: Mackerel, Squid and Butterfish FMP Amendment 14 alternatives for river herring and shad

Chairman Robins and Chairman Berg:

The Marine Fish Conservation Network (Network), representing nearly 200 environmental, fishing and marine science organizations nationwide, submits the following comments on the alternatives under consideration in Amendment 14 to the Mackerel, Squid, and Butterfish (MSB) fishery management plan (FMP) to address bycatch of river herring and shad. Historically, these species spawned in virtually every accessible waterway along the eastern seaboard from Nova Scotia to northern Florida,¹ but their numbers have declined dramatically since the 1960s. Although they spawn in freshwater streams along the East Coast and are managed in state waters under the authority of the Atlantic States Marine Fisheries Commission (ASMFC), they spend most of their lives at sea and they are caught, retained and sold by federally managed trawl vessels under the Council's jurisdiction. Without greater at-sea protection, in conjunction with the ASMFC's state-based restoration efforts, river herring are at high risk of becoming extinct throughout all or significant portions of their range.²

In 2009, the Atlantic States Marine Fisheries Commission (ASMFC) approved Amendment 2 to the Interstate Fishery Management Plan for Shad and River Herring,³ which will prohibit commercial and recreational fishing for river herring in member states' waters beginning January 1, 2012 in the absence of a sustainable management plan. Similarly, Amendment 3, approved in February 2010, requires states to close their American shad fisheries by January 2013 unless sustainable fishery plans are submitted.⁴ In passing these plan amendments, the ASMFC called on the federal government and the fishery management councils to monitor and minimize the impacts of trawl bycatch on river herring and shad in U.S. waters beyond three nautical miles from shore. At-sea bycatch in ocean trawl fisheries is likely to be a larger source of mortality than all sources of directed fishing mortality combined, although inadequate at-sea monitoring has kept this threat "out of sight, out of mind" for years. Controlling and minimizing the incidental catch of river herring and shad in federal fisheries will be a critical component to their recovery. Council action to address the at-sea bycatch and mortality of river herring and shad in federal fisheries is urgently needed and long overdue.

Marine Fish Conservation Network
600 Pennsylvania Ave. SE, Suite 210 * Washington DC 20003
P 202-543-5509 * F 202-543-5774
www.conservefish.org

The Network applauds the Mid-Atlantic Council's efforts to develop measures through Amendment 14 to minimize at-sea bycatch of river herring and shad and reiterates its support for including river herring and shad as non-target stocks in the mackerel and squid fisheries. 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 (AMs) to ensure that the limit is not exceeded. 16 U.S.C. § 1853(a)(15). The revised NS1 guidelines (74 Fed. Reg. 3178) require ACLs for all stocks in the fishery, which may include non-target stocks caught incidentally as bycatch and either retained or discarded at sea. 50 CFR § 600.310(d)(3) & (4). River herring and shad clearly meet the criteria for non-target stocks in the mackerel and squid trawl fisheries and therefore they require status determination criteria (SDCs) and specification of acceptable biological catch (ABC) and ACL with AMs. Importantly, the ACL would be an allowable incidental catch limit – i.e., directed fishing should be expressly prohibited in the MSB FMP.

The inclusion of river herring and shad as non-target stocks in the federal MSB FMP would not supersede the authority of the ASMFC under their primary management plans. These federal catch specifications would only apply to the federally managed fisheries and would in no way affect the management authorities of the states. The intent is to ensure that fishing mortality in federally managed fisheries is regulated and minimized as required under the U.S. fisheries law.

Pending better information on biological reference points from ASMFC stock assessments, the Mid-Atlantic Council's Scientific and Statistical Committee (SSC) will need to establish overfishing limit (OFL) reference points and make recommendations for acceptable biological catch (ABC) for purposes of the federal ACL-setting process. The basis for determining OFL and ABC in data-limited situations is outlined in the ABC control rule (developed in the Omnibus ACL amendment), using available catch information and other relevant information. To assist SSCs in this process, Berkson *et al.* (2011) have developed an ABC-setting procedure for data-limited stocks that builds on several other established methodologies – the so-called Only Reliable Catch Stocks (ORCS) approach.⁵ An ORCS-type approach was previously used to establish ABC limits for butterfish.

In summary, the Council's preferred alternative should incorporate river herring and shad as non-target stocks in the fishery and outline a process for establishing ACLs which would include the following:

- Prohibit directed fishing
- Estimate OFL based on available bycatch/landings data with appropriate consideration of scientific uncertainty, using procedures outlined by Berkson *et al.* (2011)
- Calculate ABC as a proportion (< 1) of the OFL to reflect professional judgment and a policy decision on acceptable risk
- Specify an "allowable incidental catch" $ACL \leq ABC$
- Establish area- and time-specific catch limits, if appropriate
- Include hotspot closure authority to enable prompt action if observer data indicate that high river herring and shad bycatch levels are occurring during the fishery

Sincerely,

Marine Fish Conservation Network
600 Pennsylvania Ave. SE, Suite 210 * Washington DC 20003
P 202-543-5509 * F 202-543-5774
www.conservefish.org

Ken Stump
Policy Director, MFCN

¹ Henry B. Bigelow and William C. Schroeder, Fishes of the Gulf of Maine, Fishery Bulletin 74, vol. 53 (1953).

² See Natural Resources Defense Council (NRDC), Petition to List Alewife (*Alosa pseudoharengus*) and Blueback Herring (*Alosa aestivalis*) as Threatened Species and to Designate Critical Habitat, Before the Secretary of Commerce, August 1, 2011.

³ See ASMFC at <http://www.asmfc.org/shadRiverHerring.htm>

⁴ Ibid.

⁵ Berkson et al. (2011), Calculating Acceptable Biological Catch for Stocks that Have Reliable Catch Data Only, NOAA Technical Memorandum NMFS-SEFSC-616. 56 p.

Didden, Jason T.

From: Erling Berg <erlingberg99@yahoo.com>
Sent: Wednesday, September 21, 2011 10:27 AM
To: Didden, Jason T.; Moore, Christopher; Robins, Rick
Subject: Fw: Stop Unrestricted Catch of River Herring and Shad

FYI
I received over one hundred of these yesterday.
Erling

--- On **Wed, 9/21/11, Wendy MacClinchy** <w.macclinchy@gmail.com> wrote:

From: Wendy MacClinchy <w.macclinchy@gmail.com>
Subject: Stop Unrestricted Catch of River Herring and Shad
To: erlingberg99@yahoo.com
Date: Wednesday, September 21, 2011, 8:31 AM

Sep 21, 2011

Mr. Erling Berg
NJ

Dear Mr. Berg,

As a concerned local resident, I am writing to ask you allow needed public attention to an important issue related to the health and vitality of our fish populations. Spawning runs of river herring and shad have declined dramatically along the Atlantic coast, some by more than 95 percent. Although these fish are afforded some protection in state waters, incidental catch of these imperiled forage fish remains largely unmonitored and uncontrolled in federal waters.

To address this problem, the Mid-Atlantic Fishery Management Council last year identified the monitoring and reduction of shad and river herring catch as priorities for the squid and mackerel fisheries and initiated Amendment 14.

As we near completion of this amendment, please ensure that the Council continues to demonstrate its commitment to protecting these fish by soliciting public comment on the full range of management options developed, including:

****Monitoring and Observer Coverage:** Provide for enhanced at-sea monitoring of all catch, including 100 percent at-sea observer coverage on larger vessels and strong measures to prohibit at-sea dumping of unobserved catch except for limited exceptions for safety.

****Bycatch Reduction:** Apply mortality caps to limit the number of river herring and shad caught annually and avoid fishing in areas of high shad and river herring catch.

**'Stocks in the Fishery' Designation: Complementary federal management will afford protections to shad and river herring that are not provided under other options.

By forwarding all of the options in Amendment 14 to the public for comment, the Council connects all members of the public to the decision-making process and promotes transparency and accountability.

Thank you for your consideration of my comments as the Council finalizes these much-needed measures to address the unrestricted catch of river herring and shad in federal waters.

Sincerely,

Ms. Wendy MacClinchy
430 E 86th St
Apt 10a
New York, NY 10028-6437

Didden, Jason T.

From: Moore, Christopher
Sent: Thursday, September 15, 2011 9:52 AM
To: Didden, Jason T.
Subject: FW: stop declining populations of River Herring and Shad species

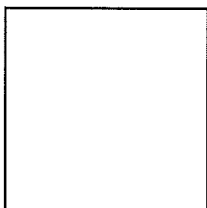
From: ravigloom@rediffmail.com [mailto:ravigloom@rediffmail.com]
Sent: Wednesday, September 14, 2011 3:05 PM
To: Moore, Christopher
Subject: stop declining populations of River Herring and Shad species

Dear Director Moore,

Unrestricted catch of forage fish river herring and shad remains largely unmonitored and uncontrolled in federal waters causing a decline along the Atlantic coast of up to 95%.

Please see though on Amendment 14 and solicit public comment on the full range of management options developed, including: enhanced sea monitoring of all catch, including 100 percent at-sea observer coverage on larger vessels and strong measures to prohibit at-sea dumping of unobserved catch except for limited exceptions for safety, applying mortality caps to limit the number of river herring and shad caught annually and avoid fishing in areas of high shad and river herring catch and federal management that protects shad and river herring that are not provided under other options.

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



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